



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Fish and Game
ALASKA BOARD OF FISHERIES

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January 19, 2017

Honorable Senator Pete Kelly, Senate President
State Capitol Building
Room 111
Juneau, Alaska 99801

Honorable Representative Bryce Edgmon, House Speaker
State Capitol Building
Room 208
Juneau, Alaska 99801

Subject: Alaska Board of Fisheries Habitat Permitting Recommendations

Dear Senator Kelly and Representative Edgmon:

The Alaska Board of Fisheries (board) was established by the Alaska Legislature, "For purposes of the conservation and development of the fishery resources of the state", (AS 16.05.221(a)), and has the authority to adopt regulations it considers important for "watershed and habitat improvement" (AS 16.05.251(a)(7)). Since inception, the board's working protocol evolved into a strong, open public process to carry out its duties. This public process allows Alaskans to bring forward proposals for consideration within its delegated authority.

For the 2016/2017 meeting cycle, the board received a request from a group of 13 individuals representing various fishing interests across Alaska. The request asked the board to recommend to the Legislature amendment of Title 16 to adhere to the habitat provisions contained in the board's Policy for the Management of Sustainable Salmon Fisheries established in regulation at 5 AAC 39.222. The board heard a significant amount of testimony in favor of this concept at the October work session held in Soldotna and scheduled an additional follow up committee meeting in Homer at the regular Lower Cook Inlet meeting.

The committee meeting allowed time for additional public testimony and an overview presentation on the permitting process from the Alaska Department of Fish & Game's (ADF&G) Division of Habitat staff. At the conclusion of this meeting, the board moved to submit the following points for the Legislature's consideration in amending Title 16:

- **Improve public notification and opportunities for public comment.**

A common theme from public testimony was the lack of notification for activities that have the potential to impact salmon habitat. ADF&G Habitat staff tracks the average time for permit issuance after an application is received at 4 days. There are undoubtedly nuances to this efficient permitting that must be considered, and improved notification to the public for certain activities is in the public's best interest. Additionally, tracking permitted activities by geo-referenced location would facilitate better consideration of cumulative impacts.

- **Enforceable Standards**

Under current law, the commissioner of ADF&G is directed to approve a fish habitat permit for a “proposed construction, work, or use...unless the commissioner finds the plans and specifications insufficient for the proper protection of fish and game.” AS 16.05.871(d). Permits may be issued with little restriction because nothing in the statute or regulation defines what constitutes “the proper protection of fish and game.”

Additional guidance is warranted for the protection of fish, to set clear expectations for permit applicants and to reduce uncertainty in predevelopment planning costs. To strengthen ADF&G’s implementation and enforcement of the permitting program, the legislature may want to consider creating enforceable standards in statute to protect fish habitat, and to guide and create a more certain permitting system. The board recommends and supports the Legislature creating these enforceable standards by drawing on the concepts set forth in the portion of the sustainable salmon policy that expressly addresses habitat (5 AAC 39.222(c)(1)(A-F)).

Thank you for taking the opportunity to review these concerns. The board recognizes the broad responsibilities of the Legislature to promote economic development and the wise stewardship of resources for all Alaskans. The board finds that clear delineation of Alaska’s unwavering promise to protect salmon and fisheries habitat establishes a consistent and predictable business environment that will help all individuals and corporations wishing to do business in Alaska.

The board remains at your service if you have any questions or comments regarding these recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Jensen", with a stylized, sweeping flourish extending from the end of the name.

John Jensen
Chair
Alaska Board of Fisheries