



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Commercial Fisheries Entry Commission

8800 Glacier Highway, Suite 109
PO Box 110302
Juneau, Alaska 99811-0302
Main: 907.789.6160
Licensing: 907.789.6150
Fax: 907.789.6170

To: Alaska Board of Fisheries

Date: November 30, 2018

From: Fate Putman, Chair *Fate Putman*
Dale Kelley, Commissioner *Dale Kelley*

Subject: Bristol Bay Proposal 33: Beach Weirs

The Commercial Fisheries Entry Commission (CFEC) offers the following remarks on Proposal 33, which seeks to establish beach weirs as a new gear type in Bristol Bay for fishermen who merge two set net permits. CFEC opposes Proposal 33 on its face because the use of beach weirs in the manner proposed would constitute a 'fish trap', a gear type expressly prohibited under Alaska law.^{1,2,3}

As for the other aspects of the proposal, CFEC acknowledges that the Board of Fisheries (BOF) retains the authority for methods and means, including the types of gear identified in 5 AAC 39.105. Should the Board choose to exercise its authority and allow an alternative gear type in a fishery, CFEC may consider amending CFEC regulations in order to mirror the new BOF regulation. In general, CFEC has been supportive of the use of alternative gear, as long as that gear type is not already allocated to a limited fishery.

Another consideration for CFEC is whether or not the new gear type and fishery are consistent with the Limited Entry Act. In the past, the BOF has most often allowed the use of alternative gear types to address a specific conservation purpose. In those circumstances, CFEC found use of alternative gear consistent with the Limited Entry Act and worked with Alaska Department of Fish and Game (DFG), BOF, and affected user groups to modify CFEC regulation. In this case, DFG's staff comments state that, *[i]ntroduction of a fish trap-like beach weir gear type could complicate management of Bristol Bay salmon fisheries with unknown potential benefits*. This indicates to us an unidentified level of risk that would need to be carefully evaluated.

At this time CFEC is not inclined to assist in implementing the terms of Proposal 33. If and when the BOF moves to allow this new gear type and fishery, CFEC will evaluate the subsequent regulatory package to ensure that it comports with both the Alaska Constitution and Limited Entry Act prior to taking any action.

Thank you in advance for considering CFEC's perspectives on the matter at hand.

¹ *As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to insure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State (Alaska State Constitution, Ordinance No.3, 1960).*

² **AS 16.10.070. Operation of Fish Traps.**
Fish traps, including but not limited to floating, pile-driven, or hand-driven fish traps, may not be operated in the state on or over state land, tideland, submerged land, or water. This section does not prevent the operation of small hand-driven fish traps of the type ordinarily used on rivers of the state that are otherwise legally operated in or above the mouth of a stream or river.

³ **AS 16.10.100. Erection of Fish Traps Prohibited On Land or Water Owned By State.**
Fish traps, including but not limited to floating, pile-driven, or hand-driven fish traps, may not be erected, moored, or maintained on or over land, tideland, submerged land, or water owned or otherwise acquired by the state. This section does not prevent the maintenance, use, or operation of small, hand-driven fish traps of the type ordinarily used on rivers of the state which are otherwise legally maintained and operated in or above the mouth of a stream or river.