

BRISTOL BAY FINFISH PROPOSALS

PROPOSAL 1 - 5 AAC 01.320. Lawful gear and gear specifications. Allow subsistence drift gillnets in Nushagak, Igushik, Snake, and Wood Rivers as follows:

Subsistence drift fishing for salmon is allowed in the Nushagak, Igushik, Snake and Wood River drainages. Drift nets will not exceed 25 fathoms in length and 29 meshes deep, vessel length not to exceed 24 feet.

ISSUE: Shortage of accessible subsistence set net fishing area along the Lower Wood River, Kakanak and Dillingham beaches by those who want to harvest subsistence King Salmon.

WHAT WILL HAPPEN IF NOTHING IS DONE? Every year subsistence fishermen are faced with the difficulty of finding accessible fishing sites because available beaches are claimed on a first-come first-served basis. Some families use “traditional” sites every year and those who do not “stake their claim early” for a fishing spot are left out. Those who have boats can travel farther away to conduct their subsistence fishing activity, but having to check their nets every tide can be very dangerous at times whenever the weather is bad. If they are unable to check their nets each tide’ destruction by birds, spoilage, and waste sometimes result.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. Fishermen will have a higher degree of control in harvesting quality and quality of fish. Families only catch what they need and are able to process daily for their own personal use. They will be able to control how many fish they catch instead of what they end up with once their set nets go dry. Given these tools, subsistence fishermen will be able to catch what they need, process what they catch, and will make better use of their time in meeting their annual needs. Fishermen will be safer off too as they will not be forced to travel to their remote fishing areas in the event of bad weather.

WHO IS LIKELY TO BENEFIT? Everyone, especially those subsistence fishermen who choose to fish on the beach. If drift fishing were allowed, this would reduce congestion and competition on the beaches for fishing sites.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? 1) Allowing set nets to be closer together but then the potential of gear conflict and crowding rises. 2) Limiting vessel length to 24 feet addresses concerns by eliminating the larger commercial fishing vessels.

PROPOSED BY: Hans Nicholson (SW-09F-003)

PROPOSAL 2 - 5 AAC 01.310. Fishing seasons and periods. Allow subsistence drift gillnets in Nushagak River, June 1–September 30 as follows:

Subsistence drift gill netting for salmon will be permitted on the Nushagak River system below Harris Creek and on the lower Nuyukuk below Arrow Creek.

From June 1 – September 30

Using king or red salmon net 25 fathoms in length or less.

Skiff length to equal 25 feet or less.

ISSUE: Subsistence Drift Gill Netting is a salmon harvesting tradition that has been used on the Nushagak River by the local village residents for many years. This proposal would address the issue and allow for the legalization of Subsistence Drift Gill Netting and ensure better documentation of salmon taken by local subsistence users.

WHAT WILL HAPPEN IF NOTHING IS DONE? The issue will not be addressed.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Salmon will be fresher and there will be less waste of the resource and better documentation.

The two traditional subsistence methods are the Set Net method where the net is attached to a point on the river bank and the Subsistence Drift Gill Netting method.

With the set net method, the nets are usually anchored at the points of a slough or jog in the Nushagak River bank. These places are also natural fishing areas for brown bears which are becoming a serious problem to the village subsistence fisherman, because the bears on a daily basis, pull up and destroy the nets, along with the many salmon in them. This problem increases each year as the bear population increases. River Otter are also a problem, especially during the King Salmon season. They eat parts of each fish in the net and the remainder is ruined for salmon strips.

This bear and otter predation forces the village subsistence fisherman to check the subsistence set net two or more times each day in an attempt to get a better quality fish, but nets are still pulled and ruined, with fish half eaten. As a result more salmon need to be caught to fill the subsistence smokehouse and the salmon, ruined by bear and otter, are usually not even documented on the ADF&G Subsistence Salmon Fishing Permit Form.

Therefore many local village subsistence fishermen are returning to the other traditional fishing method of Subsistence Drift Gill Netting on the Nushagak River System will solve these problems and result in less of the salmon resource being ruined or destroyed by predators and more accurate subsistence salmon documentation by local fishermen.

WHO IS LIKELY TO BENEFIT? Local village subsistence fishermen will benefit because they will be able to harvest good fresh salmon with less waste due to predators. With less waste of the salmon resource, more salmon will be able to spawn or be fished for sport. ADF&G will benefit from a more accurate salmon count data on the ADF&G Subsistence Salmon Fishing Permit Form.

WHO IS LIKELY TO SUFFER? No one! Except, the brown bears and otters will have to return to their natural way of catching salmon.

OTHER SOLUTIONS CONSIDERED?

PROPOSED BY: Nushagak AC

(SW-09F-011)

PROPOSAL 3 - 5 AAC 01.320. Lawful gear and gear specifications. Allow 25 fathoms of set gillnet in the Wood and Nushagak Rivers as follows:

Allow 25 fathoms of subsistence set nets to be used in the Wood River and Nushagak River upstream from the confluence of the Wood and Nushagak Rivers.

ISSUE: The issue of using only 10 fathoms of gear to subsistence fish in the Wood River and downriver from Lewis Point on the Nushagak River. This area used to fish 25 fathom nets but a couple board cycles ago was reduced to 10 fathoms. Consequently, fishermen have to fish longer with the shorter nets and have to go out on multiple trips to meet their annual needs. Having to check nets multiple times each day is costly with the high cost of gasoline. Safety also is an issue whenever the wind is blowing and the weather is bad. Having to go across the river by boat is dangerous enough when it is calm and is exacerbated when rough. Allowing fishermen to fish with longer nets will allow them to get their fish in a shorter time thereby reducing the number of trips that they have to make.

WHAT WILL HAPPEN IF NOTHING IS DONE? Subsistence fishermen will continue to be forced to fish more days and longer to catch adequate numbers for fish for their annual needs. Fishermen will continue to jeopardize their lives whenever they travel by boat to access their fishing sites.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. Subsistence fishermen will be able to harvest their fish quicker without having to fish longer and harvest enough salmon to process before the Blue-fly season to avoid maggot spoilage to drying fish.

WHO IS LIKELY TO BENEFIT? All subsistence fishermen.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? 1. Fishing longer nets on accessible beaches near town but there is not enough available space for everyone. 2. Allowing subsistence drifting would help because it has the potential of freeing up available beaches. It would also enable fishermen to control harvest and increase quality. I chose to write a separate proposal.

PROPOSED BY: Hans Nicholson

(SW-09F-004)

PROPOSAL 4 - 5 AAC 27.831. Gillnet specifications and operations for Bristol Bay Area. Change herring allocation for gillnet and seine as follows:

5 AAC 27.831. Gillnet specifications and operations for Bristol Bay Area.

(a) No single herring gillnet may exceed 100 fathoms in length, and the aggregate length of gillnets in use by a CFEC herring interim-use or limited entry permit holder may not exceed 100 fathoms.

(b) No more than 100 fathoms of herring gillnet may be operated from any herring fishing vessel.

ISSUE: In the Togiak herring fishery, gillnetters are limited to 50 fathoms of gear by regulation. Past practice is that, every year fishermen have been allowed to fish 100 fathoms of gear by emergency order because participation rates are below and this would increase the catching power for fishermen. Increasing gear has been an effective management tool to keep the allocation ratio's in-line. We would like to remove the emergency order required allowing 100 fathoms of gillnet gear to be used at the onset of the fishery because it is unneeded, burdensome and the fishery biologist has to EO 100 fathoms every year.

WHAT WILL HAPPEN IF NOTHING IS DONE? The fishery biologist will continue having to make the same emergency order year after year.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No. It reduces the workload of our fisheries manager and provides additional opportunity to balance the allocation ratio between seine/gillnet harvest.

WHO IS LIKELY TO BENEFIT? All herring fishermen. This is an effective tool for keeping the allocation ratio's on track.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED?

PROPOSED BY: Hans Nicholson (SW-09F-005)

PROPOSAL 5 - 5 AAC 27.810 to 27.865 Bristol Bay herring fishery. Eliminate reallocation of spawn on kelp quota as follows:

Regulations that give 50% of our unused spawn on kelp quota to the seiners and gillnetters should be eliminated. If they want our allocation, they can lease it from us, the same way these same canneries lease their crab and Pollock quota from each other. If we do not use the quota and we do not lease it, then we should be able to save those fish for next year.

The spawn on kelp permit holders should also be allowed to use our 1,500 ton allocation for kelp pounding, as has been allowed in Norton Sound.

ISSUE: The Seattle canneries completely control the herring seine and gillnet fisheries at Togiak. They only buy fish from their pet fishermen and a few CDQ insiders. They will never buy our spawn on kelp because if there are no buyers, then by regulation our unused allocation will transfer to the seine and gillnet fleet that they control.

WHAT WILL HAPPEN IF NOTHING IS DONE? Most Alaskan fishermen and kelp permit holders, like myself, will never fish Togiak again.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. Pounding would cause less waste compared to seining or gillnetting because no fish die. We would just harvest the eggs and the fish would swim away and return next year.

Pounding would also result in a more valuable product than picking wild kelp does.

WHO IS LIKELY TO BENEFIT? Spawn on kelp permit holders would get our allocation back, that was taken from us.

WHO IS LIKELY TO SUFFER? Several big canneries might go bankrupt.

OTHER SOLUTIONS CONSIDERED? Pay big money for campaign contributions and consulting fees and change the rules that way. Rejected because I have no money and there might be FBI problems.

PROPOSED BY: Sidney A. Nelson (SC-09F-012)

PROPOSAL 6 - 5 AAC 27.865(b)(7). Bristol Bay Herring Management Plan. Allocate unharvested spawn on kelp quota to food and bait as follows:

(b)(7) The maximum exploitation rate for the Bristol Bay herring stock is 20 percent. Before opening the sac roe fishery the department shall set aside approximately 1,500 short tons for the Unimak District herring spawn-on-kelp fishery, and seven percent of the remaining available harvest for the Dutch Harbor food and bait fishery. If the actual harvest level is less than the spawn-on-kelp guideline harvest level, the commissioner may reallocate 50 percent of the remainder to the Togiak District herring sac roe fishery. If no spawn-on-kelp harvest occurs, after the commissioner has reallocated 750 tons to the Togiak District herring sac roe fishery the commissioner may reallocate the remaining 750 tons to the Togiak District herring sac roe fishery the commissioner may reallocate the remaining 750 tons to the Dutch Harbor food and bait fishery.

ISSUE: Increase the quantity (tons) of food and bait herring to be harvested in the Unimak, Akutan and Unalaska Districts.

WHAT WILL HAPPEN IF NOTHING IS DONE? Abundant herring stocks will remain unharvested. There is active demand for these food and bait herring in the local area. These herring

bring a higher price per pound than sac roe herring fisheries. There are abundant stocks that can be harvested locally in the Dutch Harbor area.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? These herring are post-spawn and are actively feeding and receive a much higher economic value than other harvested herring. There is a 100% utilization of these herring due to their size and quality.

WHO IS LIKELY TO BENEFIT? The State of Alaska for increased value of the herring resource along with the seiners and gillnetters that participate in this food and bait fishery.

WHO IS LIKELY TO SUFFER? This is an un-harvested resource therefore no one will suffer.

OTHER SOLUTIONS CONSIDERED? Status-quo.

PROPOSED BY: Daniel F. Veerhusen (HQ-09F-060)

PROPOSAL 7 - 5 AAC 27.805. Description of Bristol Bay Area districts and sections. Define Egg Island subsection as follows:

(a)(7) the Egg Island sub-section is defined as the area from the longitude of Right Hand Point 159° 55.00' west longitude, to the latitude of Egg Island at 58° 53.70' north latitude, 159° 44.06' west longitude and between the mainland shoreline and a line from: 58° 53.70' north latitude, 159° 43.18' west longitude (approximately one mile off Egg Island), to 58° 50.57' north latitude, 159° 43.28' west longitude (approximately one mile off Kulukak Bluffs), to 58° 47.90' north latitude, 159° 45.16' west longitude (approximately one mile off Barge Beach), to 58° 45.20' north latitude, 159° 55.00' west longitude (approximately one mile off Right Hand Point).

ISSUE: Define Egg Island Section in regulation so users have the information instead of having to wait for an emergency order each year. This will allow them to program their GPS navigation systems prior to the season.

WHAT WILL HAPPEN IF NOTHING IS DONE? The department will continue to define the fishing area by emergency order and users that don't have the coordinates programmed into their GPS will have to wait until the emergency order is issued in order to get the coordinates.

WHO IS LIKELY TO BENEFIT? Everyone who participates in the Togiak herring gillnet fishery.

WHO IS LIKELY TO SUFFER? Unknown.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game (HQ-09F-126)

PROPOSAL 8 - 5 AAC 67.022. Special Provisions for season, bag, possession, and size limits, and methods and means in the Bristol Bay Area. Prohibit fishing below the bridge on Brooks River follows:

Make Brooks River and American Creek regulation read the same as Savonoski River drainage regulations. Do not allow fishing below the Bridge on Brooks River.

ISSUE: Brooks River, Savonoski River and American Creek are all Naknek Lake drainages but they all have different seasons and bag limits. This is confusing and there are no biological reasons for this. There is no opportunity to harvest fish in Brooks River above the bridge. Due to erosion, fishing below the floating bridge should not be allowed.

WHAT WILL HAPPEN IF NOTHING IS DONE? The regulations will stay confusing. A lack of opportunity to harvest fish in Brooks River and American Creek will continue. Fishing will continue below the bridge in waters that should be considered “outlet waters of Brooks River”.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Fishermen who want to keep a rainbow in Brooks River and American Creek.

WHO IS LIKELY TO SUFFER? Fishermen who keep fish below the bridge in Brooks River.

OTHER SOLUTIONS CONSIDERED? Make Brooks River regulations the same as American Creek regulations. We rejected this solution because it’s more restrictive. This would be our second solution.

PROPOSED BY: King Salmon Village Tribe (HQ-09F-022)

PROPOSAL 9 - 5 AAC 67.022(g). Special provisions for season, bag, possession and size limits, and methods and means in the Bristol Bay Area. Close sport fishing within quarter mile of Klutak, Iowithla, and Koggiling creeks as follows:

(g)(6) in the Nushagak River within a ¼ mile radius of the Iowithla River, Klutuk and Koggiling creeks sport fishing is closed year around;

ISSUE: Sport fishing guides camping and fishing for King Salmon at the stream entrances to the Klutuk Creek below Ekwok, Iowithla, and the Koggiling. These stream mouths are staging areas for King Salmon trying to enter. Due to the increased sport fishing and sport-guided fishing, these fish are very vulnerable and caught at a very high rate.

WHAT WILL HAPPEN IF NOTHING IS DONE? The potential of over-fishing of these stocks is detrimental to the long-term sustainability of King Salmon that spawn in these streams.

Within the last few years, King Salmon returns have been very low in the Nushagak River. The King Salmon escapement curve during the early part of the season has been well below projections causing termination of the commercial harvest the last two years. Escapement requirements have only been achieved because of escapement throughout the entire summer.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No. It is more of a resource and sustainability issue.

WHO IS LIKELY TO BENEFIT? King Salmon stocks that spawn in these streams. Everyone will benefit if these stocks are able to sustain themselves.

WHO IS LIKELY TO SUFFER? Only those fishermen and guides that fish these stream entrances.

OTHER SOLUTIONS CONSIDERED?

PROPOSED BY: Nushagak AC (SW-09F-008)

PROPOSAL 10 - 5 AAC 67.022. Special provisions for seasons, bag, possession, and size limits, and methods and means in the Bristol bay Area. Revise regulations regarding Alagnak River closure as follows:

Set the season and bag limit for the lakes in the Alagnak River drainage the same as the Naknek Lake regulations.

ISSUE: The lakes, in the Alagnak River drainage, are closed to fishing when the Alagnak River closes to protect spawning rainbow. It was never the intention of the BOF to close the lakes when the Alagnak River is closed.

WHAT WILL HAPPEN IF NOTHING IS DONE? Fishing opportunity will continue to be lost for no biological reason.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Fishermen who want to enjoy the experience of fishing the lakes, in the Alagnak River drainage, during the spring.

WHO IS LIKELY TO SUFFER? No one because there are no conservation concerns in the Alagnak River drainage lakes.

OTHER SOLUTIONS CONSIDERED? We did not consider any other solution.

PROPOSED BY: King Salmon Village Tribe (HQ-09F-024)

PROPOSAL 11 - 5 AAC 67.022(d)(11). Special provisions for seasons, bag, possession, and size limits, and methods and means in the Bristol Bay Area. Correct regulatory error regarding sport fishing for king salmon in Big Creek Drainage as follows:

67.022(d)(11) in the Big Creek drainage upstream of an ADF&G regulatory marker located upstream one-half mile upstream of its confluence with the Naknek River (Peon Hole) [IS CLOSED TO SPORT FISHING FOR KING SALMON;] king salmon may not be possessed or retained; all king salmon must be immediately released. [A PERSON MAY NOT REMOVE A KING SALMON FROM THE WATER BEFORE RELEASING THE FISH.]

PROBLEM: This is a housekeeping proposal. An administrative error incorrectly recorded this regulation approved by the Board of Fisheries in 2001 regarding sport fishing for king salmon in Big Creek.

WHAT WILL HAPPEN IF NOTHING IS DONE? The codified regulations will not reflect actions approved by the board.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? This housekeeping proposal would correctly define the codified regulations for fishery managers, enforcement staff and anglers.

WHO IS LIKELY TO SUFFER? Unknown.

OTHER SOLUTIONS CONSIDERED? None; this is a housekeeping proposal.

PROPOSED BY: Alaska Department of Fish and Game (HQ-09F-130)

PROPOSAL 12 - 5 AAC 67.020(2). Bag limits, possession limits, and size limits for Bristol Bay Area; and 5 AAC 67.022(D)(2). Special provisions for seasons, bag, possession, and size limits, and methods and means in the Bristol Bay Area. Correct regulatory error regarding bag and possession limits for king salmon in Bristol Bay Area as follows:

5AAC 67.020(2) king salmon
(salt waters) 3 per day, 3 in possession, of which only 2 [1] fish may be 28 inches or greater in length;...

5AAC 67.022(d)(2) In all flowing waters of the Naknek River drainage, from March 1 through November 14, only unbaited, [SINGLE-HOOK,] artificial lures may be used;

PROBLEM: This is a housekeeping proposal. When the codified regulations were converted from a matrix format to a text format, a transcription error incorrectly defined these sport fishing regulations in the book.

WHAT WILL HAPPEN IF NOTHING IS DONE? The codified regulations will not describe actions approved by the Board of Fisheries.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? This housekeeping proposal would correctly define the codified regulations for fishery managers, enforcement staff, and anglers.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None; this is a housekeeping proposal.

PROPOSED BY: Alaska Department of Fish and Game (HQ-09F-132)

PROPOSAL 13 - 5 AAC 75.xxx. New Section. Establish a fish refuge in Bristol Bay as follows:

In support of the necessary steps to establish a fish refuge in Bristol Bay area watersheds, consistent with AS 16.05.251(a)(1), this proposal requests the Board to make a recommendation, via resolution, to the Alaska State Legislature. The recommendation follows:

A RESOLUTION OF THE ALASKA BOARD OF FISHERIES Supporting Legislative Action To Augment Protection Of Fish Habitat in the Kvichak and Nushagak River Drainages

WHEREAS, The Kvichak and Nushagak River drainages of the Bristol Bay region are among the most productive wild salmon watersheds in North America and sustain the largest wild sockeye salmon runs in the world, as well as world-class trout fishing; and

WHEREAS, The existing mainstays of the economy in this region – subsistence use, commercial fishing, and sport fishing and hunting – are highly dependent on these productive watersheds; and

WHEREAS, The important fishery resources within these watersheds could suffer negative environmental consequences from potential large scale sulfide mine development, including effects on fish habitat, acid mine drainage, and other water quality issues resulting from mine tailings and exposed rock, that may require ongoing remediation efforts for an indefinite period of time; and

WHEREAS, The Board of Fisheries’ Policy for the Management of Sustainable Salmon Fisheries states that “in the aggregate, Alaska’s salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices” (5 AAC 39.222(a)(1)); and

WHEREAS, The Policy for the Management of Sustainable Salmon Fisheries states that in the

management of salmon fisheries: “all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected”; that “salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity”; that "salmon habitats should not be perturbed beyond natural boundaries of variation" (5 AAC 39.222(c)); and

WHEREAS, The highly productive fishery resources within these watersheds merit more than the standard level of protection that is now provided under State law and regulation; and

WHEREAS, The Alaska Board of Fisheries is aware of legislation introduced in the 2007-2008 Alaska State Legislative session to create the Jay Hammond State Game Refuge (SB 67) under Title 16 of the Alaska Statutes (wherein “game refuge” is inclusive of “fish” and “fish habitat”) which encompassed the Nushagak and Kvichak River drainages; and

WHEREAS, Following board deliberations at their March 9-13, 2007 board meeting, the Alaska Board of Fish “found that the current habitat protections for Bristol Bay fishery resources are not sufficient and acted to continue its Bristol Bay habitat committee”¹; and

WHEREAS, At their March 9-13, 2007 board meeting, the Alaska Board of Fisheries voted to not take action on the 2006 Bristol Bay Finfish Proposal #121² which proposed to create a fish refuge within these watersheds because of its redundancy with pending legislation³ to create the Jay Hammond State Game Refuge (SB 67); and

WHEREAS, The Board of Fisheries has authority under AS 16.05.251(a)(1) to offer recommendations to the Alaska State Legislature regarding the establishment of a fish refuge; and

NOW THEREFORE BE IT RESOLVED That the Alaska Board of Fisheries recommends to the Alaska State Legislature that additional regulatory protections be enacted as needed to ensure the continued health and viability of fish habitat in the Nushagak and Kvichak River Drainages.

BE IT FURTHER RESOLVED That the Alaska Board of Fish recommends to the Alaska State Legislature that any additional regulatory protections for fish habitat in these drainages would allow subsistence, recreational and commercial fishing, hunting, and trapping under state and federal regulations.

¹ See: “Preliminary Summary of Actions Alaska Board of Fisheries Statewide Finfish and Supplemental Issues March 9 - 13, 2007 Anchorage” available at:
http://www.boards.adfg.state.ak.us/fishinfo/meetsum/2006_2007/bof-mar07-psum.pdf

² Proposal available at:
http://www.boards.adfg.state.ak.us/fishinfo/meetinfo/2006_2007/fprop2006-2007.php

³ See: “Preliminary Summary of Actions Alaska Board of Fisheries Statewide Finfish and Supplemental Issues March 9 - 13, 2007 Anchorage” available at:
http://www.boards.adfg.state.ak.us/fishinfo/meetsum/2006_2007/bof-mar07-psum.pdf

ISSUE: The watersheds of the Bristol Bay region support some of the most productive wild salmon ecosystems in North America and sustain the largest wild sockeye salmon fishery in the world. The existing mainstays of the economy in this region - subsistence use, commercial fishing, and wilderness sport fishing and hunting- are also dependent on these productive watersheds. The Board of Fisheries' Policy for the Management of Sustainable Salmon Fisheries states that "in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices" (5 AAC 39.222(a)(1)). But some salmon habitat in the Nushagak and Kvichak River watersheds of the Bristol Bay region faces potential major, environmental impacts from one or more large-scale metallic sulfide mines for copper and gold which are being considered in these watersheds that support these fisheries. Large-scale sulfide mining poses risks to fish and fish habitat especially from acid mine drainage, a process that dissolves metals and renders them toxic to fish and other wildlife. Acid mine drainage and other water quality issues resulting from mine tailings and exposed rock may require ongoing remediation action and monitoring in perpetuity. There is considerable uncertainty about whether state policy "to effectively assure sustained yield and habitat protection for wild salmon stocks" 5 AAC 39.222(a) and that "salmon habitats should not be perturbed beyond natural boundaries of variation" 5 AAC 39.222(c) can be upheld in light of the scale of development being considered.

WHAT WILL HAPPEN IF NOTHING IS DONE? If additional regulatory protections are not provided for the fish habitat within the Nushagak and Kvichak River, there is considerable risk of fish habitat loss and reduced sustained yield of wild salmon and resident fish stocks.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A

WHO IS LIKELY TO BENEFIT? This proposal requests that the Board pass a resolution supporting legislative action to augment protection of fish habitat in the Kvichak and Nushagak River Drainages. Depending on action taken by the legislature this could result in a greater level of protection, all those who fish, hunt, trap or otherwise use fish and wildlife from the Kvichak and Nushagak watersheds, as well as those who provide services to such users, will have greater assurance that the fish and wildlife stocks will be available in future years.

WHO IS LIKELY TO SUFFER? Action resulting from this proposal is not intended to impinge in any way on subsistence, recreational and commercial fishing, hunting, and trapping allowed under state and federal regulations. It is not anticipated that users of fish or wildlife from the Kvichak or Nushagak watersheds will suffer or be faced with any displacement of their usual practices. Operators of large-scale non-renewable resource extraction projects may have to modify their operations if they result in environmental effects on fish habitat that are not compatible with protections enacted by the Legislature.

OTHER SOLUTIONS CONSIDERED? We considered requesting the Alaska Board of Fisheries to establish a fish refuge, subject to approval by the Alaska State Legislature, per their authority under AS 16.05.251(a)(1). However, we feel that the Alaska State Legislature is the

most appropriate institution to take the lead in establishing a refuge as one potential means of extending additional protections to the fish habitat within these watersheds.

PROPOSED BY: Leader Creek Fisheries LLC, Norman VanVactor and John Lowrance; Naknek Family Fisheries, Izetta Chambers; Alaska Sportsman’s Lodge and Alaska Sportsman’s Bear Trail Lodge, Brian Kraft; and Curyung Tribal Council, Chief Tom Tilden (HQ-09F-155)

PROPOSAL 14 - 5 AAC 06.335. Minimum distance between units of gear. Require removal of all setnet gear during drift gillnet openings as follows:

Add to 5 AAC 06.335(d) ”All set gillnet gear, lines, anchors, stakes, buoys, kegs, etc. shall be removed from any and all district waters during any and all driftnet only commercial fishing openings, to enforce the Bristol Bay Allocation plans of 5 AAC 06.355.”

ISSUE: The issue of set net gear, left in the water and obstructing, and interfering with drift gillnet gear, during driftnet only openings in Bristol Bay.

WHAT WILL HAPPEN IF NOTHING IS DONE? The self explanatory criminal statute, with the Board of Fisheries ignoring this issue during the 2006 Dillingham meetings, and with continued support of Criminal Action, by refusing drift gear operations, the same compliance with the same state criminal statute enforced by the Alaska State Troopers during set and drift openings, using with 5 AAC 06.335.

AS 16.10.055. Interference with commercial fishing gear. A person who willfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor, for the purposes of this section “interference” means the physical disturbance of gear which results in a loss of fishing time, and “reckless disregard of the consequences” means a lack of consideration for the consequences of one’s acts in a manner that is reasonable likely to damage the property of another.”

And;

5 AAC 39.002 Liability for violations. Unless otherwise provided in 5 AAC 01-5 AAC 41 or in AS 16, a person who violates a provision of 5 AAC 01 - 5 AAC 41 is strictly liable for the offense, regardless of the intent.

and;

AS 11.16. PARTIES TO CRIME, Sec. 11.16.100. Legal accountability based upon conduct.

AS 11.20. OFFENSES AGAINST PROPERTY

AS 11.76.110. INTERFERENCE WITH CONSTITUTIONAL RIGHTS.

(a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the

constitution or laws of this state; or (3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, see; 5 AAC 06.355 Bristol Bay commercial set and drift gillnet sockeye salmon fisheries management and allocation plan.

(B) It is the intent of the Board of Fisheries that Bristol Bay sockeye salmon catches be allocated between drift and set gillnet fishers by district. To achieve this allocation, the department shall manage, to the extent practicable, the commercial sockeye salmon fisheries to achieve the allocation percentages established in 5 AAC 06.364, 5 AAC 06.365, 5 AAC 06.366, and 5 AAC 06.367.

(3) for the harvest of surplus salmon, the board adopts the following goals;

(A) salmon will be harvested in an orderly manner

(B) salmon will be harvested consistent with specific regulatory management plans for each district; and

(C) salmon will be harvested in a way to improve product quality;

By allowing the drift net fleet access to more area during drift only openings, denied by the Boards previous action with implementing the allocation plans, as proposed by the set net fleet during previous board meetings. This proposal promotes the quality issues by preventing the drifter to flood onto set net buoys, lines and gear, left in the fishing districts during drift only openings, and requiring the drift net fisher sometimes tow hard, or round haul, off this gear when it's not being used to fish, but prevents access to fishing area in a district closed to set net fishing.

WHO IS LIKELY TO BENEFIT? Both gear groups would benefit from this proposal. Set net gear removed from the district during drift only openings, is in no danger of a "property loss," that is in "interference" with drift gear, that's not fishing, during these drift only openings. This proposal protects the private property of both user groups, and as clearly defined with the "reckless disregard of the consequences" that the Board has ignored since implementation of the numerous Bristol Bay allocation plans promoted by the set net fleet.

The set net fisher, who sits on the beach waiting for openings, and requested by the setnet fleet that the board implemented with 5 AAC 06.355, with the boards "reckless disregard of the consequences."

WHO IS LIKELY TO SUFFER? No one. The proposal takes issue, with some set net fictions that removal of their gear is impossible. Observed during the end of every season for decades. This gear being removed and put into storage for the winter, as if such a problem like removing these running lines, anchors, buoys, etc. due to tide, weather, or whatever erroneous reason given, that evidently shouldn't have originally been deployed, if this gear, lines, anchors etc, are so difficult to remove, as proposal #19 failed in the 2006 Bristol Bay Board meetings, obviously

due to the statute reading the “reckless disregard of the consequences” that has obviously confused many members of our previous Board of Fisheries. Like that Fourteenth Amendment of 1868, “nor shall any state deprive any person of life, liberty and property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” And if that “equal protection clause” is confusing to this Board of Fisheries, and your Juneau Lawyers, We also have an older one, from the Magna Charta; clause 40 “To no one we will sell, to no one will we deny or delay right or justice.”

“His obligations, although more troublesome to him than others, is the same as that as everyone else. It is the purely negative duty not to obstruct or interfere with a right to property.”

OTHER SOLUTIONS CONSIDERED? The Board could repeal 5 AAC 06.355, which applies to both commercial user groups; a doubtful theory based on both gear groups allocation plans, in benefit of both set and drift gillnet groups.

PROPOSED BY: Todd Granger (HQ-09F-077)

Note, this proposal was previously considered by the board during the December 2006 meeting. It was tabled to the board's Salmon Industry Restructuring Committee for additional review and scheduled for the December 2009 Bristol Bay Finfish meeting for possible adoption.

PROPOSAL 15 - 5 AAC 06.341. Vessel specifications and operations. Eliminate 32 foot limit on vessels in Bristol Bay drift gillnet fishery as follows:

Amend 5 AAC 06.341 to eliminate the 32-foot limit on vessels used in the driftnet fishery in Bristol Bay.

ISSUE: Vessel safety, quality of salmon caught and the arbitrary 32-foot limit on the length of vessels allowed to fish in Bristol Bay’s driftnet fishery.

WHAT WILL HAPPEN IF NOTHING IS DONE? If the board continues to limit the size of the vessels to 32 feet, harvesters will continue to be limited in the equipment and the ability to outfit their vessels to make improvements in fish quality while maintaining safety aboard the boats. At present many 32-foot vessels within the fishery just do not have the capacity or space to properly install an RSW unit on the size and power needed to utilize holds that are filled with a mixture of ice and water. At present, one need only look in a boat yard in Naknek or Dillingham to see many boats do not even look like boats, evidence of efforts made to put too much into a 32-foot boat. Frankly, some of those boats look like a disaster or serious accident waiting to happen.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? The proposal is made to specifically address the need to allow harvesters to design, purchase, adapt current vessels to safely accommodate equipment used to chill or freeze salmon that are caught in Bristol Bay. The quantities of salmon that are caught in a short time in this fishery require a large deck space and large capacity to hold and treat thousands of pounds of product within hours. Some harvesters may see the use of larger and longer vessels as an option to help achieve such goals as processing and freezing their own product on board, in

combination with marketing their own product.

WHO IS LIKELY TO BENEFIT? If larger and longer vessels are allowed, fishermen that would like a bigger and longer vessel to accommodate and operate refrigeration and possibly freezing equipment on board would benefit. Vessel manufacturers and fabricators would benefit from the work that would be generated.

WHO IS LIKELY TO SUFFER? If a larger vessel has complete advantage over smaller vessels, the smaller vessels will become obsolete in the fishery. But, I do not think a complete loss of smaller vessels from the fleet would be realized, as smaller vessels can and will always be able to fish shallower waters. They are also generally faster and much more economical to operate.

OTHER SOLUTIONS CONSIDERED? As mentioned above, the elimination of the 32-foot limit would not necessarily mean the end of smaller vessels which will always have their own advantages and value over large vessels. It depends on how a fisherman chooses to fish. He or she may choose not to use any type of RSW or CSW system, as gas engine, outboard engines, jet water propulsion, etc. to make ends meet for their individual needs. I thought about proposing a longer limit on the length of vessel, such as 42-feet but the reality is that fishermen will not want a vessel that is too long or too deep and much of the type of vessel depends on a fisherman's favorite way or area to fish. The importance is giving harvesters the option and ability to choose what he or she knows is best for their personal situation.

PROPOSED BY: Erick Sabo (HQ-09F-009)

Note, this proposal was previously considered by the board during the December 2006 meeting. It was tabled to the board's Salmon Industry Restructuring Committee for additional review and scheduled for the December 2009 Bristol Bay Finfish meeting for possible adoption.

PROPOSAL 16 - 5 AAC 06.331. Gillnet specifications and operations. Allow multiple permit use as follows:

Allow anyone who owns two setnet permits to operate them in accordance with existing regulations and anyone who owns two drift permits to be allowed to fish them in accordance with 5 AAC 06.333.

ISSUE: A person may own two permits but he can only fish one at a time. HB251 gives the board the authority to allow one person to own and operate two permits at the same time. I am asking the board to allow anyone who owns two setnet permits to be allowed to fish them at the same time and anyone who owns two drift permits to be allowed to fish them in accordance with 5 AAC 06.333.

WHAT WILL HAPPEN IF NOTHING IS DONE? There will continue to be no benefit to anyone who owns two permits.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? Any fisherman who buys two fishing permits.

WHO IS LIKELY TO SUFFER? No one because the permits have been fished in the past.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Vince Webster (HQ-09F-007)

PROPOSAL 17 - 5 AAC 06.331 (f) Gillnet specifications and operations. Allow multiple permit use as follows:

(f) Except as provided in (u) of this section, a person may not operate more than two set gillnets, and the aggregate length of set gillnets operated by that person may not exceed 50 fathoms in length. Notwithstanding 5AAC 39.240 (a), a person may assist in operation or transportation of additional set gillnet gear when the CFEC interim-use or entry permit card holder of the additional gear is present in compliance with 5 AAC 39.107.

(u) A CFEC permit holder who holds two Bristol Bay set gillnet CFEC permits may operate no more than four set gillnets, with no more than 100 fathoms of set gillnet gear in the aggregate. No single set gillnet may be more than 50 fathoms in length. Both of the permit holder's five-digit CFEC permit serial numbers followed by the letter "D" to identify the gillnet as a dual permit set gillnet must be located on the identification buoys required by 5 AAC 39.280 and 5 AAC 06.334. At least one cork every 10 fathoms along the cork line must be plainly and legibly marked with both CFEC permit numbers of the CFEC permit holder. All identifiers must be displayed in a manner that are plainly visible and unobscured and have permanent symbols in a color that contrasts with the background.

ISSUE: This proposal asks the Board to exercise its authority under HB251 to allow one person to own and operate two Bristol Bay CFEC set gillnet permits in accordance with existing regulations and the proposed regulatory amendment.

WHAT WILL HAPPEN IF NOTHING IS DONE? Fishermen who have purchased additional permits in order to survive an adverse economic climate will continue to rely on family members or crewmembers to hold permits and shore fishery leases or be forced to downsize. Single permit holders will continue to be economically marginalized.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. Increased profitability derived from fishing multiple set gillnets allows more disposable income to invest in capital improvements that increase product quality. Additionally, a more consistent annual production afforded by multiple nets will provide a solid foundation from which an operation can vertically integrate.

WHO IS LIKELY TO BENEFIT? All current Bristol Bay set gillnet permit holders will realize an increase in the fair market value of their permits. Existing multi-permit operations will avoid present and future risks associated with relinquishing ownership rights to family members and crewmembers. Single permit holders will be afforded a safe regulatory mechanism to both expand their operation and increase its profitability.

WHO IS LIKELY TO SUFFER? New entrants into the fishery will probably pay a higher fair market value for a permit. However, access will probably not be precluded. Similar ‘stacking’ measures have passed for both the Kodiak set gillnet fleet and for the Bristol Bay drift gillnet fleet and permits are currently available for purchase in both of these fisheries.

OTHER SOLUTIONS CONSIDERED? Fishing cooperatives, joint ventures, a permit holder appoints a proxy, limiting the amended regulations to family members. Rejected because they do not address the issue and/or may not conform to CFEC regulations.

PROPOSED BY: Dylan Braund and Tom Rollman, Jr. (SC-09F-022)

PROPOSAL 18 - 5 AAC 06.331. Gillnet specifications and operations. Allow multiple permit use as follows:

5 AAC 06.331 (f) **Except as provided in 5 AAC 06.XXX, a** [A] person may not operate more than two set gillnets, and the aggregate length of set gillnets operated by that person may not exceed 50 fathoms in length.....

5 AAC 06.XXX A CFEC permit holder who holds two Bristol Bay set gillnet CFEC permits may operate no more than four set gillnets, with no more than 100 fathoms of set gillnet gear in the aggregate. No single set gillnet may be more than 50 fathoms in length. Both of the permit holders five-digit CFEC permit serial numbers followed by the letter “D” to identify the gillnet as a dual permit set gillnet must be located on the identification buoy and the site markers required by 5AAC 06.334. At least one cork every 10 fathoms along the cork line must be plainly and legibly marked with both CFEC permit numbers of the CFEC permit holder. All identifiers must be displayed in a manner that are plainly visible and unobscured and have permanent symbols in a color that contrasts with the background.

ISSUE: The breakup of existing setnet operations when family permit holders reach adulthood, retire, etc. This proposal would allow a Bristol Bay set gillnet permit holder to hold and operate two Bristol Bay set gillnet permits.

WHAT WILL HAPPEN IF NOTHING IS DONE? Unlike other fisheries, a setnet site is often a family operation, with several permits held by family members and fished as a whole. Currently a permit holder can only operate a single permit. This system works fine until a young adult enters a different line of work, or until a parent reaches an elderly age and can not fish anymore. Then you

have only 2 choices: break up the operation and sell the permits outright, or transfer the permits into someone else's name with the idea that they will continue to fish with you—a serious gamble as these permits are now legally out of your control and can be sold, lost in a divorce, seized by the IRS, etc.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Many setnet families. For example, in our 4 permit operation, permits are held by my wife, myself, my father, and my mother's permit is held by my son. My son recently graduated and wants to try something else. My father still actively fishes, but at 78—for how much longer? My parents have owned these permits for 35 years and the permits should continue to provide for them in their elder years --but only if we can keep them in the family. Most setnet families eventually have to face this dilemma. This proposal would allow them to remain a viable family operation. My goal is not to increase the size of set net operations. My goal is to keep them from getting smaller.

WHO IS LIKELY TO SUFFER? No one. This proposal does not add more gear in the water; rather it seeks to maintain existing operations at their current levels of effort. A similar regulation exists in the Kodiak set gillnet fishery.

OTHER SOLUTIONS CONSIDERED? I could think of no others which would work.

PROPOSED BY: Eric M. Beeman (HQ-09F-033)

PROPOSAL 19 - 5 AAC 06.331. Gillnet specifications and operations. Allow multiple permit use as follows:

Allow multiple setnet permits to be fished by one person.

ISSUE: the problem is that our family, like many others, has multiple permit operations in Bristol Bay we have fished as a family for 22 years. Now one of our permit holders is off to college and will be unable to join us fishing for a few seasons. We shouldn't have to find some one else to transfer the permit to. Many problems surface, person you transfer to flakes out and leaves mid-season, tries to rip you off for permit, etc. The list goes on.

WHAT WILL HAPPEN IF NOTHING IS DONE? Permit holder will still have to do shabby transfer to someone outside of our family. Many unnecessary transfers. Possible lost income due to not being able to find someone to transfer to.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A

WHO IS LIKELY TO BENEFIT? Family run setnet operations.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Kim Rice

(HQ-09F-089)

Note, this proposal was previously considered by the board during the December 2006 meeting. It was tabled to the board's Salmon Industry Restructuring Committee for additional review and scheduled for the December 2009 Bristol Bay Finfish meeting for possible adoption.

PROPOSAL 20 - 5 AAC 06.333. Requirements and specifications for use of 200 fathoms of drift gillnet in Bristol Bay. Allow one person to own two permits and use 200 fathom nets as follows:

Allow one person to own and benefit from the permit stacking privileges granted by the board in the Bristol Bay driftnet fishery as allowed by 2006 legislation.

ISSUE: Too many participants in the Bristol Bay fishery as indicated in the Commercial Fish Entry Commission's optimum number study. Present regulations allow vessels to "stack" permits provided that the permits are held by different individuals. Allowing the two permits to be held by one individual will reduce the transactional difficulties in having separately owned permits on one vessel.

WHAT WILL HAPPEN IF NOTHING IS DONE? The incentive to "stack" permits will not be sufficient to adequately reduce the amount of gear on the grounds contributing to continued economic distress, management difficulty and enforcement of the regulation.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. With fewer vessels, quality problems inherent in line fisheries will be reduced.

WHO IS LIKELY TO BENEFIT? Bristol Bay drift permit holders and crews as fewer vessels and less gear per permit will give more opportunity for the remaining vessels and fishermen.

WHO IS LIKELY TO SUFFER? Those who are satisfied with crowded fishing grounds, low returns on their commercial fishing businesses and substandard fish quality.

OTHER SOLUTIONS CONSIDERED? Additional privileges for stacking with two separate permit holders on board, however, the transactional difficulties would still not be resolved.

PROPOSED BY: Charles W. Treinen

(HQ-09F-008)

PROPOSAL 21 - 5 AAC 06.333. Requirements and specifications for use of 200 fathoms of drift gillnet in Bristol Bay. Allow use of 300 fathoms of gear with two stacked permits as follows:

Amend to read: 5 AAC 06.333(a)

5 AAC 06.333 REQUIREMENTS AND SPECIFICATIONS FOR THE USE OF DUAL GILLNET LIMITED ENTRY PERMITS IN BRISTOL BAY.

(a) Two Bristol Bay drift gillnet CFEC permit holders may concurrently fish from the same vessel and operate jointly two equal 150 fathom gear lengths using two equal Bristol Bay Salmon Drift Limited Entry Permits, for a total of 300 fathoms of gear.

ISSUE: Illegal allocation, “within a single fishery” implemented by the Board of Fisheries. See; State, Alaska Board of Fisheries v. Grunert (04/21/2006) sp-6006, 139 P3d 1226, And W. Johnson et al v. AK Dept. Fish & Game (11/29/91), 836 P 2d 896,

WHAT WILL HAPPEN IF NOTHING IS DONE: The continued criminal conspiracy, see; (18 U.S.C. 241) by the State of Alaska Board of Fish, and Fish and Game, to deny the same Limited Entry Permit holder a equal allocation of the commercial fishery resource, currently denied by the State, for this “single fishery” S03T, and in “Grunert” by persons stacking permits using 5 AAC 06.333, as the Court writes clearly “In Grunert I, we struck down former 5 AAC 15.359 (2002) because it was fundamentally at odds with the Limited Entry Act...We also explained that the Limited Entry Act was enacted to protect economically dependant fishers...Alaska Statute 16. 05.251(e) authorizes the board to allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. We explained in Grunert I that among means between, not within, the fisheries. The boards authorizing statute defines fishery as a specific administration area in which a specific fishery resource is taken with a specific type of gear...The board cannot divide what has historically been a single fishery by simply tinkering with ancillary apparatus and seine dimensions. The emergency regulation therefore authorized the board to allocate fisheries resources within a single fishery, in violation of the authorizing statute, AS 16.05.251(e). We note that the board’s allocation of the harvest salmon between the cooperative and open fishers was potentially arbitrary and capricious. Allowing some, but not all...permit holders to operate different types and amounts of fishing equipment potentially raises questions of efficiency, arbitrary decision making, and equal protection.⁶⁵ The allocation may be venerable to attack on the theory that under a two-subfishery system, the open fishers only have access to a small percentage of the allocation for the whole Chignik fishery.⁶⁶ Grunert contends that allowing open and cooperative fishers may violate subsection .150(a) of the Limited Entry Act. That subsection provides that an entry permit authorizes the permittee to operate a unit of gear within a specified fishery. ⁶⁷ Unit of gear is defined by the Limited Entry Act as the maximum amount of a specific type of gear that can be fished by a person under regulations established by the Board of Fisheries defining the legal requirements for that type of gear.⁶⁸”

The Sharecroppers, holding S03T Limited Entry Permit that only are sometimes allowed one third share of Bristol Bay Allocation, was also discussed more recently in another Court which WE Established;

WARDS COVE PACKING CO. V. ATONIO, 490 U.S. 642 (1989) JUSTICE BLACKMUN, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, dissenting... The harshness of these results is well demonstrated by the facts of this case. The salmon industry as described by this record takes us back to a kind of overt and institutionalized discrimination we have not dealt with in years: a total residential and work environment organized on principles of racial stratification and segregation, which, as JUSTICE STEVENS points out, resembles a plantation economy. Post, at 664, n. 4. This industry long has been characterized by a taste for discrimination of the old-fashioned sort: a preference for hiring nonwhites to fill its lowest level positions, on the condition that they stay there. The majority's legal rulings essentially immunize these practices from attack under a Title VII disparate-impact analysis. Sadly, this comes as no surprise. One wonders whether the majority still believes that race discrimination - or, more accurately, race discrimination against nonwhites - is a problem in our society, or even remembers that it ever was. Cf. Richmond v. J. A. Croson Co., 488 U.S. 469 (1989).

Evidently this Act of Congress, after Wards Cove, and the "The Civil Right's Act of 1991" still confuses the Alaska Department of Law" and this Board also, some things never change, for another "disparate impact attack."

And Justice Harlan, in dissent;

PLESSY v. FERGUSON, 163 U.S. 537 (1896) The thirteenth amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country. This court has so adjudged. But, that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the fourteenth amendment, which added greatly to the dignity and glory of American citizenship, and to the security of personal liberty, by declaring that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,' and that 'no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These two amendments, if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship. Finally, and to the end that no citizen should be denied, on account of his race, the privilege of participating in the political control of his country, it was declared by the fifteenth amendment that 'the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude.' These notable additions to the fundamental law were welcomed by the friends of liberty throughout the world. They removed the race line from our governmental systems. They had, as this court has said, a common purpose, namely, to secure 'to a race recently emancipated, a race that through [163 U.S. 537, 556] many generations have been held in slavery, all the civil rights that the superior race enjoy.' They declared, in legal effect, this court has further said, 'that the law in the states shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the states; and in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination

shall be made against them by law because of their color.' We also said: 'The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity or right, most valuable to the colored race,-the right to exemption from unfriendly legislation against them distinctively as colored; exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy; and discriminations which are steps towards reducing them to the condition of a subject race.' It was, consequently, adjudged that a state law that excluded citizens of the colored race from juries, because of their race, however well qualified in other respects to discharge the duties of jurymen, was repugnant to the fourteenth amendment. *Strauder v. West Virginia*, 100 U.S. 303, 306, 307 S.; *Virginia v. Rives*, Id. 313; *Ex parte Virginia*, Id. 339; *Neal v. Delaware*, 103 U.S. 370, 386; *Bush v. Com.*, 107 U.S. 110, 116, 1 S. Sup. Ct. 625. At the present term, referring to the previous adjudications, this court declared that 'underlying all of those decisions is the principle that the constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the general government or the states against any citizen because of his race. All citizens are equal before the law.' *Gibson v. State*, 162 U.S. 565, 16 Sup. Ct. 904....In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the *Dred Scott* Case.

AS 11.76.110. INTERFERENCE WITH CONSTITUTIONAL RIGHTS.

(a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the constitution or laws of this state; or (3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor.

And Chief Justice Marshall

This brings us to the second inquiry; which is,

2. If he has a right, and that right has been violated, do the laws of his country afford him a remedy? [5 U.S. 137, 163] The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court.

In the third volume of his *Commentaries*, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law.

'In all other cases,' he says, 'it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.'

And afterwards, page 109 of the same volume, he says, 'I am next to consider such injuries as are cognizable by the courts of common law. And herein I shall for the present only remark, that all possible injuries whatsoever, that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals, are, for that very reason, within the cognizance of the common law courts of justice; for it is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress.'

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.

If this obloquy is to be cast on the jurisprudence of our country, it must arise from the peculiar character of the case.

". . . if two or more persons shall, within the limits of any State, band, conspire, or combine together to do any act in violation of the rights, privileges, or immunities of any person, to which he is entitled under the Constitution and laws of the United States, which, committed within a place under the sole and exclusive jurisdiction of the United States, would, under any law of the United States then in force, constitute the crime of either murder, manslaughter, mayhem, robbery, assault and battery, perjury, subornation of perjury, criminal obstruction of legal process or resistance of officers in discharge of official duty, arson, or larceny; and if one or more of the parties to said conspiracy or combination shall do [365 U.S. 167, 181] any act to effect the object thereof, all the parties to or engaged in said conspiracy or combination, whether principals or accessories, shall be deemed guilty of a felony"

It was this provision that raised the greatest storm. It was 2 that was rewritten so as to be in the main confined to conspiracies to interfere with a federal or state officer in the performance of his duties. 17 Stat. 13. Senator Trumbull said: 26

"Those provisions were changed, and as the bill passed the House of Representatives, it was understood by the members of that body to go no further than to protect persons in the rights which were guaranteed to them by the Constitution and laws of the United States, and it did not undertake to furnish redress for wrongs done by one person upon another in any of the States of the Union in violation of their laws, unless he also violated some law of the United States, nor to punish one person for an ordinary assault and battery committed on another in a State."

But 1 - the section with which we are here concerned - was not changed as respects any feature with which we are presently concerned. 27 The words "under [365 U.S. 167, 182] color of" law were in the legislation from the beginning to the end. The changes hailed by the opposition - indeed the history of the evolution of 2 much relied upon now - are utterly irrelevant to the problem before us, viz., the meaning of "under color of" law. The vindication of States' rights which was hailed in the amendments to 2 raises no implication as to the construction to be given to "color of any law" in 1. The scope of 1 - under any construction - is admittedly narrower than

was the scope of the original version of 2. Opponents of the Act, however, did not fail to note that by virtue of 1 federal courts would sit in judgment on the misdeeds of state officers. 28 Proponents of the Act, on the other hand, were aware of the extension of federal power contemplated by every section of the Act. They found justification, however, for this extension in considerations such as those advanced by Mr. Hoar: 29

"The question is not whether a majority of the people in a majority of the States are likely to be attached to and able to secure their own liberties. The question is not whether the majority of the people in every State are not likely to desire to secure their own rights. It is, whether a majority of the people in every State are sure to be so attached to the principles of civil freedom and civil justice as to be as much desirous of preserving the liberties of others as their own, as to insure that under no temptation of party spirit, under no political excitement, under [365 U.S. 167, 183] no jealousy of race or caste, will the majority either in numbers or strength in any State seek to deprive the remainder of the population of their civil rights."

Although the legislation was enacted because of the conditions that existed in the South at that time, it is cast in general language and is as applicable to Illinois as it is to the States whose names were mentioned over and again in the debates. It is no answer that the State has a law which if enforced would give relief. The federal remedy is supplementary to the state remedy, and the latter need not be first sought and refused before the federal one is invoked. Hence the fact that Illinois by its constitution and laws outlaws unreasonable searches and seizures is no barrier to the present suit in the federal court.

We had before us in *United States v. Classic*, supra, 20 of the Criminal Code, 18 U.S.C. 242, 30 which provides a criminal punishment for anyone who "under color of any law, statute, ordinance, regulation, or custom" subjects any inhabitant of a State to the deprivation of "any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States." Section 242 first came into the law as 2 of the Civil Rights Act, Act of April 9, 1866, 14 Stat. 27. After passage of the Fourteenth Amendment, this provision was re-enacted and amended by 17, 18, Act of May 31, 1870, 16 Stat. 140, 144. 31 The right involved in the *Classic* case was the right of voters in a primary to have their votes counted. The laws of Louisiana required the defendants "to count the ballots, to record the result of the count, and [365 U.S. 167, 184] to certify the result of the election." *United States v. Classic*, supra, 325-326. But according to the indictment they did not perform their duty. In an opinion written by Mr. Justice (later Chief Justice) Stone, in which Mr. Justice Roberts, Mr. Justice Reed, and Mr. Justice Frankfurter joined, the Court ruled, "Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law." *Id.*, 326. There was a dissenting opinion; but the ruling as to the meaning of "under color of" state law was not questioned.

That view of the meaning of the words "under color of" state law, 18 U.S.C. 242, was reaffirmed in *Screws v. United States*, supra, 108-113. The acts there complained of were committed by state officers in performance of their duties, viz., making an arrest effective. It was urged there, as it is here, that "under color of" state law should not be construed to duplicate in federal law what was an offense under state law. *Id.* (dissenting opinion) 138-149, 157-161. It was said there, as it is here, that the ruling in the *Classic* case as to the meaning of "under color of" state law was not in focus and was ill-advised. *Id.* (dissenting opinion) 146-147. It was argued there, as it is

here, that "under color of" state law included only action taken by officials pursuant to state law. Id. (dissenting opinion) 141-146. We rejected that view. Id., 110-113 (concurring opinion) 114-117. We stated:

"The construction given 20 [18 U.S.C. 242] in the Classic case formulated a rule of law which has become the basis of federal enforcement in this important field. The rule adopted in that case was formulated after mature consideration. It should be good for more than one day only. We do not have here a situation comparable to *Mahnich v. Southern S. S. Co.*, 321 U.S. 96 , where we [365 U.S. 167, 185] overruled a decision demonstrated to be a sport in the law and inconsistent with what preceded and what followed. The Classic case was not the product of hasty action or inadvertence. It was not out of line with the cases which preceded. It was designed to fashion the governing rule of law in this important field. We are not dealing with constitutional interpretations which throughout the history of the Court have wisely remained flexible and subject to frequent re-examination. The meaning which the Classic case gave to the phrase 'under color of any law' involved only a construction of the statute. Hence if it states a rule undesirable in its consequences, Congress can change it. We add only to the instability and uncertainty of the law if we revise the meaning of 20 [18 U.S.C. 242] to meet the exigencies of each case coming before us." Id., 112-113.

We adhered to that view in *Williams v. United States*, supra, 99.

Mr. Shellabarger, reporting out the bill which became the Ku Klux Act, said of the provision with which we now deal:

"The model for it will be found in the second section of the act of April 9, 1866, known as the 'civil rights act.' . . . This section of this bill, on the same state of facts, not only provides a civil remedy for persons whose former condition may have been that of slaves, but also to all people where, under color of State law, they or any of them may be deprived of rights" 32

Thus, it is beyond doubt that this phrase should be accorded the same construction in both statutes - in 1979 and in 18 U.S.C. 242. [365 U.S. 167, 186]

Since the *Screws* and *Williams* decisions, Congress has had several pieces of civil rights legislation before it. In 1956 one bill reached the floor of the House. This measure had at least one provision in it penalizing actions taken "under color of law or otherwise." 33 A vigorous minority report was filed attacking, inter alia, the words "or otherwise." 34 But not a word of criticism of the phrase "under color of" state law as previously construed by the Court is to be found in that report.

Section 131 (c) of the Act of September 9, 1957, 71 Stat. 634, 637, amended 42 U.S.C. 1971 by adding a new subsection which provides that no person "whether acting under color of law or otherwise" shall intimidate any other person in voting as he chooses for federal officials. A vigorous minority report was filed 35 attacking the wide scope of the new subsection by reason of the words "or otherwise." It was said in that minority report that those words went far beyond what this Court had construed "under color of law" to mean. 36 But there was not a word of criticism directed to the prior construction given by this Court to the words "under color of" law.

The Act of May 6, 1960, 74 Stat. 86, uses "under color of" law in two contexts, once when 306 defines "officer of election" and next when 601 (a) gives a judicial remedy on behalf of a qualified voter denied the opportunity to register. Once again there was a Committee report containing minority views. 37 Once again no one challenged the scope given by our prior decisions to the phrase "under color of" law. [365 U.S. 167, 187]

If the results of our construction of "under color of" law were as horrendous as now claimed, if they were as disruptive of our federal scheme as now urged, if they were such an unwarranted invasion of States' rights as pretended, surely the voice of the opposition would have been heard in those Committee reports. Their silence and the new uses to which "under color of" law have recently been given reinforce our conclusion that our prior decisions were correct on this matter of construction.

We conclude that the meaning given "under color of" law in the Classic case and in the Screws and Williams cases was the correct one; and we adhere to it.

In the Screws case we dealt with a statute that imposed criminal penalties for acts "wilfully" done. We construed that word in its setting to mean the doing of an act with "a specific intent to deprive a person of a federal right." 325 U.S., at 103 . We do not think that gloss should be placed on 1979 which we have here. The word "wilfully" does not appear in 1979. Moreover, 1979 provides a civil remedy, while in the Screws case we dealt with a criminal law challenged on the ground of vagueness. Section 1979 should be read against the background of tort liability that makes a man responsible for the natural consequences of his actions.

"...The physical relation to others is simply a relation of manifested power coextensive with the intent, and will need to have but little said about it when the nature of the intent is settled. When I come to the latter, I shall not attempt a similar analysis to that which has been pursued with regard to intent as an element of liability. For the principals developed as to intent in that connection have no relation to the present subject, and any such analysis so far as it did not fail would be little more than a discussion of evidence. The intent inquired into here must be over manifested, perhaps, but all theories of the grounds on which possession is protected would seem to agree in leading to the requirement that it should be actual, subject, of course, to the necessary limits of legal investigation.

But besides our power and intent as towards our fellow-men, there must be a certain degree of power over the object. If there were only one other man in the world, and he was safe under lock and key in jail, the person having the key would not possess the swallows that flew over the prison. This element is illustrated by cases of capture, although no doubt the point at which the line drawn is affected by consideration of the degree of power obtained as against other people, as well as that which has been gained over the object. The Roman and the common law agree that, in general, fresh pursuit of wild animals does not give the pursuer the rights of possession. Until escape has been made impossible by some other means, another may step in and kill or catch and carry off the game if he can. Thus it has been held that an action does not lie against a person for killing and taking a fox which had been pursued by another, and was then actually in the view of the person who had originally found, started and chased it. (See; Board Proposal #28, 2006) (Kent's Comm. 349, citing *Pearson v. Post*, 3 Caines, (N.Y.) 175; *Buster v. Newkirk*, 20 Johnson, (N.Y.) 75. The court of the Queen's Bench (*Young v. Hichens*, 6 Q. B. 606) even went

so far as to decide, notwithstanding a verdict the other way, that when fish were nearly surrounded by a seine, with an opening of seven fathoms between the ends, at which point boats were stationed to frighten them from escaping, they were not reduced to possession as against a stranger who rowed through the middle and helped himself. But the difference between the power over the object which is sufficient for possession, and that which is not, is clearly one of degree only, and the line may be drawn at different places at different times on grounds just referred to. Thus we are told that the legislature of New York enacted, in 1844, that any one who started and pursued deer in certain counties of that State should be deemed in possession of the game so long as he continued in fresh pursuit of it, and to that extent modified the New York decisions just cited. So, while Justinian decided that a wild beast so badly wounded that it might easily be taken must be actually taken before it belongs to the captors, (Inst. 2. 1, Sec. 13) Judge Lowell, with equal reason, has upheld the contrary custom of the American whalers in the Arctic Ocean, mentioned above, which gives a whale to the vessel whose iron first remains in it, provided a claim be made before cutting in..." "Possession" from his Lowell Lectures, Oliver Wendell Holmes, a Roosevelt, "Square Deal" Judge.

As this Board has been harpooned on quite a few previous occasions, shown best in the two above cited cases, by Grunert and Johnson, at the Alaska Supreme Court, you really should find, more intelligent representation on the Retarded Restructuring Committee, with Dr. Charles Crapo, another self evident truth, named after the material "among and within" his ears. The Roman Courts and the United States Supreme Court agree that the word means something. (Railroad Company v. Lockwood, 17 Wall. 357, 383.)

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? "Every Person" drift gillnetting and stacking permits with a proposal for equality in permit ownership to "all" Bristol Bay S03T permit holders, and those previously denied the equal concept of allocation, denied by the BOF using the current discriminatory Bristol Bay stacking procedures, with "disparate impacts" to those same holders held by state action to be only a third of a Limited Entry permit, and for reduction in fleet size as defined in 5 AAC 05.1147, with CFEC Optimum Number Report 04-3N. This solution to a Limited Entry Commission that never "Limited" entry into the Bristol Bay Salmon Fishery, shown in the records to be applied in "every" other Limited Entry Salmon Fishery, except for "one." Which "one it is" could only confuse the States Limited Entry Commission, Alaska Department of Law, Alaska Department of Fish and Game, and every Governor of the State of Alaska in office since the Constitutional Amendment was enacted by the voter in 1973, and enacted everywhere except for Bristol Bay, and fishing for the lowest raw product prices paid for Bristol Bay Salmon in 125 years.

WHO IS LIKELY TO SUFFER? No Person holding a S03T Limited Entry Permit, except those who believe that their Limited Entry Permit is worth a whole 150 fathoms but their neighbors stacked model, is only a 50 fathom Limited Entry Permit.

OTHER SOLUTIONS CONSIDERED? As with proposal #28 during the 2006 BOF Bristol Bay Meetings to Amend 5 AAC 06.333 with; "Management shall schedule an additional equal

fishing period to vessels fishing with two permits, in any regular or special harvest district in the Bristol Bay commercial salmon fishery.” That the Board took “No Action” on in 2006, and continues the amusing Restructuring Committee’s erroneous previous decisions, relating to the current fleet reduction program from CFEC report 04-3N. ;“...He therefore clings to this hope as a drowning man to the last plank...My good friends, read that carefully over some leisure hour, and ponder well upon it-see what a mere wreck-mangled ruin-it makes of our once glorious Declaration...”

PROPOSED BY: Todd Granger

(HQ-09F-076)

PROPOSAL 22 - 5 AAC 06.333. Requirement and specification for use of 200 fathoms of drift gillnet in Bristol Bay. Limit gear to 150 fathoms when NRSHA Management Plan is in effect as follows:

New section to read for all Bristol Bay Fishing Districts: **5 AAC 06.333. (E)(5) Whenever the Naknek River Sockeye Salmon Special Harvest Area (NRSHA) Management Plan is in effect, - 5 AAC 06.06.360 (d)(7) No vessel may have more than 150 fathoms of drift gillnet or 50 fathoms of set gillnet on board.**

ISSUE: Whenever the Naknek River Special Harvest Area (NRSHA) is in effect, many, if not all of the drift dual-permit operators transfer to the Nushagak District making it more difficult for single permit operators to competitor. The Department has no way of tracking dual permit usage or enforcement other than the fishermen’s requirement of displaying a “D” after their ADF&G vessel registration number.

WHAT WILL HAPPEN IF NOTHING IS DONE? Fishermen using dual permits will continue to overload the Nushagak District whenever the NRSHA is in effect. We believe that current usage of dual permits is even higher than during the last Bristol Bay BOF meeting and that the Department has no way of effectively tracking them. Usage of dual permits would still be permitted whenever the NRSHA is not in effect.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? The potential of increasing quality onboard fishing vessels by reducing allowable gear could be perceived especially in times of high abundance.

WHO IS LIKELY TO BENEFIT? Dual permit operation is not permitted in the East-side districts whenever the NRSHA is in effect. Dual permit holders go where they can maximize usage of extra gear and that is usually the Nushagak and Togiak Districts. Adoption of this regulation would help fishermen who do not have dual permits.

WHO IS LIKELY TO SUFFER? Those who fish dual permits.

OTHER SOLUTIONS CONSIDERED? 1) Totally doing away with dual-permits. Not likely to happen. 2) Including Tokiak. The BOF should consider banning the use of dual permits in the

Togiak District because it is a small fishery there and the local fishermen who traditionally fish there are economically disenfranchised because they cannot compete at the same level.

PROPOSED BY: Nushagak AC (SW-09F-010)

PROPOSAL 23 - 5 AAC 06.331. Gillnet specifications and operations. Eliminate use of 200 fathom drift gillnets in Togiak District as follows:

We would like to restrict the Togiak District, in whole, to a maximum length of net to be fished not to exceed 150 fathoms. Eliminate dual permitting in the Togiak District.

ISSUE: Dual permits in Togiak District (200 fathom nets). Togiak is a small fishery and the local fisherman cannot compete with fishermen who are fishing 200 fathom nets. We would like to equalize the fishery by restricting fishermen to a maximum of 150 fathom of nets.

WHAT WILL HAPPEN IF NOTHING IS DONE? Because the Togiak District is a small fishery, dual permit fishermen have an unfair advantage over local skiff fishermen, and inadvertently and effortlessly cork local drifters and set netters.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? We have been meeting our goals and would like to keep this the same.

WHO IS LIKELY TO BENEFIT? All of the fishermen in the Togiak District.

WHO IS LIKELY TO SUFFER? Fishermen transferring in with dual permits that have chosen to fish another district and transfer to our late run fishery to capitalize on our resource after the other districts fish run is over.

OTHER SOLUTIONS CONSIDERED? Restricting our fisheries to local fishermen would also solve the problem, but would not be fair to our fellow fishermen.

PROPOSED BY: Traditional Council of Togiak and Togiak AC (SW-09F-002)

PROPOSAL 24 - 5 AAC 06.333. Requirements and specifications for use of 200 fathoms of drift gillnet in Bristol Bay. Eliminate permit stacking as follows:

We need to scrap the double permits and allow no more than one permit with 150 fathoms of gear per boat.

ISSUE: The biggest problem for the average boat in Bristol Bay is the “D” permits.

WHAT WILL HAPPEN IF NOTHING IS DONE? The average boat with one permit will come up 30% short on every opener, compared to the “D” boats. When the cannery goes on limits, the “D” boats might get to catch 5,000 pounds, and the regular boats only get 3,000 pounds.

After the season, the cannery sets the production bonus so you almost have to have a “D” permit to get a retro. So the one permit boats sell all their fish for maybe 8 cents per pound less.

Some of the canneries also have an arrangement with the troopers where they can transfer their “D” permit boats to another district without waiting the 48 hours. That gives their “D” permit boats 48 or more hours of peak fishing every year compared to the rest of us.

Every year, the average boat loses \$5,000 to \$10,000 to the “D” permits.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. In heavy fishing with a smaller boat, you have to be very careful with 4 shackles or you might catch more than you can hold. Then your options are to cut the net loose or sink. We have seen a lot more abandoned nets full of rotten fish after the “D” permits were allowed.

WHO IS LIKELY TO BENEFIT? People who have invested in a boat and have learned the fishery will be able to compete on a level playing field again.

WHO IS LIKELY TO SUFFER? Permit owners (investors) who do not have a boat or a market or the ability to run a boat will not be able to lease their permit any more. The boats for those permits have left the fishery. The investor permits will end up on the beach, where they belong.

OTHER SOLUTIONS CONSIDERED? Pay big money for campaign contributions and consulting fees and change the rules that way. Rejected because I have no money and there might be FBI problems.

PROPOSED BY: Sidney A. Nelson (SC-09F-013)

PROPOSAL 25 - 5 AAC 06.370. Registration and reregistration. Once registered, permit holder must remain there until escapement goal is met as follows:

From June 1, to date certain (set between June 23 and June 30 by the BOF), anyone holding a CFEC permit could fish a certain number of days (set between 5 to 7 days a week by the BOF), in any district without registering. Starting date certain (set between June 23 and June 30), a CFEC permit holder must register in the district they intend to fish. No one would be allowed to transfer until the escapement goal in the district they are transferring to is met. The 48-hour transfer notification would be eliminated.

ISSUE: Harvest of early sockeye in June. Cut down on paper work from the 48-hour transfer for ADFG. Protect the local fisheries.

WHAT WILL HAPPEN IF NOTHING IS DONE? Early sockeye could continue to go unharvested. The 48 hour transfer period must remain in effect to protect local fisheries.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes. early sockeye are worth more on the fresh market.

WHO IS LIKELY TO BENEFIT? Anyone wanting to fish for early sockeye. ADFG will cut the cost of managing the 48 hour transfer process.

WHO IS LIKELY TO SUFFER? Anyone who would like to transfer in July before the escapement goal is met.

OTHER SOLUTIONS CONSIDERED? General district: mixed stock fishery, loss of local taxes and allocative against set netters.

PROPOSED BY: King Salmon Village Tribe (HQ-09F-023)

PROPOSAL 26 - 5 AAC 06.370(k)(1)(2). Registration and re-registration. Eliminate super exclusive status of Togiak District as follows:

Repeal 5 AAC 06.370(k)(1)(2)

ISSUE: Togiak access denied so all Bristol Bay Limited Entry Salmon Permit Holders, into the Togiak District, held as a “super exclusive” fishing district, to the same permit holders who have transfer access to every area of Bristol Bay except Bristol Bay’s Togiak District, a sub-district, area T, under 5 AAC 39.120, Togiak is not, a separate Area Management District, and another amusing allocation operation of 5 AAC 39.222

WHAT WILL HAPPEN IF NOTHING IS DONE? Lost Economic Opportunity in the 2003-2008 Bristol Bay Sockeye Fishery. The Board is again allocating as Justice Eastaugh made clear in April 21, 2006, that allocation between a single fishery can’t happen. See Letter to Board, General Comments for the Regulatory Meetings 2008-2009 Cycle. Ignored in the Dillingham Cycle, December 2006, see; public written comments.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? All Area T salmon permit holders who would gain equal access to Area T, as they had for a 100 years.

WHO IS LIKELY TO SUFFER? Area T salmon permit holders who have successfully excluded some Area T permit holders, from their favorite district.

OTHER SOLUTIONS CONSIDERED? Make all sub-districts super exclusive. Not very popular, for those who like to expand their horizons.

PROPOSED BY: Todd Granger (HQ-09F-075)

PROPOSAL 27 - 5 AAC 06.370(d). Registration and reregistration. Eliminate the 48 hour transfer between gear types in the same district as follows:

There is no transfer between fishing gear type as long as the fisherman stays in the same District. Before transferring to another gear type the fisherman must all gear cleaned and fish delivered from prior gear.

ISSUE: To eliminate the 48 hour transfer between gear types in the same district.

WHAT WILL HAPPEN IF NOTHING IS DONE? Continued lost opportunity by fishermen.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? Fisherman who are trying to make a living at fishing.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Roland Briggs (HQ-09F-080)

PROPOSAL 28 - 5 AAC 06.370(d). Registration and reregistration Eliminate 48-hour transfer for gear type in the same SHA as follows:

There is no transfer between fishing gear type as long as the fisherman stays in the same special harvest area. Before transferring to another gear type the fisherman must all gear cleaned and fish delivered from prior gear.

ISSUE: To eliminate the 48 hour transfer between gear types in the same district.

WHAT WILL HAPPEN IF NOTHING IS DONE? Continued lost opportunity by fishermen.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? Fisherman who are trying to make a living at fishing.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Roland Briggs (HQ-09F-084)

PROPOSAL 29 - 5 AAC 39.120(d). Registration of Commercial Fishing Vessels. Allow Area T permit in Alaska Peninsula Area, January 1 – December 31 as follows:

T Bristol Bay Area (5 AAC 06.100) and January 1 through **December 31** [JUNE 30], the **inter** Cinder River [AND] Inter Port Heiden, **and Outer Port Heiden** Sections of the Alaska Peninsula Area and August 1 through December 31, the **outer** Cinder River, and [INTER PORT HEIDEN] **Ilnik** section [AND THAT PROTION OF THE ILNIK SECITON WITHIN ILNIK LAGOON AND ALL WATERS INSIDE THE SEAL ISLANDS] of the Alaska Peninsula Area (5 AAC 09.200)(a)(2), (3)

ISSUE: Area T fisherman not being allowed to participate in a new fishery that was open up, even though it is conducted in front of them. Traditionally Area T fishermen have been able to fish Outer Port Heiden and Ilnik sections until the early 80's.

WHAT WILL HAPPEN IF NOTHING IS DONE? More strife between fishermen.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Fish will be able to be caught to take advantage of early markets and they may be less water marked therefore having a higher price.

WHO IS LIKELY TO BENEFIT? All fishermen.

WHO IS LIKELY TO SUFFER? Fishermen wanting less competition in catching fish.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Roland Briggs (HQ-09F-085)

PROPOSAL 30 - 5 AAC 39.120(d). Registration of Commercial Fishing Vessels. Allow Area T permit in Alaska Peninsula Area, January 1 – December 31 as follows:

T Bristol Bay Area (5 AAC 06.100) and January 1 through **December 31** [JUNE 30], the Cinder River and Inter Port Heiden Sections of the Alaska Peninsula Area and August 1 through December 31, the [CINDER RIVER, AND INTER PORT HEIDEN SECTION AND] that portion of the Ilnik Section within Ilnik Lagoon and all waters inside the Seal Islands of the Alaska Peninsula Area (5 AAC 09.200)(a)(1), (2), (3)

ISSUE: Lost opportunity to catch Kings in Inter Cinder River in July.

WHAT WILL HAPPEN IF NOTHING IS DONE? Lost opportunity for fishermen to take advantage of resource.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? N/A.

WHO IS LIKELY TO BENEFIT? Fishermen able to catch kings and get a good fresh market price for them.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Roland Briggs (HQ-09F-086)

PROPOSAL 31 - 5 AAC 06.356. General District Salmon Management Plan. Allow fishing in General District as follows:

5 AAC 06.356 General District Salmon Management Plan

(a) The purpose of this management plan is to provide for additional harvest opportunities in coordination with other management and allocation plans, maximize quality and harvest, and to provide management guidelines to the department for a commercial salmon fishery in the General District.

(b) For the purpose of this section, the General District consists of waters of the Bristol Bay Area north and east of a line from a point in Cape Constantine at 58 26.14' N. lat., 158 45.91' W. long. To a point at 58 27.22' N. lat., 158 36.21' W. long., to a point at 58 32.30' N. lat., 158 13.26' W. long., then following the territorial sea boundary line around Etolin Point and continuing along the territorial sea boundary line to the latitude of Cape Menshikof at 57 28.34' N. lat., except those waters within, and those waters draining into, the regular districts described in 5 AAC 06.200

(c) From approximately June 1 through June 30, the commissioner may open and close, by emergency order, the General District or portions of the General District as necessary to harvest up to 20 percent of the preseason sockeye salmon forecast for the Bristol Bay Area.

(d) Only drift gillnet gear may be used in the General District. Drift gillnet gear used in the General District may not have a mesh size larger than five and one half inches, and except as allowed in 5 AAC 06.333. may not exceed 150 fathoms in length.

(e) Before operating drift gillnet gear in the General District, a CFEC permit holder shall register under 5 AAC 06.370 in a regular district. (see; tax codes for vessel district registration in case you're a confused city or borough public officer, and cannot figure out where and how, the General District local fish taxes are distributed) No waiting period applies to movement between the General District and the regular district in which a CFEC permit holder is registered. The 48-hour waiting period for transfers between regular districts specified in 5 AAC 06.370 applies. After initializing a transfer to a new regular district by submitting a transfer form to an authorized representative of the department under 5 AAC 06.370(b). a CFEC permit holder may not operate drift gillnet gear in the General District or any regular district until the 48-hour waiting period under 5 AAC 06.370(b) has expired.

(f) Notwithstanding 5 AAC 06.375, salmon taken in the General District may be landed in the Ugashik, Egegik, Naknek-Kvichak, and Nushagak Districts.

(g) Upon closure of the General District for the season, the catch from the General District shall be attributed to drift gillnets for purposes of the allocation plans in 5 AAC 06.364, 5 AAC 06.365, 5 AAC 06.366, and 5 AAC 06.367. The General District catch applied to a district allocation plan shall be proportional to the registrations for that district.

(h) In this section, “regular district” means one of the five districts described in 5 AAC 06.200.

ISSUE: Reverse the repealed 5 AAC 06.356 General District Salmon Management Plan.

WHAT WILL HAPPEN IF NOTHING IS DONE? Lost Economic Opportunity in the 2003-2008 Bristol Bay Sockeye Fishery. Prepared for: Bristol Bay Economic Development Corporation. Categories of Lost Economic Opportunity

Ex-Vessel Value Loss

Ex-vessel value is defined as the value of raw fish upon sale by a harvester to a processor. Total ex-vessel value of the foregone harvest is calculated from the foregone harvest estimate, from ADF&G data on average fish size and from Commercial Fisheries Entry Commission (CFEC) value data. For 2008, preliminary ADF&G average value data is used, as publication of CFEC values is several months out. We assume that ex-vessel price of the foregone harvest would have been consistent with ex-vessel price of the actual harvest.

First Wholesale Value Loss

First wholesale value is defined as the value upon sale by a seafood processor to a buyer outside their affiliate network. First wholesale value of salmon is compiled and published by Alaska Department of Revenue Tax Division in the Alaska Salmon Price Report.

While ex-vessel value is the most commonly used measure of fishery performance, first wholesale value is a much more complete statement of the economic activity associated with Alaska salmon fisheries. First wholesale value reflects the cost of raw fish (ex-vessel value paid to harvesters) and reflects processors’ expenditures on labor, materials, tenders, shoreside goods and services, local utilities, property taxes, etc. In short, wholesale value reflects the full spectrum of local economic activity associated with turning raw salmon into a food product.

Lost Tax Revenues To Municipalities, Boroughs and The State of Alaska

There are a variety of taxes in the Bristol Bay region, including assessments on ex-vessel value by local municipalities, by local boroughs, by the State of Alaska and by the Regional Seafood Development Association. The basis for all these taxes is ex-vessel value.

Potential (lost) tax revenue is calculated from total ex-vessel value of the foregone harvest and tax rates for the various assessments in each fishing district. It should be noted that half of Fisheries Business Tax (FBT) revenue generated by the state assessment is shared back to the region in which the fish is landed. Potential FBT revenue associated with foregone harvest represents a loss to state revenues and an equal loss to communities and boroughs of the Bristol Bay region...

Ex-Vessel and First Wholesale Value Loss

Based on average fish size by year and on region-average prices by year, total ex-vessel value of the 2003 – 2008 foregone harvest was \$131 million. Annual average value of the foregone harvest was \$21 million, ranging from a low of \$13 million in 2003 to a high of \$27 million in 2007.

Based on the annual product-form composition of the Bristol Bay sockeye pack, first wholesale value of the 2003 – 2008 Bristol Bay foregone harvest is estimated at \$360 million. Annual average was \$60 million, ranging from a low of \$42 million in 2003 to a high of \$75 million in 2005.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, spreading out a condensed harvest time with fishing in a more orderly fashion, as shown during the 2004 use of this General District Salmon Management Plan, also used in previous years by ADF&G management. Implementing the Northern General District, would also improve the quality as shown in the “Approved” Special Report, by the Department, “Bristol Bay Salmon Management Plan” #80-73-FB March 1980 See Figure 1. Salmon Catch Reporting Zones.

WHO IS LIKELY TO BENEFIT? All Private and Public person and entities.

WHO IS LIKELY TO SUFFER? No one, shown in 2004 to effectively enforce the Bristol Bay Allocation Plans, 5 AAC 06.356(g).

The 2004 season was the seventh year of managing for a sockeye salmon harvest allocation between drift and set gillnet gear groups in four of the five districts in Bristol Bay. Togiak District is excluded from the allocation plan. The following table lists the allocations adopted by the Board of Fisheries in November of 1997, and the resulting harvests by gear group for the 2004 season. Strategies used to achieve allocation percentages between gear groups included varying the amount of fishing time and giving separate gear group openings.

District (Accounting Period)	Drift Net Percent of Harvest Allocated/Caught in 2004	Set Net Percent of Harvest Allocated/Caught in 2004	Set Net Percent of Harvest Allocated/Caught in 2004 by Section
Naknek/Kvichak (June 1 to July 17)	84% / 81%	16% / 19%	Naknek: 8% / 10% ^a Kvichak: 8% / 10%
Egegik (June 1 to July 17)	86% / 86%	14% / 14%	Not Applicable
Ugashik (June 1 to July 17)	90% / 88%	10% / 12%	Not Applicable
Nushagak (June 1 to July 17)	74% / 84% WRSHA: 74% / N.A.	26% / 16% WRSHA: 26% / N.A.	Nushagak: 20% / 15% Igushik: 6% / 1%
^a Naknek/Kvichak set net allocation was only applicable to July 6 when NRSWA went into effect.			

And the 2008 Allocation Plan Results;

District (Accounting Period)	Drift Net Percent of Harvest Allocated/Caught in 2008	Set Net Percent of Harvest Allocated/Caught in 2008	Set Net Percent of Harvest Allocated/Caught in 2008 by Section
Naknek/Kvichak (June 1 to July 17)	84% / 81%	16% / 19%	Naknek: 8% / 12% ^a Kvichak: 8% / 7%
Egegik (June 1 to July 17)	86% / 85%	14% / 15%	Not Applicable
Ugashik (June 1 to July 17)	90% / 92%	10% / 8%	Not Applicable
Nushagak (June 1 to July 17)	74% / 79% WRSHA: 74% / N.A.	26% / 21% WRSHA: 26% / N.A.	Nushagak: 20% / 16% Igushik: 6% / 5%
^a Naknek/Kvichak set net allocation was only applicable to July 6 when NRSHA went into effect.			

As shown by the facts, set net allocation is not a issue.

OTHER SOLUTIONS CONSIDERED? None available.

PROPOSED BY: Todd Granger

(HQ-09F-074)

Note, this proposal was originally accepted as agenda change request and scheduled for the March 2009 meeting. It was then tabled to the December 2009 Bristol Bay Finfish meeting for possible adoption.

PROPOSAL 32 – 5 AAC 06.360. Naknek River Sockeye Salmon Special Harvest Area Management Plan. Allow 35 fathom set gillnet in NRSHA as follows:

Allow set net fishers to fish an additional 10 fathoms of gear when fishing the Naknek River Special Harvest Area. It is currently 25 fathoms. The request is for an increase to 35 fathoms.

ISSUE: There is an overescapement of stocks when fishing the NRSHA. Recent over escapements may affect future returns to the Naknek River. 1) Addresses future health of Naknek River spawning grounds. 2) Allocation is 3 to 1 ratio with no direct competition among user groups. 3) Over escapement of this magnitude benefits neither river health of the economic health of fishermen. Recent over escapements may have already stated adverse effects on future salmon runs and the sustainability of this resource. We setnetters are asking for the same consideration and treatment given to the drift gillnet fleet.

WHAT WILL HAPPEN IF NOTHING IS DONE? It may affect the health of Naknek River spawning grounds and create a continued loss of economic opportunity to fisherman.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Set net fishermen in the NRSHA and rural Alaskans living in local villages.

WHO IS LIKELY TO SUFFER? Nobody, as there is no direct competition with other user groups.

OTHER SOLUTIONS CONSIDERED? 25 fathom increase, but that would be too much gear.

PROPOSED BY: Donald Mack (HQ-09F-026, SC-09F-011)

PROPOSAL 33 - 5 AAC 06.360. Naknek River Sockeye Salmon Special Harvest Area Management Plan. Require removal of all setnet gear during drift gillnet periods in NRSHA as follows:

When a drift net opening is occurring, all setnet buoys and anchors and running lines will be removed.

ISSUE: Remove all setnet buoys and anchors and all other hazards to navigation that are more than 25 fathoms off shore when the driftnetters are fishing in the Naknek River Special Harvest Area.

WHAT WILL HAPPEN IF NOTHING IS DONE? Drift netters will lose thousands of dollars in nets and be unable to harvest their share effectively.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, better fish quality will result from a driftnet fishery with less obstacles that require towing to miss them.

WHO IS LIKELY TO BENEFIT? Driftnet fishermen.

WHO IS LIKELY TO SUFFER?

OTHER SOLUTIONS CONSIDERED?

PROPOSED BY: Bristol Bay Driftnetters Association (HQ-09F-158)

PROPOSAL 34 - 5 AAC 06.360. Naknek River Sockeye Salmon Special Harvest Area Management Plan. Change NRSHA allocation to 84% drift and 16% set gillnet as follows:

Reinstate the 84% harvest to the driftnet gear group.

ISSUE: The unfair allocation of sockeye in the Naknek River Sockeye Salmon Special Harvest Area (NRSHA).

WHAT WILL HAPPEN IF NOTHING IS DONE? Driftnet fishermen will not receive their historic levels of harvest.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, driftnet fishers are more able to chill at the point of harvest.

WHO IS LIKELY TO BENEFIT? Driftnet fishermen.

WHO IS LIKELY TO SUFFER? Setnet fishers.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Bristol Bay Driftnetters Association (HQ-09F-159)

PROPOSAL 35 - 5 AAC 06.373. Alagnak River Sockeye Salmon Special Harvest Area Management Plan. Change ARSHA allocation to 84% drift and 16% set gillnet as follows:

When the Naknek-Kvichak District is closed and there is a harvestable surplus of sockeye salmon in the Alagnak River Special Harvest Area (ARSHA), the distribution of the harvestable surplus will be as follows: (A) drift gillnet – 84 percent; and (B) set gillnet – 16 percent. Once the minimum escapement goal for the ARSHA is met, both gear groups may fish at the same time in an effort to achieve the allocation percentages.

ISSUE: Change the allocation plan in the Alagnak River Sockeye Special Harvest Area Management Plan to have the same allocation as in the Naknek-Kvichak District.

WHAT WILL HAPPEN IF NOTHING IS DONE? The allocation agreement from the 1997 Bristol Bay Board of Fish meeting that was based on the 20 year set and drift gillnet catch averages and was intended to include all fish harvested commercially by other gear groups. The Alagnak River Sockeye Special Harvest Area which is defined to be within the Naknek-Kvichak District does not have the same allocation.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?

WHO IS LIKELY TO BENEFIT? All fishermen who made the 1997 allocation agreement; the fish that otherwise would be caught in the Naknek-Kvichak District, but for conservation of the Kvichak River sockeye salmon run, are caught in the ARSHA will be allocated as if they were caught in the Naknek-Kvichak District.

WHO IS LIKELY TO SUFFER?

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Kurt Johnson

(HQ-09F-161)

PROPOSAL 36 - 5 AAC 06.373. Alagnak River Sockeye Salmon Special Harvest Area Management Plan. Change ARSHA allocation to 84% drift and 16% set gillnet as follows:

Reinstate the 84% harvest to the driftnet gear group.

ISSUE: The unfair allocation of sockeye in the Alagnak River Special Harvest Area (ARSHA).

WHAT WILL HAPPEN IF NOTHING IS DONE? Driftnet fishermen will not receive their historic levels of harvest.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, driftnet fishers are more able to chill at the point of harvest.

WHO IS LIKELY TO BENEFIT? Driftnet fishermen.

WHO IS LIKELY TO SUFFER? Setnet fishers.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Bristol Bay Driftnetters Association

(HQ-09F-165)

PROPOSAL 37 - 5 AAC 06.365. Egegik District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan. Allow concurrent openings for drift and set gillnet with offset start times as follows:

Setnet and drift fishermen fish concurrently with 15 to 30 minutes earlier opening for either gear type if needed depending on allocation numbers as intended by the Board of Fish at the inception of the Egegik Allocation Plan.

ISSUE: The Egegik Allocation Plan is not working as originally intended. Setnet and drift fishermen not fishing concurrently.

WHAT WILL HAPPEN IF NOTHING IS DONE? Setnet fishermen will lose economic opportunity.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? It would allow a more steady distribution of fish to the processors.

WHO IS LIKELY TO BENEFIT? Both gear types.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? Non.

PROPOSED BY: Kim Rice (HQ-09F-090)

PROPOSAL 38 - 5 AAC 06.365. Egegik District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan. Suspend allocation when fleet is less than 400 vessels or under limits as follows:

In the Egegik District, when the fleet size numbers less than 400 boats or when poundage limits are imposed the Egegik Allocation Plan should be suspended. Setnet and drift fishers should fish concurrently according to the historic opening scheduling.

ISSUE: The setnet fishers access to fish is denied when the drift fleet is unable to catch 86% of the harvest due to a small number of boats in the district which is further restricted when poundage limits are imposed by the processors.

WHAT WILL HAPPEN IF NOTHING IS DONE? The setnet fishermen will be denied fair access to fish. In recent seasons when the drift fleet in the Egegik District numbers less than 400 boats the Drift fleet has to fish two tides per day to get their allocation numbers. It was not the intent of the Board of Fish to have the setnet and drift fishermen fish separately. Setnet and drift were supposed to fish concurrently with 15 to 30 minutes staggered openings, or even a full tide, but not a whole season of 2 tides per day for the drift fleet and 1 tide per day for the setnet fishermen.

When the drift fleet fishes two tides, fish are not allowed to fill into the inner district. Historically both gear groups fished concurrently with closures to allow fish to fill in the district.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? It would insure a steady supply of quality fish to processors.

WHO IS LIKELY TO BENEFIT? All fishers.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Kim Rice (HQ-09F-091)

PROPOSAL 39 - 5 AAC 06.365. Egegik District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan. Require removal of all set gillnet gear when closed to fishing as follows:

5 AAC 06.365

(g) In the set gillnet fishery, all set gillnet fishing gear, including anchors and buoys, shall be removed during set gillnet closures, consistent with Alaska Statute 16.10.055.

ISSUE: Setnet gear still in the navigable fishing waters of the Egegik district during closed fishing periods.

WHAT WILL HAPPEN IF NOTHING IS DONE? The current situation allows dangerous hindrances to navigation, jeopardizing both lives and equipment. Commercial fishing vessels and gear will continue to be willfully and recklessly damaged by disregarding to the consequences.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, this regulation will also greatly improve quality by alleviating power-rolling situations

WHO IS LIKELY TO BENEFIT? All navigators will benefit. Set and drift gillnetters will both benefit from a more responsive manageable fishery.

WHO IS LIKELY TO SUFFER? Some set gillnetters will need to reconfigure their operations in order to operate in this manner of consequential responsibility. Hydraulic power packs for pulling anchors are readily available and affordable.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Larry Christensen (HQ-09F-110)

PROPOSAL 40 - 5 AAC 06.390. Special drift gillnet commercial fishing periods in the Nushagak District. Delete sunset clause for the dude fishing regulation as follows:

Delete the following paragraph:
[(f) THE PROVISIONS OF THIS SECITON DO NOT APPLY AFTER DECEMBER 31, 2009.]

ISSUE: Expiration of the Special Drift Gillnet Commercial Fishing Periods in the Nushagak District.

WHAT WILL HAPPEN IF NOTHING IS DONE? A rural economic opportunity will be lost.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Local entrepreneurs, businesses catering to the visitor industry and the City of Dillingham.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? N/A.

PROPOSED BY: Fritz Johnson (SW-09F-021)

PROPOSAL 41 - 5 AAC 06.390. Special drift gillnet commercial fishing periods in the Nushagak District. Extend fishing season for dude fishery as follows:

Change paragraph (b) to read:

From **June 1** [JULY 1] through September 30, the commissioner may, by emergency order...

ISSUE: Timing of the special drift gillnet commercial fishing periods in the Nushagak District is too restrictive.

WHAT WILL HAPPEN IF NOTHING IS DONE? A fledgling rural economic opportunity will be needlessly restricted.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? The “product,” in this case, is a visitor experience which would be improved by lengthening the season and thereby increasing the opportunities to access it.

WHO IS LIKELY TO BENEFIT? Local entrepreneurs, businesses catering to the visitor industry and the City of Dillingham.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? A June 15 or other opening date. But fish do appear earlier, as do potential clients.

PROPOSED BY: Fritz Johnson (SW-09F-022)

PROPOSAL 42 - 5 AAC 06.358. Wood River Sockeye Salmon Special Harvest Area Management Plan. Open WRSOA when Wood River escapement is projected over 700,000 as follows:

(c) The commissioner may open, by emergency order, the Wood River Special Harvest Area (1) when the department projects that the sockeye salmon escapement into the Wood River will exceed 700,000 fish and as follows:

(E) the one gear-type (setnet or drift) that is behind in allocation (5 AAC 06.367) shall be allowed to fish

ISSUE: The unharvested surplus of sockeye salmon escaping into the Wood River in the Nushagak District of Bristol Bay.

WHAT WILL HAPPEN IF NOTHING IS DONE? Sockeye will continue to go unharvested each year, resulting in lost income to fishers of the Nushagak District.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Not specifically, but due to the proximity of the SnoPac Products processing facility on the Wood River, some fish may be delivered in a more timely manner, resulting in a higher quality product.

WHO IS LIKELY TO BENEFIT? Fishers and processors of the Nushagak District. Not only those able to participate in the Wood River Special Harvest Area fishery, but those fishing in the rest of the district, due to less competition from those fishing in the Wood River.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Tom Rollman Jr. and Dylan Braund (HQ-09F-093)

PROPOSAL 43 - 5 AAC 06.358. Wood River Sockeye Salmon Special Harvest Area Management Plan. Allow June drift periods in WRSWA if escapement is over 100,000 as follows:

Change (a) to include the protection of Nushagak River Chinook salmon. Allow drift gillnet only openings in the Wood River between June 20 and June 30 only if Wood River sockeye escapement has exceeded 100,000 and Nushagak Chinook escapement is behind the expected escapement. Set gillnet fishing would still occur in the regular district as that gear type doesn't harvest many Chinook.

ISSUE: Exploitation of Chinook salmon incidentally during sockeye salmon fishing.

WHAT WILL HAPPEN IF NOTHING IS DONE? In some circumstances a large "bycatch" of Chinook salmon can occur when the Chinook run is weak and or late.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? The Chinook salmon resource and the subsistence users that rely on it would benefit.

WHO IS LIKELY TO SUFFER? There are certainly tradeoffs made by all users in this case but it is for the greater long term sustainability of the resource.

OTHER SOLUTIONS CONSIDERED? Make the management plan specifically allow for conservation decisions to be made for Chinook salmon.

PROPOSED BY: Rod Williams

(SW-09F-001)

PROPOSAL 44 - 5 AAC 06.200. Fishing Districts, Subdistrict and Sections. Modify southern boundary of Naknek/Kvichak District as follows:

The new regulation would establish a new GPS coordinate for the southern terminus of the Naknek section west line that would intersect with the Naknek/Kvichak southern boundary line. Thereby creating one southern boundary line for both districts.

ISSUE: Update the GPS coordinates for the southern point of the Naknek section west line boundary, so that this line intersects with the southern boundary line of the Naknek/Kvichak district.

WHAT WILL HAPPEN IF NOTHING IS DONE? As it is currently plotted, the southern terminus of the Naknek section west boundary line falls substantially short of intersecting with the “Johnson Hill Line” or the south boundary of the Naknek/Kvichak section. I feel that it was the intention of previous Boards that this line should terminate and intersect with the Johnson Hill Line; however in the switch from Loran C to GPS, the southern terminus of the line falls short of that intersection. Thus requiring two sets of southern district boundaries; one for the Naknek Section and one for the Naknek/Kvichak section. This is a simple housekeeping measure that can mitigate this confusion and establish one southern district boundary line instead of two. (The historical Loran C coordinates establishing this intersection were 32430 X 45070). (The southern line of the Naknek and the Naknek/Kvichak boundary was Loran C 32430).

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Not Applicable.

WHO IS LIKELY TO BENEFIT? The entire driftnet gill fleet.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? Personal appeal to both ADF&G staff and ADF&G Protection provided little relief. Since these boundaries have been in use since 2001, the opportunity for administrative relief has passed, thereby requiring Board of Fisheries action.

PROPOSED BY: Warren Gibbons

(HQ-09F-079)

PROPOSAL 45 - 5 AAC 06.200. Fishing districts, subdistricts, and sections. Modify Snake River Section boundary follows:

(a)(2) Snake River Section: All waters from 58° 52.90’ N. lat. 158° 43.30’ W. long. 58° 44.80’ N. lat. 158° 41.50’ W. long. to **58° 46.13’ N. lat. 158° 46.65’ W. long.** [58° 45.80’ N. LAT. 158° 46.65’ W. LONG].

ISSUE: The boundary lines on the north side of the Igushik Section 5 AAC 06.200(a)(1) and the south side of the Snake River Section 5 AAC 06.200(a)(2) have slight differences, resulting in an overlap of the two sections. The entire Snake River Section is closed by regulation 5 AAC 06.350(a)(3). Closed waters. As a result, the overlapped area could be interpreted as closed waters when the Igushik Section is open to commercial fishing. Merging these boundaries into a single shared boundary will eliminate the problem.

WHAT WILL HAPPEN IF NOTHING IS DONE? The same boundary line will continue to have two different definitions, creating confusion among drift gillnet permit holders and potential enforcement issues.

WHO IS LIKELY TO BENEFIT? Drift gillnet permit holders that fish in the Nushagak District.

WHO IS LIKELY TO SUFFER? Unknown.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game (HQ-09F-127)

PROPOSAL 46 - 5 AAC 06.320. Fishing periods. Modify fishing periods for Kulukak Section as follows:

(a)(2) in the Kulukak Section from 9:00 a.m. Monday to **9:00 p.m. Wednesday** [9:00 A.M. THURSDAY];

ISSUE: Since at least 1996, the Kulukak Section has been closed by emergency order earlier than the regulatory weekly closure at 9:00 a.m. Thursday to protect the Kulukak and Kanik rivers, where there are no inseason salmon enumeration projects. Early season king salmon conservation, precautionary management to protect discrete salmon stocks, and potential interception of salmon bound for the Togiak River Section have led to regular emergency orders to close weekly fishing after 48 or 60 hours of fishing.

WHAT WILL HAPPEN IF NOTHING IS DONE? Maintaining the current schedule will lead to continued early closures by emergency order that create processor and permit holder uncertainty as to how much fishing time will be allowed.

WHO IS LIKELY TO BENEFIT? Industry participants will benefit by having a better idea of how much fishing time will be allowed, improving their ability to estimate and plan operations.

WHO IS LIKELY TO SUFFER? Unknown.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game

(HQ-09F-128)

PROPOSAL 47 - 5 AAC 06.375(a). Landing requirements. Change landing requirements in Nushagak District as follows:

Change (a) all salmon must...no vessel used to take salmon may have salmon on board when more than 1 mile outside the district from which the salmon were taken **or ½ mile inside the Snake River section of the Nushagak District.** When outside a district...subsection when necessary.

ISSUE: Illegal fishing inside the Snake River Section which is closed waters.

WHAT WILL HAPPEN IF NOTHING IS DONE? It will be difficult to prosecute a case of someone fishing inside the Snake River Section unless they are caught actually fishing. This change would make it illegal to be over ½ mile inside the Snake River Section with fish onboard.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? All permit holders that fish legally.

WHO IS LIKELY TO SUFFER? Permit holders that fish illegally in the Snake River Section.

OTHER SOLUTIONS CONSIDERED? Remove Snake River Section from the definition of the Nushagak District.

PROPOSED BY: Nushagak AC

(SW-09F-006)

PROPOSAL 48 - 5 AAC 06.320. Fishing Periods. Modify fishing periods in the Ugashik District as follows:

5 AAC 06.320. Fishing Periods.

...

(c) In the Naknek-Kvichak, Egegik, and Ugashik districts,

...

(2) After 9:00 a.m. July 17, salmon may only be taken from 9:00 a.m. Monday until 9:00 a.m. Friday, except as specified for the

(A) Egegik District in 5 AAC 06.359(f);

(B) Naknek-Kvichak District in 5 AAC 06.360(g); and

(C) Ugashik District **from 9:00 a.m. Thursday to 9:00 a.m. Monday and** in 5 AAC 06.366(d)(4) **Fisherman fishing Egegik, Naknek-Kvichak and Nushagak districts, in Bristol Bay, may not fish in Ugashik or Cinder River in the same week.**

ISSUE: The existing weekly fishing periods Monday through Friday morning do not work well with shipping fish out by air.

WHAT WILL HAPPEN IF NOTHING IS DONE? Lost fishing opportunity and lost revenue from the fish.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Increase quality of kings and silvers as they can get to market in a timelier manor.

WHO IS LIKELY TO BENEFIT? Fishermen.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Roland Briggs

(HQ-09F-082)
