

**ALASKA BOARD OF FISHERIES
FINDINGS ON PRINCE WILLIAM SOUND MANAGEMENT
AND SALMON ENHANCEMENT ALLOCATION PLAN
2006-248-FB**

May 3,2006

At its December 1 through 6, 2005 meeting, by a 7/0 vote the Alaska Board of Fisheries adopted a new Prince William Sound Management and Salmon Enhancement Allocation Plan. This plan replaces the plan previously adopted and supported by Finding 97-167-FB, and reflects the Board's realization that the attempts of previous Board's to develop a workable allocation plan, acceptable to all users, in the face of changing market conditions have been unsuccessful. The Board recognizes that it is unlikely that the three user groups involved in Prince William Sound salmon fisheries will ever reach complete consensus on an allocation plan but believes that the Board should attempt to impose a workable allocation plan to maintain the long-term historic balance even if not fully acceptable to any user group rather than leaving in place an allocation plan that has proved completely unworkable and which results in harvest patterns which bear little resemblance to the Board allocations.

The conceptual language of the adopted plan was adopted as substitute language for Proposal 27. The substitute language was recommended by a Board Committee, and is found on pages 29 -31 of RC # 40 (Committee B Report). The final regulatory language reflecting the Board's intent is found at 5 AAC 24.370 (am 3/30/2006, Register 177). As a result of its action on Proposal 27, the Board took no action on a number of other proposals relating to Prince William Sound management and allocation including proposals 18, 19, 20, 21, 22, 26, 27, 28, 29, and 30. Action on proposal 27 also served as a factor in the Board's rejection of other proposals including proposals 33, 34, and 35. These findings are intended to summarize the Board's actions on the Prince William Sound Management and Salmon Enhancement Allocation Plan so that the public and future boards will understand the reason for those actions.

Background

The previous Prince William Sound Management and Salmon Enhancement Allocation Plan was adopted in 1997 in an effort to end over seven years of dispute over allocations between the three user groups in Prince William Sound. The history of those disputes is more thoroughly presented in Finding 97-167-FB, which this finding supplements.

After 1997, the plan continued to fail to achieve its allocation objectives. Actual catches were not even coming close to allocations, and the disparities were getting worse. The seine fishery was consistently under its allocation and the drift and set net fishery were consistently exceeding their allocations. The set net fishery had grown far beyond its 1 percent allocation and was continuing to grow. PSWAC was continuing to produce more low value pink and chum salmon in an unsuccessful effort to try to balance out the increased value of Chinook and sockeye.

Modifications to the plan were made in 2003 in an attempt to improve plan performance. One significant change in 2003 including tightening the triggers for use of the Port Chalmers and Ester Subdistrict "piggy bank" areas, with a new trigger of 40 percent replacing the previous

25 percent trigger. Another significant change in 2003 was a change in the basis of calculation of ex-vessel values, with open-ended language regarding "grounds price times poundage" replaced by a requirement for ex-vessel value to be obtained from commercial operator annual reports (COAR).

Recognizing the continuing problems with the Prince William Sound Management and Allocation Plan, in October of 2003, the Alaska Board of Fisheries formed a Prince William Sound Management and Allocation Plan Workgroup to help the Board obtain a better understanding of past and present allocation and cost recovery issues and to explore options to find an equitable balance between user groups. The workgroup formally met at least 6 times between 2004 and the time of the Board's final action on proposal 27. The workgroup met in October and November prior the Board meeting and had another meeting on December 1 after the Board meeting had started. Although the workgroup composition changed somewhat over time, at all times it included two or more representatives each of seine and drift gillnet permit holders, and of Prince William Sound Aquaculture Corporation (SAC); it also included three Board members, at least one set net permit holder, and a Valdez Fisheries Development Association (VFDA) representative. At the time of the December Board meeting the workgroup was chaired by Board member Mel Morris, other Board members on the workgroup were Robert Heyano and Dr Fred Bouse. Workgroup meetings were publicly noticed and open to the public; many interested parties, including Board members, who were not on the working group attended the meetings.

In April of 2004, the Board met as committee of the whole with the workgroup. At this meeting the Board rejected a proposal to change the "piggy bank" triggers to 49 percent and made adjustments to a buffer zone around Esther Island. An effort by the Department to implement a buffer zone near a "piggy bank" area in order to increase the seine percentage in 2004 was unsuccessful because the buffer used did not prevent drift interception before salmon reached the "piggy bank" area.

The chair of the Board's workgroup circulated a draft strawman proposal in October of, 2005. The strawman proposal was discussed at the October, November, and December workgroup meetings. The primary points of the strawman proposal were further refined based on public comment and incorporated into the substitute language eventually adopted by the Board.

Although the workgroup never achieved full consensus as to all details for a new plan conceptual consensus on a number of issues was achieved, narrowing the focus of contested issues.

Workgroup participants did not agree on the fine details of a plan. There was disagreement over whether enhanced fish from VFDA should be included in the plan. There was disagreement over whether buffer zones should be used and if used over where buffer zone boundaries should be. There was disagreement over what the triggers for cost recovery adjustments and use of "piggy bank" areas should be.

The Board accepted staff reports on morning of December 1, 2005 and oral testimony, including testimony on proposal 27, from the afternoon of December 1 through the afternoon of December 2. Seventy three members of the public signed up for public testimony and were given the opportunity to present oral testimony. During public testimony many seine permit

holders indicated that wild stock should not be excluded from the allocation plan, and that if it was excluded, VFDA stocks should also be excluded to partially offset this loss to the seine permit holders. Following staff reports and public testimony, the Board followed its normal procedure, forming committees to work further with the public and develop recommendations on specific groups of proposals.

Committee B, consisting of Board members Heyano, Morris, and Andrews was tasked with making recommendations on Prince William Sound salmon issues including proposal 27. Many of the Board workgroup members served on the public panel in Committee B and four advisory committees also participated. Committee B met with its public panel on the evening of December 2. The Committee B public panel, like the working group, was unable to reach consensus on plan details, however the Board member committee was able to reach consensus for support of substitute language, found at RC 40 pages 29-31. None of the concepts in the substitute language were new, all had been discussed in workgroup meetings. The viewpoints of the various user groups on major issues were summarized in the Committee B report, and public panel participants were given a chance to submit RC's regarding any misstatements of their positions in the report.

The Proposal 27 substitute language made a number of minor modifications to the plan and made eight significant changes:

- 1) It modified the plan to apply only to enhanced stocks, excluding VFDA stocks.
- 2) It changed the allocation percentages from 50 percent drift gillnet, 49 percent seine and 1 percent set gillnet to 48 percent drift gillnet, 48 percent seine, and 4 percent set gillnet.
- 3) It changed the way allocation percentages were calculated, basing them on a five year rolling average ex-vessel value using COAR data rather than the previous year's value using COAR data.
- 4) It changed the way allocation percentages were calculated between the drift gillnet and seine fishery's by making them each 50 percent after removal of the set gillnet allocation or harvest.
- 5) It expanded the buffer zone to include the entire Granite Bay subdistrict.
- 6) It established a three percent trigger for adjustment of allocations through cost recovery changes, triggering such adjustments when either the drift gillnet or seine fisheries five year average exvessel value falls below 47 percent.
- 7) It established a five percent trigger for adjustment of allocations through "piggy bank" assignment, triggering such adjustments when either the drift gillnet or seine fisheries five year average ex-vessel value falls below 45 percent.
- 8) It imposed restrictions on set net fishery, limiting weekly open periods to no more than 36 hours starting July 10 during years in which the five year average ex-vessel value of the set net fishery exceeds 5 percent.

None of the concepts in the proposal 27 substitute language should have been a surprise to any participant in the working group or to anyone who had been following the working group progress. Despite the fact that consensus had not been reached, all concepts in the proposal 27 substitute been previously discussed in committee. Board members were aware that the substitute language contained tighter triggers than those supported by drift net permit holders, that some drift net permit holders objected to closure of the Granite Bay Subdistrict as a

buffer area, and that some drift net permit holders objected to the exclusion of VFDA enhanced fish. Board members were aware that some setnet permit holders desired a higher trigger, and desired exclusive access to some fishing areas for the set and drift gillnet permit holders. Board members were also aware that some seine permit holders objected strongly to the exclusion of wild stocks. Following issuance of the Committee B Report with its recommended substitute language, on December 4, at 5:00 p.m., the public had additional opportunity to submit written comments to the Board or to discuss the proposal with individual Board members prior the Board's deliberations on the proposal on December 5. A number of comments relevant to the proposal, including RC's 91, 93, 94, 99, 100 were received and considered by Board members.

Board Action

The Board brought proposal 27 to the table, accepted the Committee B substitute language, and then deliberated on proposal 27 on December 5, 2005, from 3:42 p.m. to 4:25 p.m. Board Member Morris went through the background, timeline, and history of the proposal and walked through the substitute language with the Board explaining that the existing plan was not working with the Seine permit holders consistently unable to harvest their allocation and the drift and set net permit holders consistently exceeding their allocations. Board member Morris explained how the new plan would work to achieve the allocations it established, and that the old allocation if reestablished in an enforceable manner would cause significant disruption of more recent harvest patterns. Board member Morris explained that the most recent year would not be included in determinations of average catch value because COAR data would not be available in a timely manner. Board member Morris also explained that the substitute language involved two triggers, if the seine to drift average catch percentages were off by at least 3 percent but less than 5 percent, PSWAC would be given an opportunity to correct the balance through cost recovery modifications; if the percentages were off by five percent or more the user group that was behind on their allocation would be given exclusive access to "piggy bank" areas during the next season. The plan would continue to prohibit in season adjustments by the Department to achieve allocation goals.

The Board discussed the allocation criteria found in 5 AAC 39.205.

- 1) On the first criteria, the history of each fishery, it was noted that the fisheries involved are all commercial salmon fisheries (drift, setnet, and seine) and that all three groups have been actively involved in the fisheries for over 30 years. It was also noted that the current allocation plan had been in effect since 1991 and incorporated historical values for the previous 20 years. It was also noted that revised plan would not change the characteristics of the fishery.
- 2) On the second criteria, the number of resident and nonresident participants, it was noted that in 1980's and early 1990's the fleet makeup was fairly consistent with approximately 220-260 active purse seine permits and 400-500 active drift gillnet permits, and 20-25 active set gillnet permits. It was also noted that the number of active seine permits had declined since the early 1990's to slightly over 100 and that the number of active drift gillnet permits had not substantially changed. There was some discussion indicating that falling chum and pink prices had hurt seine participation while gillnet participation was maintained at historic levels due to more stable sockeye prices.

- 3) The third criteria, importance for providing residents the opportunity to obtain fish for personal and family consumption, was not considered relevant since all three fisheries were commercial fisheries.
- 4) On the fourth criteria, availability of alternative fishery resources, it was noted that there were no alternative resources since all salmon stocks in Prince William Sound are fully utilized.
- 5) On the fifth criteria, importance of each fishery to the economy of the state, it was noted that all three are very important fisheries, vitally important.
- 6) On the sixth criteria, the importance of each fishery to the economy of the region and local area, it was noted that the fisheries were equally valuable and vital since most the salmon are processed and shipped from Prince William Sound.
- 7) The seventh criteria, importance in providing recreation opportunities for residents and nonresidents, was not considered relevant since all three fisheries are commercial fisheries.

It was noted that the plan would not create any additional cost for participants, and that while the plan might be painful for some, it put things closer to where they need to be. The Chair noted that while the plan was still not perfect that it was a good and workable plan.

After deliberating, the Board adopted proposal 27 with the Committee B substitute language by a 7/0 vote.

Reaffirmation

Having reviewed the final regulations at 5 AAC 24.370 (am 3/30/2006, Register 177), implementing the conceptual language adopted by the Board, the Board finds that the final regulations reflect the Board's intent in adopting the conceptual language presented as substitute language for proposal 27. The Board also finds that although there are no doubt problems with the new regulations which will be before the Board in the future, the new regulations represent a significant step toward achieving the goals set out in 5 AAC 24.370(a).



Art Nelson, Chairman
Board of Fisheries

Approved: Carried (6 / 0 / 0 / 1) (Yes/No/Abstain/Absent)

Date: May 3, 2006

Location: Teleconference