

SCOMM

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Testimony on House Bill 396 Commissioner Kevin C. Duffy

House Fisheries Committee
March 15, 2004

- House Bill 396 would result in a fundamental diminution of the ability of the Board of Fisheries to allocate benefits from salmon fisheries. Under this bill, the commissioner is directed to manage a mixed-stock fishery to achieve escapement goals for some stocks such that the long-term average catch in that fishery will be maximized (page 4, line 1-8). The board is then directed to allocate this catch among users according to historical norms (pages 4-5, lines 23-7).
- Section 6 of the bill, proposed AS 16.05.740(c) removes conservation from the purposes of Board of Fisheries' salmon regulations. This is fundamentally inconsistent with the Board's enabling statute, AS 16.05.221(a), which creates the Board of Fisheries for "purposes of the **conservation** and development of the fishery resources of the state," and AS 16.05.251(a)(12), which authorizes the Board to adopt regulations "regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the **conservation**, development, and utilization of fisheries." If the legislature wanted to remove the Board's authority to recognize and regulate for conservation concerns, perhaps these two statutes should also be amended to expressly authorize the Board to regulate for "conservation (except in the case of salmon fisheries)."
- Under the proposed AS 16.05.740(c), the following policies in regulations made through a lengthy public process would be rendered moot or require extensive changes:
 - 5 AAC 39.220. Policy for the management of mixed-stock salmon fisheries.
 - 5 AAC 39.222. Policy for the management of salmon sustainable fisheries.
 - 5 AAC 39.223. Policy for statewide escapement goals.
- HB 396 attempts to lock fisheries management into the status quo, limiting the commissioner's and board's ability to adapt to changing resource and economic conditions. Board actions could only be based on utilization and development (page 4, lines 23-25). The board's only duty would be to determine and maintain historic levels of use (page 4, line 30 — page 5, line 11). Intercept fisheries would be protected regardless of the economic impacts on terminal fisheries (page 5 lines 8-11).
- In order to comply with court precedent on regulatory law, the commissioner would have to adopt all escapement and harvest goals into regulation, since the commissioner would be mandated to achieve those goals during the season. So instead of the public discussions before the board, these actions would take place in

the commissioner's regulation process. This might require a regulations specialist to work on that process full-time, since they would have to do a written analysis of all public comments before the commissioner could adopt each regulation. That is not required for board procedures under the Administrative Procedures Act.

- The bill directs the commissioner to manage for MSY ^{Maximum Sustained Yield} from important and dominant stocks and to maximize benefits to the people of Alaska. Depending on the definitions of yield and benefits, these directives may be mutually exclusive.
- Provisions of this bill direct the commissioner to set goals according to MSY regardless of the allocative effects while the "AS 16.05.258(b) Subsistence Use and Allocation of Fish and Game" directs the board to provide for opportunity for subsistence harvest while maintaining sustained yield. In years of poor returns these may be mutually exclusive directives.
- There are conflicting or inconsistent directives regarding allocation of harvests, i.e., the commissioner is directed to meet escapement and harvest goals regardless of allocative consequences and yet the board is charged with maintaining harvest allocations for and among traditional users.
- HB 396 adds a new statute, AS 16.05.740 and amends AS 16.05.251 and AS 16.05.730. Some confusion occurs because amendments to the latter two statutes concern salmon fisheries and salmon stocks exclusively, while the statutes themselves pertain to fish stocks in general, which could be groundfish, shellfish, and resident fish species as well as salmon.
- This bill adds a lot of legal ambiguity to management decisions that will probably result in litigation. Terms describing directives for management in the bill, such as "historic uses," "historic level of the harvest," "highest social as well as economic benefits," "over harvest", "over escapement", "yield", "benefits", "depressed stock", "harm to stocks", "conservation goals", "commercially valuable", and "stability of fisheries", are undefined.
- One important definition is inconsistent. By the definition of "dominant stock", the order of dominance would be pink salmon, sockeye or chum salmon, coho salmon, and chinook salmon, based on the productivity and abundance of these species in most parts of the state. That order is often just the reverse of the economic value of the harvest from these species. The ambiguity occurs if "commercially valuable" means economic value. No guidance is given when we don't know how abundant or productive a stock may be relative to another one. In addition, in the definition of "dominant stock", such a stock is commercially valuable to whom? Who makes that decision? The board? The commissioner?

Questions/Concerns Regarding H.B. 396 – Management of Salmon Stocks and Fisheries

1. This bill would fundamental diminution of the ability of the Board of Fisheries to allocate benefits from salmon fisheries and would bestow new powers to the Commissioner to allocate fishery resources.
2. The bill's restrictions on the ability of the Board to address salmon conservation concerns is inconsistent with the current statutory charges to the Board for fishery conservation found in AS 16.05.221(a) and AS 16.05.251(a)(12).
3. This bill would render moot or require significant revisions to the following regulatory policies: (1) the policy for the management of mixed-stock salmon fisheries; (2) the policy for the management of salmon sustainable fisheries; and (3) the policy for statewide escapement goals.
4. This bill attempts to lock fisheries management into the status quo.
5. The bill forces the ADF&G Commissioner to adopt all escapement and harvest goals into regulation.
6. The bill directs the commissioner to manage for maximum sustained yield from important and dominant stocks and to maximize benefits to the people of Alaska. Depending on the definitions of yield and benefits, these directives may be mutually exclusive.
7. What impact will setting goals according to maximum sustained yield have on subsistence?
8. There are conflicting or inconsistent directives regarding allocation of harvests, i.e., the commissioner is directed to meet escapement and harvest goals regardless of allocative consequences and yet the board is charged with maintaining harvest allocations for and among traditional users.
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10. The bill adds a lot of legal ambiguity to management decisions that will probably result in litigation.
11. The definition of "dominant stock" is inconsistent and it is unclear who would be determining what is or is not a "dominant stock."

From ADF&G

**Questions/Concerns Regarding H.B. 396 – Management of
Salmon Stocks and Fisheries**

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Ninilchik Traditional Council

P.O. Box 39070

Ninilchik, Alaska 99639

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Web Site: www.ninilchiktribe-nsn.gov

February 23, 2004

Representative Mike Chenault
State Capitol, Room 108
Juneau, AK 99801-1182

Re: HB # 396

Dear Representative Chenault:

Please find the original Resolution 2004-09 supporting HB #396. This Resolution was passed at the last regular Council meeting held on February 20th, 2004.

Sincerely,

A handwritten signature in black ink, appearing to read "Ivan 3" followed by a stylized flourish.

Ivan Encelewski
NTC Executive Director

c: file



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RESOLUTION 2004-09

Resolution Supporting House Bill No. 396

WHEREAS, the Ninilchik Village Tribe is a distinct, independent political community, and as such is qualified and exercises powers of self-government by reason of its original tribal sovereignty as passed down from its ancestors since time immemorial; and

WHEREAS, the Ninilchik Village Tribe is a federally Recognized Indian Tribe in Alaska (Federal Register Volume 65, Number 49, March 13, 2000, Notices Pages 13298-13303); and

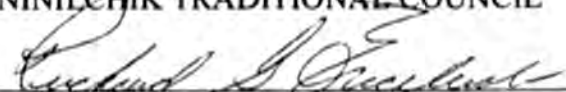
WHEREAS, the Ninilchik Village Tribe is also a State Recognized Indian Tribe as noted in the Millennium agreement between the State of Alaska and the Ninilchik Village Tribe; and

WHEREAS, the Ninilchik Traditional Council is the governing body of the Ninilchik Village Tribe as recognized by Ninilchik Tribal Members and the Constitution of the Tribe; and

NOW THEREFORE BE IT RESOLVED, the Ninilchik Traditional Council is in support of House Bill No. 396, for an act entitled "An Act relating to management of salmon and other fish stocks and salmon fisheries and to the use of funds received by an enhancement facility from the sale of fish."

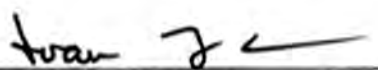
PASSED AND ADOPTED THIS 20th day of February, 2004 at
Ninilchik, Alaska.

NINILCHIK TRADITIONAL COUNCIL


Richard G. Encelewski, NTC President/Chairman

CERTIFICATION

I hereby certify that the foregoing resolution was duly adopted by the Ninilchik Traditional Council at a duly called meeting on the 20th day of February, 2004 at Ninilchik, Alaska, by a vote of 3 FOR, 0 AGAINST, 1 ABSENT, and 1 NOT VOTING.


Ivan Encelewski, NTC Treasurer/Secretary



Ninilchik Traditional Council

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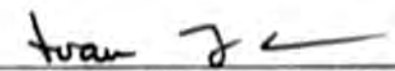
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NINILCHIK TRADITIONAL COUNCIL


Richard G. Encelewski, NTC President/Chairman

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Ivan Encelewski, NTC Treasurer/Secretary

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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JUNEAU, AK 99802-5526
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March 22, 2004

The Honorable Paul Seaton
House of Representatives
Alaska State Capitol, Room 428
Juneau, AK 99801 - 1182

Dear Representative Seaton:

At the March 15th House Fisheries Committee hearing on H.B. 396, you asked for my advice on how best to address the over-escapement of sockeye salmon that occurred last season in Cook Inlet.

As you know, the Board of Fisheries (Board) established the restrictions on emergency order fishing time in the Cook Inlet commercial drift and set gillnet fisheries for both conservation and allocation reasons. During years of large sockeye returns, like those that occurred in 2003, some of these restrictions on fishing time have increased the likelihood that sockeye escapements will be exceeded.

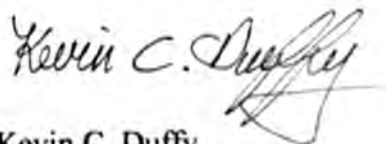
In my view, the primary way to address this issue is through the Board of Fisheries process. During the 2004/2005 regulatory cycle, the Board will likely receive regulatory proposals that seek additional sockeye harvest opportunity for the commercial drift and set gillnet fisheries. The Board will consider these proposals accordingly.

As far as next season goes, department managers are currently in the process of developing the fishery management plan for the Cook Inlet fisheries. I have directed them to closely examine how we can be more effective at harvesting sockeye salmon in the commercial fisheries within the constraints of the existing regulatory management plans.

Last year, I decided to exercise my discretionary emergency order authority to amend the existing management plan. This was a limited and measured response that was based on a set of unusual circumstances, including: (1) a much larger than anticipated sockeye return; (2) sockeye salmon escapement goals met or exceeded in all monitored systems (in some cases by a wide margin); (3) a near record Kenai late-run chinook salmon return and recreational harvest; (4) excellent fishing in the Kenai and Kasilof personal use and recreational sockeye fisheries; and (5) minimal harvest impacts on early returns of coho salmon. With all due respect, I am disinclined to speculate on what decisions I may make next season if faced with a similar set of circumstances, in part because the circumstances will most assuredly be different.

I trust this responds to your inquiry, and I would be happy to provide additional information that might be helpful to your work on fish and game issues. In the meantime, please feel free to share this response with the other members of the House Fisheries Committee.

Sincerely,

A handwritten signature in cursive script, reading "Kevin C. Duffy". The signature is written in dark ink and is positioned above the printed name and title.

Kevin C. Duffy
Commissioner

Questions arising from introduction of House Bill 396

1). Why introduce this bill and for what?

There seems to be some confusion as to the intent and design of this bill currently before the legislature. This bill is intended to put into law the successful fisheries practices utilized by the Department and Board of Fisheries. These practices have been developed since statehood and have generally resulted in healthy salmon stocks and salmon fisheries throughout the state. Nothing in this bill seeks to radically alter any existing department management practice, fishery or regulatory function. Instead it is intended to put into law current practices and coalesce the many regulatory policies developed over the years into a single statute to facilitate efficiency within the Department and Board and clarify for the public why actions are being taken in fisheries. It also hopefully will clarify where the lines of authority lie for both the Board of Fish and the Commissioner. That simply stated is the Department manages the fish stocks and the BoF allocates the fish surplus to escapement needs. The department has the trained field personnel capable of making rational scientific conservation decisions when necessary and the BoF typically has fishermen with fishing expertise who can insure that fisheries are prosecuted in an efficient manner to maximize the benefit from the state's fisheries resources. The careful blend of these two factions should give the state healthy fish stocks managed by the department and healthy fisheries developed by the BoF. We do not wish to manage all stocks for maximum yield but don't wish to see any further evolution towards some kind of weak stock management as the administration allowed.

Since 1996 the BoF began making radical changes to regulations in many areas of the state placing "windows" or closed periods in fisheries or limiting the Commissioners Emergency Order powers. This was not done in any scientific manner. It was done in an attempt to allocate fish through biology. Many of these regulations placed mutually exclusive goals in regulation that have created a great deal of strife between users with no benefit to residents of this state. In a recent Kenai Superior Court case these restrictions to emergency orders were ruled invalid if they restricted the commissioner's authority. The Department of Law representing the BoF has interpreted that these restrictions in regulation are not absolute restrictions because they can be modified by Emergency Order, but only with new information and then only if a biological emergency exists. This interpretation is "loosely" based on the Peninsula Marketing case. In that case Commissioner Rosier wanted to change a quota in the False Pass fishery that the BoF had already refused to change in a public meeting. The entire case talked of "Emergency Powers" because the Commissioner has two types, Emergency Order or Emergency Regulation. Commissioner Rosier used neither, instead he announced his intent to change the quota and it was that announcement that was challenged. The litigants in this case including the State missed a key point of law with respect to the Commissioners powers, namely that Emergency Orders delegated by the legislature can not be written for anything other than time and area. In the conclusion of this case the court ruled that the Commissioner could not summarily change a fisheries management plan without new information that a biological emergency exists. The problem is that neither of these terms was defined and that has led to the power grab by the BoF, which the Department of Law has defended and that the Commissioner has allowed. We think the department

should manage for the escapement goals that have been developed and refined over the years. If not why spend so much money counting fish?

2). Why was this bill introduced? This bill was introduced in order to delineate where the commissioner's authority granted in AS 16.05.060(a) and the BoF's authority granted under AS 16.05.221(a) overlap and to clarify that the BoF allocates fishery resources and the Department manages those resources and is responsible for setting and achieving conservation or escapement goals. The Department under Rue and continuing under Commissioner Duffy has allowed the BoF to usurp much of the power necessary to manage fish stocks. If this bill is passed all fisheries will be managed for escapement goals and allocations will be clearly spelled out and managed for by ADF&G. This will greatly reduce the current strain placed on all users by the BoF process and allow the public to know beforehand what to expect from the fisheries they participate in.

3). What does this bill do? As already stated it puts into statute what is already in regulation. Most of the language in this bill was taken from the Sustainable Salmon Fisheries Policy, The Escapement Goal Policy, The Mixed Stock Fisheries Policy and many other regulations passed over the years since statehood. What it does is preserve the management style that has been so successful since statehood and protects all fisheries governed by these regulations from future power grabs by the BoF in future administrations. This will provide some stability to the fisheries within the state and allow the users to make long-range plans and investments without the worry and constant bickering for fish.

4). Why approach management this way instead of leaving it the way it is? This bill is needed because of the radical and unnecessary changes that the BoF has levied on the salmon users within this state in the last few years. Many of these restrictions were dressed up as being necessary for conservation however many were really nothing more than bio-allocation. This bill would NOT stop the BoF from allocating fish between users. It would only prevent them from doing it under the guise of conservation. One of the biggest problems this has caused over the last 8 years is the change within the department. The department is not really interested in managing salmon, a look at their recent submission of proposal #2 and the widespread opposition to that proposal should serve as a warning of the problems that currently exist. We suspect that the department will be opposed to this bill because it does state in no uncertain terms that they are to manage salmon stocks as they have in the past. Basically requires them to do their job!

5). Why submit this bill now? This bill is necessary now because of the changes that have been occurring within the department and BoF in recent years. Many of the regions of the state are hurting from depressed prices or low returns. At the same time fish are being wasted over and above escapement goals because of arbitrary and unnecessary BoF regulations which were put into regulation by inexperienced and adversarial BoF members. We think that the harm done by these counter-productive regulations must be corrected immediately and on a statewide basis.

EXPLANATION OF WHERE THE LANGUAGE CONTAINED IN THIS BILL COMES FROM

Pages one and two of this bill simply standardize the language in current statutes to conform with the language of the newly created parts of this bill.

Explanation for language covered in Sec. 16.05.740 (a) lines 4-7.

Article VIII, Section 4 of the State Constitution directs that replenishable resources be managed for SUSTAINED YIELD, "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." Under section (a) of this bill sustained yield is defined to be Maximum Sustained Yield (MSY) for those stocks that are either important or dominant within the region. These stocks should be managed for Maximum Sustained Yield in Order to provide for the maximum benefit to the people of the state as set out in 5AAC 39.222 Policy for the Management of Sustainable Salmon Fisheries and Article VIII, Section 2 of the State Constitution. In the State Constitution, SECTION 2. GENERAL AUTHORITY. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people. While there are Attorney General opinions that Sustained Yield as used in the Constitution is consistent with MSY it is not specifically addressed until now. In addition for those stocks which are smaller and/or less important this bill directs that management for a "minimum" of sustained yield is acceptable, especially when the management of these stocks complicates the management of more important stocks in a mixed stock fishery.

This paragraph outlines how the Board and Department should maximize the benefit by managing for dominant or important stocks for Maximum Sustained Yield. In practice this is what the department currently does where and when it can gather the necessary data.

1. There are fisheries, which are managed for goals other than escapement such as an allocated interception of another areas stocks or treaties with other countries. Examples: South East Chinook, Area M (False Pass), Cape Igvak

Explanation for language covered in Sec. 16.05.740 (b) lines 8-12.

In this Paragraph the department is directed to manage smaller or less important stocks for Sustained Yield. Most fisheries in Alaska, sport, commercial, personal use and subsistence are mixed stock and mixed species to some degree. In order to allow for the orderly development of these fisheries and allow for the maximum benefit to the people, it makes sense to manage for MSY on the most productive stocks and SY on those that are less productive. It directs the department to manage the least productive stocks at a rate that they at a minimum are sustainable as defined in the Policy for the Management of Sustainable Salmon Fisheries 5 AAC 39,222. It also directs the department to gather data where necessary or practical for MSY and use it's collective judgment to sustain the remaining stocks. This paragraph protects both users and the department from "Spotted

Owl" weak stock management practices which the department is currently not funded to implement. These weak- stock management practices have had disastrous effects in other areas outside of Alaska and should not be repeated in Alaska.

This paragraph is consistent with the State Constitution and the Policy for the Management of Sustainable Salmon Fisheries 5 AAC 39.222.

Explanation for language covered in Sec. 16.05.740 (b) lines 13-25.

This is currently common practice to change by Emergency Order seasons or open areas established by the BOF in regulation or in specific management plans. This has been heralded as one of the successes of Alaska's salmon management program, local biologists with the Emergency Order Authority managing fisheries on a real time basis to ensure escapements are achieved to sustain production. This program has been so successful that it has been adopted by the Pacific Salmon Commission to manage and conserve the salmon resources shared by Alaska, Washington, Oregon and Canada.

Explanation for language covered in Sec. 16.05.740 (b) (1) through (7) lines 26 on page 3 to line 22 on page 4.

In section 1 of this paragraph the department is directed to manage in a way that minimizes the harm to a single stock when there are stocks with different rates of production harvested in a fishery. This again is common practice in fisheries management, to try and get as close to the weakest stocks minimum escapement goal while exceeding the maximum escapement goal of the strongest stock to the least degree possible, "balance the harm". This is typically a balancing act the department encounters in managing many of its fisheries, commercial, sport or subsistence. This management philosophy basically prevents widespread "weak stock management". Widespread weak stock management leads to wide spread weak stocks and lower yields for all users. The idea is to achieve the weaker stocks escapement at a level at or slightly below the MSY escapement goal and stronger more productive stocks escapement at or slightly above the MSY escapement goal level, when necessary. In doing this the region or area receives the greatest benefit from local stocks by maximizing the yield over all stocks. Nothing in this style of management allow for the gradual extinction of any salmon stocks, because you are generally at or near MSY levels of escapement in both stocks.

In section 2 of this Paragraph the department is directed to ignore the allocative impacts of its decisions when managing under the previous section. This is already common practice and all harvesters share the burden of conservation.

In section 3 of this Paragraph the department is again directed to manage for MSY or SY as appropriate

In section 4 of this Paragraph the department is directed to manage in the absence of a management plan for all escapement goals and place the burden of conservation on users with other local alternative salmon fisheries when necessary. This has some allocative tradeoffs that would likely result in BOF management plans if implemented in-season, however it places conservation of the resource above users needs to harvest.

Sections 5-7 of this Paragraph are restatements for clarification of what is already in this bill or in other state statutes and regulations.

Explanation for language covered in Sec. 16.05.740 (c), (d) & (e) .

In these sections the powers of the Board with regard to development of fisheries are defined. The Board shall allocate the harvestable surplus to all users using the allocation criteria in 5 AAC 05.751.

In section 1 of this Paragraph in fisheries that are fully developed, the board may not exclude a user except for conservation reasons. Under B the board may not add to an escapement goal that will not be harvested by some user, this is consistent with sustained yield management.

Section 2 directs the Board to give more weight to the first of the allocation criteria, historical use, in Sec 16.05.251.

Section 3 allows for established intercept fisheries at historic levels not increasing levels, this is consistent with current Practice and the Policy for the Management of Mixed Stock Salmon Fisheries, 5 AAC 39.220.

Under (e) Definitions of MSY and SY are from 5 AAC 39-222, Policy for the Management of Sustainable Salmon Fisheries.

THE
FOLLOWING
DOCUMENT(S)
ARE
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ORIGINAL
COPIES



Alaska's Salmon Management

A Story of Success

Management programs and policies promote the sustainability of salmon stocks that are wild, abundant, and healthy. Alaska's world-famous salmon program is built on the principles of conservative management, sound science, and habitat protection. No salmon stocks of Alaska origin are listed as threatened or endangered.

Alaska's Conservation Mandate

Successful Salmon Management, In Law and in Practice

Conservation of salmon stocks is required under the Alaska state constitution. Alaska's constitution, unique among the 50 states, has an article solely devoted to the management and utilization of natural resources. The constitution mandates that renewable resources "shall be utilized, developed and maintained on the sustained yield principle."

Alaska law states: "The Commissioner shall manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well being of the state...through rehabilitation, enhancement, and development programs, [the department must] do all things necessary to insure perpetual and increasing production and use of the food resources of state waters and continental shelf areas."

The Alaska Department of Fish and Game manages salmon fisheries, while the Alaska Board of Fisheries has responsibility for allocating the yield of salmon among users. The clear separation of management authority from allocation authority is one of the strengths of the Alaska management system. The "Sustainable Salmon Fisheries Policy" and other vital conservation management policies define the management program for protecting habitats and sustaining salmon, with priority for wild stocks.

In 1990, Alaska outlawed the farming of salmon to protect strong native stocks from hybridization, disease, pollution, and competition for food.

Alaska's Environmental Record

Protecting Salmon Habitat

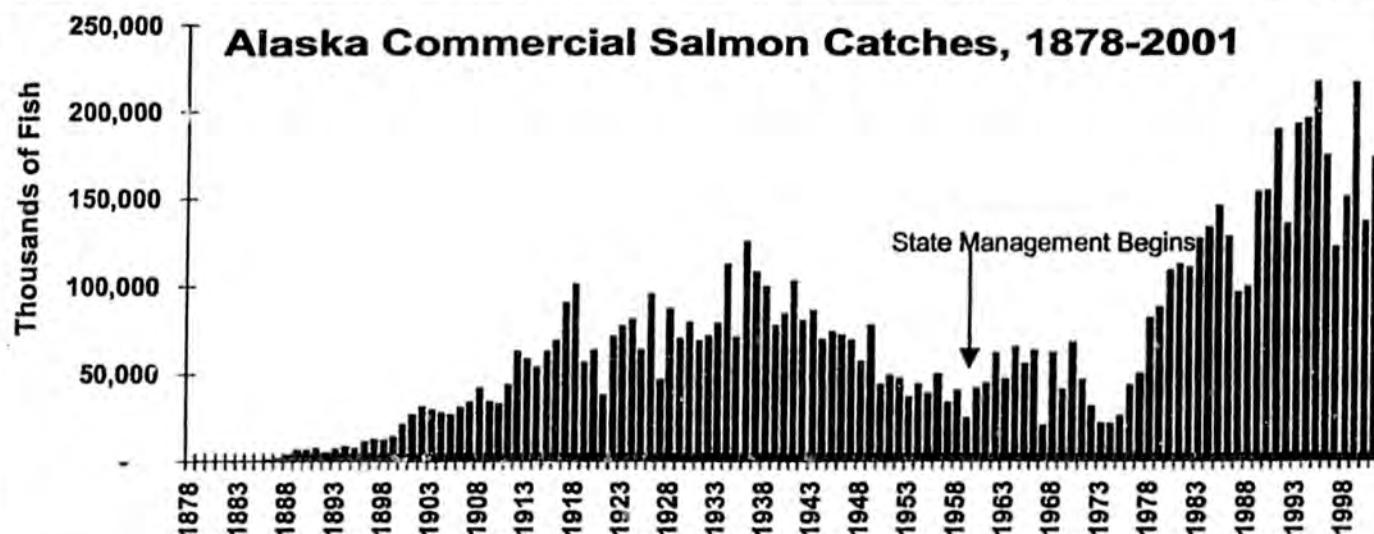
Alaska has always made a strong commitment to conserving and protecting salmon habitats. ADF&G manages salmon in over 15,000 salmon spawning streams and rivers throughout the state.



Alaska's habitat conservation laws and regulations provide clean, free-flowing waterways vital to abundant, sustainable salmon production. There are very strict laws and regulations governing industry and development activities, such as road building, logging, and mining, to protect vital spawning and rearing salmon streams. The "Anadromous Fish Act" (AS 16.05.870) requires prior approval by ADF&G for any in-stream construction activities in salmon streams. Under Alaska's "Forest Practices Act" (41.17.010) buffer zones are required between logging areas and salmon streams to protect spawning and rearing habitats from erosion and other problems. The Commissioner of ADF&G may also acquire water rights to protect fish. Stream flow and volume, necessary for salmon migration and propagation, are protected under the "Water Use Protection Act" (AS 46.15.). In addition, Alaska's Department of Environmental Conservation (ADEC) monitors and regulates the discharge of pollutants to ensure high water quality in both marine and fresh waters.

Alaska has been willing to forego the economic benefits from activities such as hydropower development in order to sustain salmon resources for future generations. For example, although the option of constructing and operating large-scale, hydropower facilities on both the Susitna River and the Yukon River were closely examined, neither was built. The wild salmon resource from these drainages was a major reason that Alaska chose the no-dam option.

(over)



Management History

Salmon Runs were not always bountiful:

Alaska did not always have healthy salmon stocks. Overfishing under federal management was a major factor in the declines of the Alaska salmon fishery that occurred between 1940 and the time of statehood, 1959. Salmon stocks and the fishing industry were in such bad shape that President Eisenhower declared Alaska a federal disaster area in 1953.

In 1959, statewide harvests totaled only about 25 million salmon - less than 20 percent of current sustained production. Over the last 20 years, sound state management with gradually increasing funding for research and management has rebuilt salmon runs from the dismal conditions inherited at statehood to the healthy levels experienced today. Alaska has been at the leading edge of salmon research.

Alaska's Science-Based Management

Letting the Managers Manage

With the constitutional and statutory conservation mandates, the Alaska Department of Fish and Game has effectively managed Alaska's salmon stocks to ensure conservation and to promote sustainable production. As a result, stocks of salmon spawning in Alaska are healthy, and fisheries dependent upon these stocks have benefited, with statewide harvests ranging from about 100 to 200 million salmon per year over the past 15 years.

In-Season Abundance Based Management:

State of Alaska management has been intensive, conducted on a real-time basis with regulations imposed in-season by local biologists who have a clear conservation mandate and authority to open or close fisheries as needed.

Delegated emergency authority provides for immediate management decisions by area biologists. When runs are strong, managers liberalize harvest regulations to utilize surpluses. When runs are poor, managers close fisheries to provide for predetermined escapement needs which ensure long-term sustainable yields.

Local biologists monitor returning salmon using various methods: aerial surveys, weirs, streamside counting towers, fish wheels, sonar, test fisheries, and input from fishermen. Based on their in-season abundance count, salmon managers open and close fisheries on a daily basis to ensure spawning escapements are adequate to sustain production.

Alaska's emphasis on in-season management to maintain adequate spawning escapements is the key ingredient to successful salmon management. This in-season abundance based management program was recently adopted by the Pacific Salmon Commission to manage and conserve salmon resources shared by Alaska, Oregon, Washington, and Canada.



ADF&G Fish Counting Tower

Alaska Department of Fish & Game, Frank Rue Commissioner
Public Communications Section, P.O. Box 25526, Juneau, Alaska 99801-5526, (907) 465-6166
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Web posted Wednesday, February 11, 2004

Bill would remove politics from salmon

By **HAL SPENCE**

Peninsula Clarion

Rep. Mike Chenault, R-Nikiski, has introduced a bill he said could enhance the numbers of salmon available to all user groups and take politics out of fish management by leaving escapement decisions to the biologists.

House Bill 396 amends Alaska fish and game statutes to focus the attention of game managers toward "important and dominant salmon stocks" when making decisions to meet "sustained yield" requirements of the law.

"Right now, it is really and simply an issue of overescapement," Chenault said last week. "Last year, and in previous years, we have overescaped the Kenai River especially."

Chenault said despite good management efforts by local biologists, a half million more reds were allowed to swim to the spawning grounds than were necessary to meet sustained yield escapement goals.

"I've been told that amounts to lost revenues of between \$4 million and \$8 million," Chenault said, adding that was money lost not only to commercial fishers but also to canneries and to municipal fish tax streams.

Existing state law now requires the Board of Fisheries to adopt policies that provide for managing mixed-stock fisheries in a manner "consistent with sustained yield of wild fish stocks." It does not differentiate between species, however.

Chenault's proposed amendments would add language so that management of mixed-stock fisheries is consistent with "maximum sustained yield of important and dominant salmon stocks" and with sustained yield of "other" wild fish stocks.

The bill defines "dominant salmon stock" as wild salmon that

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"is consistently more productive and numerically more abundant or is consistently more commercially valuable than other salmon stocks."

It defines "important salmon stock" as wild salmon for which the department "has established a scientifically based escapement goal and a stock management plan to maintain the stock at escapement levels consistent with maximum sustained yield of the stock."

The bill also would require fish managers to base escapement decisions on "the best reliable scientific information available to the department."

One clause explains that when it is not practical to manage a stock for "maximum" sustained yield, the commissioner of Fish and Game would be given the discretion to "exercise the professional judgment of the department" to ensure escapement sufficient to provide for sustained yield of the stock.

Another provision covers how management decisions should "seek a balance" during fishing season if it is impossible to meet escapement goals for all species simultaneously. Escapement levels would then be set "in a manner that does the least harm collectively to the productivity of all stocks and species in the fishery or management area."

Other provisions would require the commissioner of Fish and Game to conserve depressed salmon stocks and, where practical, rehabilitate and enhance those stocks; avoid overharvest that might threaten sustained yield; and avoid overescapement that might threaten maximum sustained yield.

The Board of Fisheries, meanwhile, would be required to adopt regulation policies "consistent with salmon escapement goals and harvest goals established by the commissioner."

Under the terms of the proposed bill, the board would be required to allocate the harvestable portion of salmon stocks in accordance with main rules.

Among these are provisions that:

n For fully developed salmon fisheries, the board may not exclude existing, historic users from taking historic levels of salmon except to achieve conservation goals set by the commissioner. Nor may the board authorize escapement greater than necessary to satisfy escapement goals.

n The board shall give priority consideration to the history of use of a salmon stock;

n The board shall provide that salmon in excess of that number needed to meet escapement goals be available for harvest.

Doug Mecum, director of the Division of Commercial Fishing, said Commissioner Kevin Duffy had asked him to have the Division of Commercial Fishing work with the Department of Law and the Alaska Board of Fish "to try and formulate, if not opinions, than at least some issues that we see."

Mecum said the bill raised some legal issues about how the Board of Fish operates relative to how the commissioner operates, as well as how it might be implemented if it became law.

"It generates quite a number of questions," Mecum said. He did not elaborate.

The bill currently is the House Special Committee on Fisheries. No hearing has been scheduled.

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To: Representative Paul Seaton
Chairman for Special Committees on Fisheries

Re: Fisheries Committee

Representative Mike Chenault respectfully requests the scheduling of a hearing for HB 396. Thank you for your time and consideration.

Please find the appropriate documentation attached.

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE CHENAULT

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to management of salmon and other fish stocks and salmon fisheries
and to the use of funds received by an enhancement facility from the sale of fish."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 16.05.251(h) is amended to read:

(h) The Board of Fisheries shall adopt by regulation a policy for the
management of mixed stock fisheries. The policy must [SHALL] provide for the
management of mixed stock fisheries in a manner that is consistent with maximum
sustained yield of important and dominant salmon stocks and with sustained yield
of other wild fish stocks. In this subsection, "important and dominant salmon
stocks" means those salmon stocks that are either an important salmon stock or a
dominant salmon stock as those terms are defined under AS 16.05.740.

* Sec. 2. AS 16.05.730(a) is amended to read:

(a) Fish stocks in the state shall be managed consistent with maximum
sustained yield of important and dominant salmon stocks and with sustained yield

of other wild fish stocks and may be managed consistent with sustained yield of enhanced fish stocks.

* Sec. 3. AS 16.05.730(b) is amended to read:

(b) In allocating enhanced fish stocks, the board shall consider the need of fish enhancement projects to obtain brood stock. The board shall [MAY] direct the department to manage fisheries in the state to achieve an adequate return of fish from enhanced stocks to enhancement projects for brood stock; however, management to achieve an adequate return of fish to enhancement projects for brood stock shall be consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other wild fish stocks.

* Sec. 4. AS 16.05.730(c) is amended to read:

(c) The board shall [MAY] consider the need of enhancement projects authorized under AS 16.10.400 and contractors who operate state-owned enhancement projects under AS 16.10.480 to harvest and sell fish produced by the enhancement project that are not needed for brood stock to obtain funds for the purposes allowed under AS 16.10.450 or 16.10.480(d). The board shall [MAY] exercise its authority under this title as it considers necessary to direct the department to provide a reasonable harvest of fish, in addition to the fish needed for brood stock, to an enhancement project to obtain funds for the purposes allowed under AS 16.10.450 or 16.10.480(d) [ENHANCEMENT PROJECT] if the harvest is consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other wild fish stocks. [THE BOARD MAY ADOPT A FISHERY MANAGEMENT PLAN TO PROVIDE FISH TO AN ENHANCEMENT PROJECT TO OBTAIN FUNDS FOR THE PURPOSES ALLOWED UNDER AS 16.10.450 OR 16.10.480(d).]

* Sec. 5. AS 16.05.730(d) is amended to read:

(d) In this section,

(1) "enhancement project" means a project, facility, or hatchery for the enhancement of fishery resources of the state for which the department has issued a permit;

(2) "important and dominant salmon stocks" means those salmon

1 stocks that are either an important salmon stock or a dominant salmon stock as
2 those terms are defined under AS 16.05.740.

3 * Sec. 6. AS 16.05 is amended by adding a new section to article 5 to read:

4 **Sec. 16.05.740. Management of salmon stocks and salmon fisheries. (a)**

5 The commissioner and the Board of Fisheries shall manage the important salmon
6 stocks and dominant salmon stocks of the state for maximum sustained yield, to the
7 extent practicable, to achieve the greatest benefits for the people of the state.

8 (b) The commissioner shall adopt and revise as necessary escapement goals
9 and harvest goals for important salmon stocks and dominant salmon stocks utilizing
10 the best reliable scientific information available to the department. To the extent
11 practicable, the commissioner shall expeditiously collect information necessary to
12 manage important salmon stocks and dominant salmon stocks for maximum sustained
13 yield. The commissioner shall manage salmon fisheries through emergency orders
14 issued under AS 16.05.060 to achieve the escapement goals and harvest goals for the
15 stocks taken in the fisheries. The commissioner shall exercise the professional
16 judgment of the department to manage salmon stocks for which escapement goals or
17 harvest goals have not been established for the highest level of sustainable yield that is
18 practicable. For a minor stock for which the commissioner finds that it is not practical
19 to manage the stock for maximum sustained yield, the commissioner shall exercise the
20 professional judgment of the department to ensure that the escapement level for the
21 stock is maintained at a level that provides for sustained yield of the stock. In the
22 absence of sufficient information to establish an escapement goal or harvest goal for a
23 salmon stock consistent with maximum sustained yield, the department shall manage
24 the stock for sustained yield. The commissioner shall manage salmon for sustained
25 yield in accordance with the following requirements:

26 (1) where the presence of multiple salmon stocks or species in a
27 fishery or management area results in the inability to simultaneously achieve
28 escapement goals for all of the stocks or species, the commissioner shall seek a
29 balance during the fishing season of the escapements for all stocks and species in a
30 manner that does the least harm collectively to the productivity of all stocks and
31 species in the fishery or management area;

1 (2) the commissioner shall balance the harm of reducing escapements
2 below the escapement goal for weaker salmon stocks with increasing escapements
3 above the escapement goal for stronger salmon stocks without regard to the allocative
4 effects of the decision;

5 (3) the commissioner shall manage important, dominant, and more
6 productive salmon stocks for maximum sustained yield and minor or less productive
7 salmon stocks for sustained yield in order to achieve the greatest benefits for the
8 people of the state;

9 (4) in the absence of a management plan, when management measures
10 affect two or more competing groups of users, the commissioner shall regulate salmon
11 fisheries in a manner that allows for the best probability of simultaneously achieving
12 the escapement goals for all important salmon stocks and dominant salmon stocks
13 with the least disruption to users with no other alternative fisheries in the management
14 area; in this paragraph, "management area" means a salmon net gear registration area
15 established by the Board of Fisheries by regulation;

16 (5) the commissioner shall conserve depressed salmon stocks and, as
17 practicable, rehabilitate and enhance depressed salmon stocks;

18 (6) the commissioner is responsible for conservation of salmon stocks
19 and shall avoid overharvest that may threaten the sustained yield of a salmon stock;

20 (7) the commissioner shall avoid overescapement that may threaten the
21 maximum sustained yield of an important salmon stock, dominant salmon stock, or
22 more productive salmon stock or the sustained yield of other salmon stocks.

23 (c) The board shall adopt by regulation policies providing for utilization and
24 development of salmon stocks, including the allocation of the harvestable portion of
25 each salmon stock among the fisheries of the state. The policies must be consistent
26 with the salmon escapement goals and harvest goals established by the commissioner.
27 The board shall allocate the harvestable portion of salmon stocks in accordance with
28 AS 16.05.258 and, except as otherwise provided in this section, AS 16.05.251(e), and
29 in accordance with the following requirements:

30 (1) for salmon fisheries that are fully developed, the board may not

31 (A) exclude existing, historic users from taking their historic

1 level of the harvest of a salmon stock except to achieve conservation goals
2 adopted by the commissioner;

3 (B) authorize escapement of more salmon than are necessary to
4 satisfy escapement goals adopted by the commissioner;

5 (2) the board shall give priority consideration to the history of use of a
6 salmon stock by a fishery and to the stability of fisheries when fishery management
7 decisions are adopted;

8 (3) where established fisheries have historically harvested a salmon
9 stock that originates in an area outside the area where the fisheries occur, the board
10 shall maintain harvests of that stock by those fisheries at historical levels except as
11 necessary to achieve conservation goals adopted by the commissioner;

12 (4) the board shall provide that salmon in excess of the number needed
13 to satisfy escapement goals adopted by the commissioner are available for harvest to
14 prevent overescapement or waste of salmon.

15 (d) If there is a conflict between this section and AS 16.05.251, this section
16 shall prevail.

17 (e) In this section,

18 (1) "conservation" means the supervision, management, protection,
19 improvement, maintenance, and use of a fishery resource to ensure the highest social
20 as well as economic benefits from the harvest of the resource;

21 (2) "dominant salmon stock" means a wild salmon stock that is
22 consistently more productive and numerically more abundant or is consistently more
23 commercially valuable than other salmon stocks;

24 (3) "important salmon stock" means a wild salmon stock for which the
25 department has established a scientifically based escapement goal and a stock
26 management plan to maintain the stock at escapement levels consistent with maximum
27 sustained yield of the stock;

28 (4) "maximum sustained yield" means achievement and maintenance
29 in perpetuity of the highest level of annual or periodic yield of a renewable resource;

30 (5) "minor salmon stock" means a salmon stock that is not an
31 important salmon stock or dominant salmon stock;

1 (6) "sustained escapement threshold" means the threshold level of
2 escapement of a salmon stock below which the ability of the stock to sustain itself is
3 jeopardized;

4 (7) "sustained yield" means an average annual yield of a renewable
5 resource that can be maintained on an annual basis.

**REPRESENTATIVE
MIKE CHENAULT**

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SPONSOR STATEMENT

HB – 396 MANAGEMENT OF SALMON STOCKS AND FISHERIES

House Bill 396 by request amends several statutes to strengthen biological management of wild fish stocks. In a time when farmed salmon is threatening natural wild fish stock in Alaska, it is more important than ever to manage fisheries by biological means. HB 396 further defines "important and dominant salmon stocks".

Overall the bill fine tunes statutory authority to encourage sound biological management for the fish users and the State of Alaska.

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MEMORANDUM

January 23, 2004

SUBJECT: Sectional summary of HB 396; An Act relating to management of salmon and other fish stocks and salmon fisheries and to use of funds received by an enhancement facility from the sale of fish (Work Order No. 23-LS1395\H)

TO: Representative Mike Chenault

FROM: George Utermohle 
Legislative Counsel

You have requested a sectional summary of HB 396; An Act relating to management of salmon and other fish stocks and salmon fisheries and to use of funds received by an enhancement facility from the sale of fish.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05.251(h) to provide that the Board of Fisheries' policy on management of mixed stock fisheries must provide for the management of mixed stock fisheries in a manner that is consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other wild fish stocks.

Sections 2 and 3 of the bill amend AS 16.05.730(a) and (b) to provide that fish stocks in the state shall be managed consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other wild fish stocks and may be managed consistent with sustained yield of enhanced fish stocks.

Section 4 of the bill amends AS 16.05.730(c) to provide that the Board of Fisheries shall exercise its authority to direct the Department of Fish and Game to provide a reasonable harvest of fish needed by fishery enhancement facilities for brood stock and for cost recovery to obtain funds for purposes allowed under AS 16.10.450 or 16.10.480(d), if the harvest is consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other wild fish stocks.

Section 5 of the bill amends AS 16.10.730(d) by adding a definition of "important and dominant salmon stocks."

Section 6 of the bill amends AS 16.05 by adding a new section (Sec. 16.05.740) relating to management of salmon stocks and salmon fisheries.

Subsection (a) provides that the commissioner of fish and game and the Board of Fisheries shall manage important salmon stocks and dominant salmon stocks for maximum sustained yield for the greatest benefits for the people of the state.

Subsection (b) provides that the commissioner shall adopt and revise escapement and harvest goals for important salmon stocks and dominant salmon stocks based on the best reliable scientific information available and sets out requirements for management of salmon stocks.

Subsection (c) provides that the Board of Fisheries shall adopt policies for utilization and development of salmon stocks and sets out requirements governing the allocation of salmon stocks by the board.

Subsection (d) provides that this section (Sec. 16.05.740) prevails over AS 16.05.251 to the extent that there is a conflict between the two sections.

Subsection (e) sets out definitions for several terms used in this section.

If I may be of further assistance, please advise.

GU:med
04-074.med

March 31, 2004

Section 1. The Board of Fisheries and the Department of Fish and Game, as directed by the Constitution, shall regulate and manage the salmon stocks of Alaska in a manner that is consistent with maximum sustained yield principles to the extent practicable, to achieve the greatest benefits for the state.

Section 2. The Board of Fisheries and the Department of Fish and Game shall regulate and manage the salmon stocks of Alaska in a manner that provides for salmon escapement to remain within the established biological escapement goals. Where there are no established escapement goals the Department of Fish and Game shall manage salmon stocks on the sustained yield principles.

Rebuttal to "Questions/Concerns Regarding H.B. 396- Management of
Salmon Stocks and Fisheries.

1. This bill would not diminish the ability of the BOF to allocate fisheries resources, it states quite clearly that the BOF is able and expected to allocate salmon surplus to escapement needs, according to the allocation criteria in statute. What it does seek to prevent is the allocation of resources through a false "Conservation Concern" as they have done through the Knowles Years. It is interesting you used the term "Benefits" as was done by the department in proposal number two in October. The BOF and the public opposed Mr. Hepler's attempt to change fisheries policy then and will continue to oppose these changes. The BOF allocates fish, not benefits.
2. There are no restrictions on the BOF with regards to conservation. This bill seeks to define conservation so that boards in the future won't be able to repeat the poor performance of the Knowles Board.
3. This bill was taken from many of the policies you quote and would do nothing to any of these policies and certainly wouldn't render any of them moot. What this bill seeks to do is to coalesce these policies into a single fisheries statute.
4. This bill seeks to stabilize fisheries to provide for some predictability and consistency in regulation. It serves no purpose to see major pendulum swings in allocations every three years according to the BOF cycle.
5. This bill does not force the commissioner to adopt any goals into regulation. Many fisheries are managed for escapements and escapement goals, which are not in any regulation. This bill would require the department to manage for the highest combined yield to a management area as possible. This is what seat of the pants management biologists have done since statehood. It seems to have worked well!
6. Yield is defined in the Sustainable Salmon Fisheries Policy. Benefits are defined in Webster's. We don't see this apparent conflict, rather MSY as you are already directed to manage for should provide the best of both.
7. Again this is already your directive in the Sustainable Fisheries Policy, so as long as you actually do your job there should be ample fish for subsistence.
8. In this bill the commissioner is directed to meet escapement goals and BOF allocations (Harvest Goals) but if it is necessary to meet the escapement objective he should close the fisheries and ignore the allocative ramifications. This seems simple, the resource come first! The BOF is not responsible for maintaining harvest allocations. Simply follow their own regulations, the allocation criteria. The first of these criteria is that the historic use of the resource must be considered.
9. The changes would only apply to salmon.

10. This assertion can't be addressed without specifics. Ironical that the same concern wasn't expressed during the creation of the many conflicts and ambiguities which were created in the last Cook Inlet BOF meeting.
11. Dominant and/or important stocks are those stocks, which the department is currently investing most of their management efforts on. The most important likely have escapement goals.

The need for a fiscal note is absurd. Nothing in this bill asks the commissioner to allocate any resources. Further nothing in this bill requires any adoption of escapement or harvest goals into regulation. I guess the commissioner is new to the world of fisheries management and never noticed that many of the goals or management objectives are not in regulation. No one expects all escapement goals or other management objectives to be codified. No one expects all escapement goals or other management objectives to be attained with 100 percent accuracy. It would be nice if the department were not able to hide behind the BOF when all systems exceed the upper bounds of the escapement goals while the fisheries remain closed or restricted. In short the department should do the job for which they are trained and paid and the BOF should structure fisheries regulations to facilitate both the conservation mandate of the department and the orderly and productive harvest of those salmon surplus to escapement needs.

Rebuttal to "Questions/Concerns Regarding H.B. 396- Management of
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State Of Alaska
Legislative Affairs Agency
Kenai LIO
145 Main St Lp, Ste 217
Kenai, AK 99611
907-283-2030

Date: 4-2-04

Please accept the enclosed original(s) of written testimony for
the HFSH teleconference hearing that was
scheduled on 3-15-04.

A copy of this testimony was transmitted to your committee via
fax on 4-2-04.

Thank You,

MB Byrne



Alaska State Legislature

Please enter into the record my testimony to the

HOUSE FISHERIES
committee name

Committee on

NB 396
bill # / subject

, dated

3-15-04
public hearing date

SEE TWO PAGES ATTACHED

Signed:

Chris Garcia
Testifier

(CHRIS GARCIA)

Representing (optional)

BOX 203 KENAI, AK, 99641
Address

907-283-2731
Phone number

STATE OF ALASKA

Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair
PO Box 721
Cooper Landing, AK 99572-0721
Phone: 595-1540

March 22, 2004

Honorable Paul Seaton
Chair, House Fisheries Committee
Representative, House District 35
State Capitol Building, Room 428
Juneau, AK 99801-1182

SENT BY FAX 1 PAGE

SUBJECT: House Bill 396

Dear Representative Seaton and Committee Members,

At our meeting of March 18, 2004, the members of the Cooper Landing AC asked me to relay their concerns about House Bill 396. We understand that this bill is a work-in-progress and thus our concerns will be general.

We are opposed to any change in statute that would alter the present statutory requirement to manage mixed stock fisheries for the sustained yield of wild fish stocks. This statute should not be changed to require the management emphasis to be placed on a strong/main/most-important stock policy to the detriment of mixed stocks and/or weak stocks.

We believe that the present Policy for the Management of Mixed Stock Salmon Fisheries and the Policy for the Management of Sustained Salmon Fisheries are working and necessary changes should be made through the public process now available to propose changes in these regulations.

Please keep us informed on the progress of HB 396. If you have suggestions or comments, please contact Bill Stockwell at phone or fax at 595-1540.

Thanks again for the help with our issues.

Sincerely,



Bill Stockwell, Chair

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

March 22, 2004

The Honorable Paul Seaton
House of Representatives
Alaska State Capitol, Room 428
Juneau, AK 99801 - 1182

Dear Representative Seaton:

At the March 15th House Fisheries Committee hearing on H.B. 396, you asked for my advice on how best to address the over-escapement of sockeye salmon that occurred last season in Cook Inlet

As you know, the Board of Fisheries (Board) established the restrictions on emergency order fishing time in the Cook Inlet commercial drift and set gillnet fisheries for both conservation and allocation reasons. During years of large sockeye returns, like those that occurred in 2003, some of these restrictions on fishing time have increased the likelihood that sockeye escapements will be exceeded.

In my view, the primary way to address this issue is through the Board of Fisheries process. During the 2004/2005 regulatory cycle, the Board will likely receive regulatory proposals that seek additional sockeye harvest opportunity for the commercial drift and set gillnet fisheries. The Board will consider these proposals accordingly.

As far as next season goes, department managers are currently in the process of developing the fishery management plan for the Cook Inlet fisheries. I have directed them to closely examine how we can be more effective at harvesting sockeye salmon in the commercial fisheries within the constraints of the existing regulatory management plans.

Last year, I decided to exercise my discretionary emergency order authority to amend the existing management plan. This was a limited and measured response that was based on a set of unusual circumstances, including: (1) a much larger than anticipated sockeye return; (2) sockeye salmon escapement goals met or exceeded in all monitored systems (in some cases by a wide margin); (3) a near record Kenai late-run chinook salmon return and recreational harvest; (4) excellent fishing in the Kenai and Kasilof personal use and recreational sockeye fisheries; and (5) minimal harvest impacts on early returns of coho salmon. With all due respect, I am disinclined to speculate on what decisions I may make next season if faced with a similar set of circumstances, in part because the circumstances will most assuredly be different.

I trust this responds to your inquiry, and I would be happy to provide additional information that might be helpful to your work on fish and game issues. In the meantime, please feel free to share this response with the other members of the House Fisheries Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin C. Duffy". The signature is fluid and cursive, with a large, stylized "K" and "D".

Kevin C. Duffy
Commissioner

Introduced by:	Mayor
Date:	04/20/04
Action:	Adopted as Amended
Vote:	8 Yes, 1 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2004-044**

**A RESOLUTION SUPPORTING HB 396 "AN ACT RELATING TO
MANAGEMENT OF SALMON AND OTHER FISH STOCKS AND SALMON
FISHERIES AND TO THE USE OF FUNDS RECEIVED BY AN ENHANCEMENT
FACILITY FROM THE SALE OF FISH"**

- WHEREAS,** the fishing industry has long been an integral part of the economy of Alaska and especially on the Kenai Peninsula; and
- WHEREAS,** the fishing industry is a renewable resource and employs thousands of local residents including family owned small businesses; and
- WHEREAS,** the fishing industry provides over 100 million dollars in gross revenues in the Kenai Peninsula Borough; and
- WHEREAS,** in a time when farmed salmon is threatening natural wild fish stock in Alaska, it is more important than ever to manage fisheries by biological means; and
- WHEREAS,** currently the Board of Fish (BoF) has exceeded its policy making authority and has overly restricted the administration from using emergency orders and other methods to biologically manage the salmon resource on the basis of maximum sustained yield; and
- WHEREAS,** HB 396 puts into statute the current BoF policy that salmon stocks in the state be managed consistent with maximum sustained yield of important and dominant salmon stocks and with sustained yield of other salmon stocks; and
- WHEREAS,** HB 396 puts into statute current BoF policy for in-season abundance based management, delegating to the area biologist emergency order authority to provide for immediate management decisions; and
- WHEREAS,** HB 396 simply attempts to clarify the policy that the Alaska Department of Fish and Game manages salmon fisheries, while the Alaska Board of Fisheries has responsibility for allocating the yield of salmon among users. The clear separation of management authority from allocation authority is one of the strengths of the Alaska management system; and
- WHEREAS,** this in-season abundance based management program was recently adopted by the Pacific Salmon Commission to manage and conserve salmon resources shared by Alaska, Oregon, Washington and Canada;

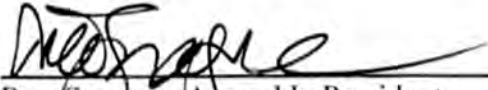
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The Assembly of the Kenai Peninsula Borough supports the passage of HB 396 as it was written on introduction in the legislature.

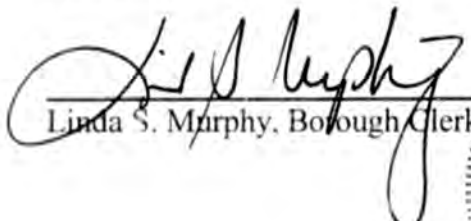
SECTION 2. That a copy of this resolution be provided to Representatives Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 3. This resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2004.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk





COOK INLET FISHERMAN'S FUND

Non-profit Advocate for all Commercial Fishing Gear Types in Area H
P.O. Box 39408 Niniichik, AK 99639 phone/fax 907-260-5614

Dear Legislator,

March 10, 2004

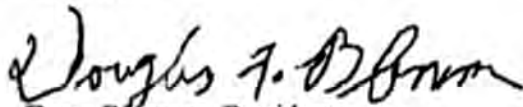
House Bill 396 has been introduced by Representative Mike Chenault. We at Cook Inlet Fishermen's Fund strongly urge you to support this bill and facilitate its passage. If passed, this bill would increase the value of mixed-stock fisheries by providing for Maximum Sustained Yield for dominant salmon stocks, while still protecting lesser stocks by requiring Sustained Yield policies. Essentially, it will require the Department of Fish and Game to not forsake the harvest of a larger or more valuable salmon stock in order to maximize escapement of a lesser stock. Sustained Yield policy will still remain for all stocks to ensure conservation. It will also require the Department of Fish and Game to provide for the harvest of surplus salmon to prevent overescapement and waste.

We have had many instances where there were very large salmon runs, good available markets, and yet no openings to harvest this surplus. The dollars lost to the fishermen, canneries, and the economy runs far into the millions. The value of last year's unharvested surplus sockeye in Cook Inlet alone was over \$8 million. Passage of HB 396 will prevent further wanton waste. In times like these, with low fish prices and tough economic times for our industry, it is unfathomable that this amount of waste should be permitted.

House Bill 396 has been crafted and recrafted painstakingly with many long hours of intensive work by many people involved in the salmon industry. Fishermen from several organizations, cannery officials, and fisheries managers have been involved in the making of this bill.

With all the work being done to try to solve the problems in the salmon industry, it is a terrible shame that the state allows the waste of a resource which we are completely capable of utilizing. Pass HB 396 and you will be helping to stop the waste of fish worth millions of dollars to the economy of Alaska.

Sincerely,


Doug Blossom, President

Officers

Doug Blossom, President
John McCombs, Vice Pres.
David Martin, Treasurer
Janet Clucas, Secretary

Board of Directors

Dan Ducker Butch Leman
Teague Vanek Tim Keener
Steve Vanek Mark Ducker
Chris Garcia

Support Staff

Joe Malatesta, Sr., Consultant
John McCombs, Editor

SUSTAINABLE SALMON FISHERIES POLICY
FOR THE STATE OF ALASKA

The Alaska Department of Fish and Game
and the Board of Fisheries

June 22, 2001

5 AAC 39.222. POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES. (a) The Board of Fisheries (board) and Department of Fish and Game

(department) recognize that

(1) while, 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, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects non-target salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control non-fishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251(e) and AS 16.05.258; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

- (i) identification of a new fishery or expanding fishery;
- (ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and
- (iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and

commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251(e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately equivalent to the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from

those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a non-consumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species *Oncorhynchus sp.*, except steelhead and cutthroat trout, native to Alaska as follows:

- (A) chinook or king salmon (*O. tshawytscha*);
- (B) sockeye or red salmon (*O. nerka*);
- (C) coho or silver salmon (*O. kisutch*);
- (D) pink or humpback salmon (*O. gorbuscha*); and
- (E) chum or dog salmon (*O. keta*);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an

aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated due to the absence of a stock specific catch estimate; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board, and will be developed from the best available biological information; the SEG will be determined by the department and will be stated as a range that takes into account data uncertainty; the department will seek to maintain escapements within the bounds of the SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time.

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: H.B. 396
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
Title Management of Salmon Stocks RDU Administration and Support
and Fisheries Component Commissioner's Office
Sponsor Representative Chenault
Requester House Fisheries Component No. 2175

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	80.0	80.0	40.0	40.0	40.0	40.0
Travel						
Contractual						
Supplies	20.0	20.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	100.0	100.0	50.0	50.0	50.0	50.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	100.0	50.0	50.0	50.0	50.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	100.0	100.0	50.0	50.0	50.0	50.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal: ☐

POSITIONS

Full-time	1	1				
Part-time			1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation gives the Commissioner new powers to allocate fishery resources. In order to comply with court precedent on regulatory law, the Commissioner would have to adopt all escapement and harvest goals into regulation, since the Commissioner would be mandated to achieve these goals during season.

We will need an additional Regulations Specialist to compile a written analysis of all the public comments before the Commissioner could adopt each regulation. We anticipate that we will need this additional employee on a full-time basis for the first two years in order to facilitate this new process and on a part-time basis thereafter.

Prepared by: Sarah Gilbertson, Legislative Liaison Phone 465-6137
Division: Alaska Department of Fish & Game Date/Time 3/12/04 9:28 AM
Approved by: Commissioner Kevin Duffy Date 3/12/2004
Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. H.B. 396

ANALYSIS CONTINUATION

Similarly, we anticipate the costs associated with issuing public notices and regulations, such as paper, to decrease after the first two years as the department familiarizes itself with the new process.

For simplification purposes, these costs were listed above under Administration and Support/Commissioner's Office. However, these costs would be shared by the Divisions of Commercial Fisheries, Sport Fish, Subsistence, and Boards Support.