

HJR

32

<target><bill>HJR 32</bill><subject>HJR
32</subject><comm>HFSH26</comm></target>

ALASKA STATE LEGISLATURE

Co-Chair:
House Finance Committee

Chair:
House Finance Subcommittees for;
Department of Public Safety
Department of Law

Member:
Legislative Council
Legislative Budget & Audit (alt)



Session:
Alaska State Capitol, Rm 515
Juneau, AK 99801-1182
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District:
600 E. Railroad Ave.
Wasilla, AK 99654

BILL STOLTZE

STATE REPRESENTATIVE

Representative_Bill_Stoltze@legis.state.ak.us

MEMORANDUM

TO: Representative Bryce Edgmon, Chair
House Fisheries Committee

FROM: Bill Stoltze

DATE: April 11, 2009

SUBJECT: Hearing Request

I respectfully request a hearing be scheduled for House Joint Resolution 32, opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye salmon personal use dip net fisheries.

Thank you for your consideration.

DISTRICT 16

26-LS0865\AE
Kane
4/13/09

**CS FOR HOUSE JOINT RESOLUTION NO. 32()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES STOLTZE, Keller, Gatto

A RESOLUTION

1 **Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye**
2 **salmon personal use dip net fisheries.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** the United Cook Inlet Drift Association is a group of nonresident and
5 resident commercial gill net fishermen in Cook Inlet; and

6 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
7 United States Secretary of Commerce requesting that the United States Department of
8 Commerce preempt state management of its salmon stocks in Cook Inlet; and

9 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
10 United States Secretary of Commerce claiming, among other things, that association's
11 nonresident members are discriminated against because they cannot participate in the
12 resident-only dip net fishery, thus requesting the court to declare that the state-authorized
13 resident-only salmon fisheries are unconstitutional and therefore preempted by federal law;
14 and

15 **WHEREAS** all five species of Pacific salmon are an integral part of Alaska's history,
16 heritage, and cultural identity, helping to meet both its economic and nutritional needs; and

1 **WHEREAS** the Magnuson-Stevens Fishery Conservation and Management Act
2 explicitly excludes state waters from the jurisdiction of the Act; and

3 **WHEREAS** the exclusive economic zone is closed to commercial fishing under the
4 Magnuson-Stevens Fishery Conservation and Management Act unless specifically authorized
5 by the state; and

6 **WHEREAS** the Alaska Board of Fisheries has devoted an inordinate amount of time
7 to the extremely complex salmon management program in the Cook Inlet region in an attempt
8 to balance the interests of all stakeholders; and

9 **WHEREAS** the potential results of this lawsuit, if the plaintiff is successful, would
10 not only preempt state fisheries management but could result in a larger number of
11 nonresident dip net fishermen being allowed to fish, causing an even smaller allocation to the
12 commercial fisheries, thus conceivably further adversely affecting the members of the United
13 Cook Inlet Drift Association; and

14 **WHEREAS** the establishment of federal and state recognized commercial fisheries
15 limited entry programs have drastically limited the ability of residents to use efficient
16 commercial gear for taking subsistence and personal use salmon resources, which has resulted
17 in the establishment of less efficient methods, such as the dip net fisheries, for taking salmon
18 to meet Alaska's nutritional needs; and

19 **WHEREAS** members of the United Cook Inlet Drift Association are able to use their
20 exclusive limited entry permits to use efficient gear that is not available to the average
21 Alaskan for the purpose of taking salmon for personal use; and

22 **WHEREAS** members of the United Cook Inlet Drift Association, including all
23 nonresidents, are allowed an unlimited bag limit, an unlimited possession limit, and an
24 unlimited annual limit under state law for salmon retained for personal use if taken during the
25 commercial fisheries, which is a luxury not afforded to Alaskans who do not possess a state
26 limited entry permit; and

27 **WHEREAS** both the federal government and the state recognize in law and place a
28 high priority on the importance of taking of wild resources for food; and

29 **WHEREAS** the State of Alaska restricts dip net salmon fisheries to Alaska residents;

30 and

31 **WHEREAS**, in 1984, a resident-only dip net fishery for Copper River red salmon

1 stocks was established in Chitina; and

2 **WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game
3 issued over 8,000 permits allowing Alaskans to dip net for salmon in Chitina; and

4 **WHEREAS**, in 1981, a dip net fishery for red salmon stocks was established at the
5 mouth of the Kenai and Kasilof Rivers; and

6 **WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game
7 issued between 18,500 and 23,700 permits allowing Alaskans to dip net for salmon in the
8 Kenai and Kasilof Rivers; and

9 **WHEREAS** the Alaska Department of Fish and Game calculates that those dip net
10 fisheries provide an average of 14 fish for each household for those households that
11 participated in the Kenai and Kasilof Rivers dip net fisheries in 2006, 2007, 2008; and

12 **WHEREAS** there appears to be a growing groundswell of support within the
13 commercial fishing industries represented at the North Pacific Fisheries Management Council
14 and state Board of Fisheries levels for a more dominant role in the regulatory process; and

15 **WHEREAS** the Constitution of the State of Alaska dictates that "The legislature shall
16 provide for the utilization, development, and conservation of all natural resources belonging
17 to the State, including land and waters, for the maximum benefit of its people," which clearly
18 means that the state's common property resources must benefit all Alaskans and not just a few
19 commercial fisherman;

20 **BE IT RESOLVED** that the Alaska State Legislature hereby requests that the United
21 Cook Inlet Drift Association drop its lawsuit advocating federal preemption of Alaska's
22 salmon management in state waters in Cook Inlet and opposing the personal use of salmon by
23 Alaska residents; and be it

24 **FURTHER RESOLVED** that the Alaska State Legislature also requests Governor
25 Sarah Palin to direct the attorney general to oppose this lawsuit.

26 **COPIES** of this resolution shall be sent to the Honorable Gary F. Locke, United
27 States Secretary of Commerce; the Honorable Sarah Palin, Governor of Alaska; the
28 Honorable Wayne Anthony Ross, Alaska Attorney General; and the Honorable Denby Lloyd,
29 Commissioner, Department of Fish and Game.

of 2008. Failure to respond to UCIDA's petition resulted in past and ongoing harm in violation of the Due Process clause and Equal Protection guarantees of the Fifth Amendment, and in violation of the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens). 16 U.S.C. §1801 *et seq.*

II. JURISDICTION AND VENUE

2. This court has jurisdiction over this action under 16 U.S.C. §1855(f); 5 U.S.C. §702; 28 U.S.C. §2201(a); 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(e).

III. PLAINTIFF

3. UCIDA is a cooperative corporation, registered and in good standing in the State of Alaska, that represents commercial fishermen who utilize drift gillnets in the Exclusive Economic Zone (EEZ) of Cook Inlet, Alaska to harvest salmon. UCIDA actively participates in efforts at the state and national level to promote the interests of its members. Members of UCIDA consist of resident and non-resident commercial fishermen who rely predominately upon the harvests of sockeye salmon to earn their livelihood. Most of the sockeye salmon harvested by UCIDA members are returning to the major spawning rivers in Cook Inlet; in particular the Kenai, Kasilof, Crescent, and Susitna Rivers.

4. In addition to participating in the commercial fishery, some UCIDA members participate in recreational fishing, including UCIDA members from other states. Although UCIDA does not generally advocate for the recreational interests of its

United Cook Inlet Drift Association v. Wolf,
Complaint Page 2 of 13

members and it is not UCIDA's primary purpose, some of UCIDA's members are precluded from participating in resident-only fisheries and are therefore harmed by ongoing state regulations that prohibit non-resident participation in recreational fisheries.

5. In February of 2008, UCIDA represented its members at the state level, opposing promulgation of proposed state salmon regulations that would substantially and adversely affect their fishery in the EEZ. Immediately after the State of Alaska promulgated these regulations, which would have a substantial and adverse affect on the ability of UCIDA members to remain economically viable, UCIDA filed a petition for emergency rulemaking (Petition) with the Secretary of Commerce pursuant to 5 U.S.C. §553(e), urging the Secretary to initiate emergency preemption proceedings against the State of Alaska under 16 U.S.C. §1855(c)(1) prior to the 2008 salmon season.

6. The Secretary failed to respond to the UCIDA petition. UCIDA brings this action on behalf of its members – those commercial salmon fishermen operating drift gillnets in the EEZ and state waters – to assert their right to petition for rulemaking under the APA and Magnuson-Stevens. UCIDA has standing under both the APA and Magnuson-Stevens to bring this action. The Secretary unlawfully failed to respond to UCIDA's Petition, causing irreparable injury to UCIDA's members. Because the injury caused by the challenged state regulations is ongoing, and the Secretary's ongoing failure to respond to the Petition denies UCIDA due process under the APA and the U.S. Constitution, there is an ongoing controversy over which this court can grant a remedy.

United Cook Inlet Drift Association v. Wolf,
Complaint Page 3 of 13

IV. DEFENDANT

7. Defendant Otto Wolf is the Acting Secretary of Commerce, who has management authority over anadromous species throughout their range under Magnuson-Stevens. He is vested with responsibility for implementing and enforcing Magnuson-Stevens under 16 U.S.C. § 1855(d). He is being sued in his official capacity

V. BACKGROUND

8. Congress exercised federal jurisdiction over all anadromous fish species, including Pacific salmon throughout their range, in the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act), as reauthorized in 2006. 16 U.S.C. §1811(b)(1). Congress clearly articulated ten national standards applicable to conservation and management of anadromous species. The ten national standards are:

- (1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
- (2) Conservation and management measures shall be based upon the best scientific information available.
- (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
- (4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

United Cook Inlet Drift Association v. Wolf,
Complaint Page 4 of 13

(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8) Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea

16 U.S.C. §1851(a).

9. Congress then delegated to the Secretary of Commerce (Secretary) and eight Regional Fishery Management Councils, authority to implement the Magnuson-Stevens Act. The Secretary has authority and the responsibility to "promulgate such regulations,...as may be necessary to discharge such responsibility or to carry out any other provision of [Magnuson-Stevens]." 16 U.S.C. §1855(d). The Secretary delegated his authority to the National Marine Fisheries Service (NMFS) to enact appropriate

United Cook Inlet Drift Association v. Wolf,
Complaint Page 5 of 13

regulations to implement and enforce the anadromous species provisions of Magnuson-Stevens.

10. The North Pacific Fishery Management Council (Council) retains jurisdiction over anadromous species in the EEZ from 3-200 miles off the coast of Alaska. The Council delegated management authority to the State of Alaska in the EEZ through the 1990 Fishery Management Plan for Salmon in the EEZ off the Coast of Alaska (FMP). The FMP for salmon closes the EEZ west of Cape Suckling to salmon fishing, with the exception of three historic net fisheries. The Cook Inlet commercial salmon drift gillnet fishery occurs in the EEZ west of Cape Suckling and is one of the three historic net fisheries preserved in the FMP.

11. The State of Alaska manages anadromous species in state waters under the Statehood Act, which provided that management of fish and game resources would transfer to the state once "adequate provision for the administration, management, and conservation of said resources in the broad national interest" were in place. Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, July 7, 1958.

12. The Statehood Act incorporates the Submerged Lands Act of 1953 by reference. The Submerged Lands Act, while transferring title to the submerged lands under the navigable waters of the United States to the states, retained federal jurisdiction over those waters and resources for the purposes of navigation and commerce. Alaska Statehood Act, §6(c); 42 U.S.C. §772 *et seq.*

United Cook Inlet Drift Association v. Wolf,
Complaint Page 6 of 13

13. Congressional authority to enact Magnuson-Stevens and the Submerged Lands Act is rooted in the Commerce Clause of the United States Constitution, which provides that Congress shall regulate commerce among the several states and with foreign nations. U.S. Const. Art. I, § 8.

14. The State of Alaska promulgated regulations that permit Alaska residents to harvest salmon to the exclusion of commercial fisherman and non-resident recreational fishermen in the drainages of Cook Inlet. UCIDA alleges that resident-only harvests of salmon are violative of Magnuson-Stevens, and they substantially and adversely affect the Cook Inlet EEZ fishery, thereby causing ongoing harm to UCIDA's members.

15. UCIDA alleged violations of federal law under Magnuson-Stevens including discrimination based on residency, failure to manage for optimum sustained yield, and harm to essential fish habitat, and sent a letter to the North Pacific Fishery Management Council urging the Council to provide comments to the Secretary of Commerce as provided for in the Council's procedures and the FMP.

16. The Council, through its executive director, responded that the Council had no obligation to provide comments to the Secretary, and that there are no federal laws that apply to salmon management in state waters.

17. UCIDA then filed a PETITION FOR EMERGENCY RULES RELATED TO SALMON MANAGEMENT IN COOK INLET, ALASKA pursuant to the APA and Magnuson-Stevens with the Defendant on June 16, 2008, alleging a violation of Magnuson-Stevens and urging Defendant to take emergency action.

United Cook Inlet Drift Association v. Wolf,
Complaint Page 7 of 13

18. Specifically, UCIDA challenged the resident-only fisheries, mandatory closures, arbitrary season opening and closing dates, escapement goals that do not meet optimum sustained yield, and failure of the state to utilize the best available science when promulgating regulations. UCIDA requested that the Secretary take steps to protect the commercial fishing community and the essential fish habitat upon which UCIDA's members and salmon rely.

19. The Secretary failed to respond to the Petition.

20. On July 24, 2008, the Cook Inlet fishery targeting Kenai River sockeye salmon was closed for the season in an attempt to achieve the minimum escapement goal. The resident-only personal use fishery continued unabated until the normal regulatory season closure at 11:00 p.m. on July 31. The minimum sockeye salmon escapement goal for the Kenai River was not met.

21. On November 20, 2008 a letter was sent to the Secretary inquiring into the status of the Petition. As of March 3, 2009, there has been no response to the Petition or the letter of inquiry related to the Petition.

22. The same regulations are in place for the 2009 and 2010 seasons which led to the 2008 closure of the EEZ fishery in favor of resident-only fisheries. UCIDA's members have been harmed and continue to be harmed by the state regulations pertaining to salmon management in Cook Inlet and the EEZ.

23. UCIDA sought a remedy through the petition process available under the APA in an effort to redress the ongoing harm suffered by its members. The Secretary, by

United Cook Inlet Drift Association v. Wolf,
Complaint Page 8 of 13

failing to respond to the Petition, denies UCIDA's members due process under the provisions of the APA, Magnuson-Stevens, and the United States Constitution.

First Claim
Defendant Failed to Respond to UCIDA's Petition for Emergency Rulemaking

24. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
25. UCIDA's members have a statutory interest under the APA and Magnuson-Stevens related to petitions for rulemaking which are filed with the Defendant.
26. UCIDA'S members also have a substantive interest in the commercial fishery in the EEZ of Cook Inlet as recognized by Congress in Magnuson-Stevens, including adherence to the ten national standards and protection of essential fish habitat.
27. Defendant unlawfully withheld agency action regarding UCIDA's Petition, resulting in actual harm to UCIDA's members when their fishery was closed in favor of resident-only fisheries and the minimum escapement goal for sockeye salmon was not achieved in the Kenai River. Defendant's inaction failed to provide procedural protections to ensure that the ten national standards are met and that essential fish habitat is protected. UCIDA members suffer ongoing harm because the same regulations which closed the Cook Inlet fishery in 2008 and failed to adhere to the ten national standards and fail to protect essential fish habitat are in place for the 2009 and 2010 seasons.
28. UCIDA's members have a statutory and substantive interest in the Cook Inlet EEZ salmon fishery that could have been protected if Defendant acted lawfully and

United Cook Inlet Drift Association v. Wolf,
Complaint Page 9 of 13

considered the Petition. Defendant's failure to act resulted in actual harm to UCIDA members during the 2008 season, and because the same state regulations remain in place, UCIDA members will suffer harm in the 2009 and 2010 seasons that is concrete and particularized – restrictions on their fishery in favor of resident-only fisheries, lost yield, and essential fish habitat degradation.

29. UCIDA respectfully requests this court to declare resident-only fisheries preempted under the Commerce Clause and Magnuson-Stevens as a matter of law. Further, UCIDA requests an order of remand to the Defendant to thoughtfully consider all elements of UCIDA'S Petition and to initiate preemption proceedings against the State of Alaska to redress the ongoing harm suffered by UCIDA members.

Second Claim
Defendant Violated UCIDA's Members Due Process Rights Under the 5th
Amendment

30. Paragraphs 1 through 29 are realleged and incorporated by reference herein.

31. Defendant's failure to respond to UCIDA's Petition deprived UCIDA's membership due process of law under the Fifth Amendment to the United States Constitution regarding their statutory liberty to commercial fish granted under Magnuson-Stevens and the APA.

Third Claim
Defendant Violated UCIDA's Members Equal Protection

United Cook Inlet Drift Association v. Wolf,
Complaint Page 10 of 13

32. Paragraphs 1 through 31 are realleged and incorporated by reference herein.

33. Defendant's failure to respond to UCIDA's Petition deprived UCIDA's membership equal protection under the United States Constitution, the APA, and Magnuson-Stevens.

PRAYER FOR RELIEF

Therefore, Plaintiff respectfully requests that the Court:

1. Declare Defendant's failure to respond to UCIDA's Petition a violation of the APA, Magnuson-Stevens, and the 5th Amendment for unreasonably withholding agency action.
2. Declare Defendant's actions a deprivation of the due process and equal protection rights of UCIDA's members.
3. Declare that the state authorized resident-only salmon fisheries in Cook Inlet, Alaska are unconstitutional and therefore preempted by federal law.
4. Order the Defendant to initiate preemption proceedings against the State of Alaska under Magnuson-Stevens for actions that substantially and adversely affect the commercial salmon fishery in the EEZ of Cook Inlet.
5. Order the Secretary to review the Cook Inlet Salmon regulations and show cause that they meet the ten national standards of Magnuson-Stevens, with particular

United Cook Inlet Drift Association v. Wolf,
Complaint Page 11 of 13

attention to season opening and closing dates, mandatory closures, whether the Kenai River sockeye salmon escapement goals achieve optimum sustained yield, and whether adequate measures are in place to protect essential fish habitat.

6. Order the Secretary to provide comments to the State of Alaska and to establish a consultation process for protection and rehabilitation of essential fish habitat in the Cook Inlet basin.

7. Order the Secretary to provide procedural guidance to the North Pacific Fishery Management Council regarding requests for comments to the Secretary related to fishery management by members of the public and other interested parties.

8. Retain jurisdiction over this matter until such time as the Secretary of Commerce demonstrates to the court that salmon regulations in Cook Inlet comply with the ten national standards and other provisions of the Magnuson-Stevens Act.

9. Award Plaintiff the costs of this action, including reasonable attorney's fees, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

10. Grant Plaintiff such other and further relief as the Court deems just and proper.

DATED: This 4th day of March, 2009.

Respectfully submitted,
BALDWIN & BUTLER, LLC

United Cook Inlet Drift Association v. Wolf,
Complaint Page 12 of 13

BALDWIN & BUTLER, LLC

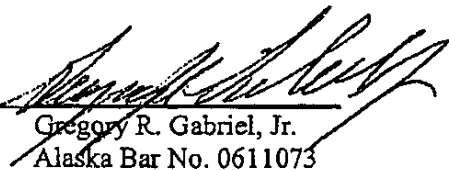
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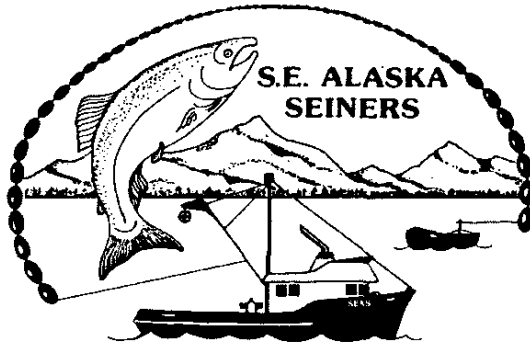
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United Cook Inlet Drift Association v. Wolf,
Complaint Page 13 of 13



11 April 2009

Representative Bryce Edgmon
Alaska State Legislature
State Capitol, Room 416
Juneau AK 99801

Dear Representative Edgmon,

Let me begin by saying that the Southeast Alaska Seiners Association would like to comment on the recent "UCIDA" resolution. For the record, we are opposed to any activities and actions, legal or otherwise, that might jeopardize state control and state management of our fisheries. We never want to see the day in which return to a Washington D.C. based Federal management scheme; one that we fought against so hard the first half of last century and finally dissolved with statehood in 1959. To that end, we oppose any and all such transfers of autonomy and authority. And to this end, we proudly support the spirit and intent of such legislative resolutions with regard to maintaining state of Alaska management authority and the ability of Alaskan residents to access the fisheries resources of this great state of ours.

Certainly the focus on the resolution could be narrowed to include those issues that are material and relevant to the real problem of the proposed legal action. We might add that there are 3 legal actions to which SEAS is opposed: the aforementioned UCIDA action, the AOC Chilina dipnet court action, and the Herb Jensen/Prince William Sound lawsuit. SEAS believes that these are all misguided and that the disposition in favor of the plaintiffs would ultimately change and usurp the management authority of the state of Alaska over its fisheries resources.

This is why we are also very interested in the recent appointments by Governor Palin to the Board of Fisheries. For while the Board of Fish is an imperfect process, we are convinced that it is the best process and if we need to refine it we are ready to rise to that occasion. The Board and its attendant processes are where we deal with the management and allocation of our fisheries resource, not at some judge's bench.

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And not in the Alaska State Legislature (*while certainly we support any legislator's prerogative to be involved in aspects of the process of fisheries management and allocation resolution, the Alaska state legislature itself was not formed and established for this purpose*).

As such, both the balance and the talent on the Board at this time are of great importance. One of the major issues, and in many quarters, THE major issue confronting the state's salmon fisheries management is the resolution of a longer term approach to returning the Mat-Su drainages to healthy and productive conditions.

Mr. Johnstone, with his legal background, will provide structure and leadership on this board in dealing with these stock rebuilding issues. Mr. Johnson, as President of Cook Inlet Aquaculture Association and with his background in land use and planning, will inevitably be in a great position to help with any enhancement and rehabilitation of the Mat-Su salmon stocks and the attendant habitat issues. His commitment to the sustainability of the salmon resource is first and foremost and we have been told by his own fishing partners to be prepared for an objective approach to fishery management across the state of Alaska. The fish will come first and the fishermen, be they commercial or sport, will come second.

This is why we support the appointments of BOTH Mr. Johnstone AND Mr. Johnson to the Alaska State Board of Fisheries. They are the right men for the right job at the right time.

In recent days there has been talk about lack of native Alaskan representation. Western Alaska has always had one seat at the table of the seven. For a short time that representation was a native Alaskan. Many prominent and wise native leaders have served on the board over the years. A longtime past Board of Fisheries member, the late Joe Demmert, was one of our finest Southeast Tlingit leaders as well as a founder, in 1968, of our organization, the Southeast Alaska Seiners Association (SEAS).

But aside from Robert Heyano, there has not been a native Alaskan on the Board of Fisheries since Tony Knowles took office in 1994 and after all these years we have not heard any murmurs about the lack of native participation during either the Murkowski or the Knowles administrations. (And let us remember that it was Murkowski who put a native Alaskan, Robert Heyano, back on the Board of Fish). Vince Webster is the current Board member representing Western Alaska right now. Sometimes this seat migrates north to Bethel (or even further north), but right now it is in Bristol Bay. Mr. Webster has lived in western Alaska long enough to appreciate western Alaskan values and he is a main conduit through which western Alaskans can access the Board of Fisheries.

Since 1992, Fairbanks has had a seat at the table. This seems a fair shake for the Interior region- 17 years with a specific seat at the table. **It is our belief that although Mr. Delo (of Big Lake) and Mr. Johnstone (of Anchorage) do not reside in the Interior, they**

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certainly can be very approachable board members for the Interior's access to the Board of Fish process and deliberations. While we sincerely feel the pain of Fairbanks folks, one should can recognize the irony of the Southcentral Alaska sports groups' concern for the lack of a Fairbanks seat when they failed to support the prior Fairbanks board member, Mrs. Bonnie Williams. We fully expected her to return and had seen her mature and grow a great deal in the 3 years she served on the Board. **Commercial fishing groups did not oppose her reappointment, even though she has never been a commercial user. Likewise, we do not oppose the reappointment of Mr. Johnstone,** even though he is widely considered to be a sport user at this time.

Let me now turn to the Cook Inlet commercial fishermen. While Fairbanks has had a seat on the Board for 17 consecutive years, **Cook Inlet commercial fishermen,** with well over 1500-2000 "boots-on" fishermen, providing direct and indirect jobs for many thousands more, **have been without a seat at the table for 31 years, since 1978.** *So while it may seem unfair to Fairbanks, what was fair about the way Cook Inlet commercial fishermen have been treated for these past 31 years? Over a dozen Cook Inlet sport seats were placed on the Board of Fisheries during this prolonged absence.* **We have a Governor who has the political will and courage to face the public opposition she knew could potentially result from this decision from sectors of Anchorage, Fairbanks and particularly her own Valley. We are hopeful that the legislature sees the wisdom in this very balanced choice of Mr. Johnstone and Mr. Johnson, regardless of their zip codes.**

We applaud the Governor's wise choice at this time and we remain unconvinced that just because past Board of Fisheries members Dr. Bouse, Mrs. Williams or Mr. Umphanauer will not be at the table that somehow Fairbanks and the Interior will be shortchanged.

Likewise, we find it disingenuous that certain sport-oriented groups would complain and portend to speak about the lack of native participation on the Board of Fisheries while the last Alaskan native on the Board (Robert Heyano, of Dillingham, whose seat was up two years ago) heartily endorsed Mr. Brent Johnson at the House Fisheries Committee last Thursday. And Mr. Johnson is not a native Alaskan---although, Mr. Johnson is a lifelong Alaskan whose family first made their home in Chugiak, where they were the 2nd family to settle in 1947, then Seldovia and, finally, Clam Gulch.

Lastly, it is amazing how fate intercedes in our lives, our careers, and our geographic locations. Today Alaskans have a much broader spectrum of life experiences and cultural differences than we did at statehood. When my great grandfather first came to Petersburg in 1903 and moved there permanently in 1910, when Anchorage hadn't even yet been founded. *Some of the old timers joke that when they came to Petersburg shortly thereafter they found no Caucasians living there---only us Norwegians and our good friends the Tlingit people.* The Valley was a very sparsely settled area for another half century.

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Many more of us now live in cities and suburbs and these populations tend to grow at much more accelerated rates than do the smaller, rural communities. But even in our more remote areas and villages where there has been little changed over thousands of years, the transportation, energy and infrastructure base is becoming modernized and this will have profound impacts on our access and allocation of fisheries resources. Had Brent Johnson's family stayed in Chugiak, he would perhaps had chosen a different profession and his opposition ironically would have perhaps come from the very neighbors on the Peninsula where he resides.

During a meeting in 1998, a hard-working former Senator and Representative from the Valley told a large group of us commercial fishermen that he had recently had a vision. And that vision was that someday we would all get along.... Commercial, sport, personal use, guided charter and subsistence users.... and that we would work on putting the fish first and setting aside our differences to do the best for the resource -and thereby it's users- as one large happy family.

While we have not yet had the pleasure to experience what the standard bearer from the Valley experienced in real terms, we share the hope that he had and will endeavor to work together with all the fish resource users to promote the best possible outcome for all users.

Together.

We need to get along here and while we fully understand the local nature of the disappointment of some of the Southcentral and Fairbanks constituent groups with Mr. Brent Johnson's appointment, we remain unconvinced that this is such a radical departure from good Board of Fish balance. One shot in 31 years and if he isn't just about perfectly balanced in his decisions, you can rest assured that it will be another 31 years before Cook Inlet Commercial fishermen get another crack at a seat on this board.

Sincerely



Robert M. Thorstenson, Jr.

Executive Director, SEAS

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PRESS RELEASE

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Cordova fishing organization states position on lawsuit

Cordova District Fishermen United (CDFU), a member organization representing the interests of commercial fishermen in Prince William Sound, would like to make the following statements concerning a controversial lawsuit affecting Alaska fisheries.

The lawsuit, filed by Prince William Sound fisherman, Herb Jensen, claims that Alaska is out of compliance with the provisions of the federal Magnusson Stevens Act, and seeks to review Alaska's personal use fisheries.

"CDFU is not involved or associated with the development of the Jensen lawsuit in any way," said Rochelle van den Broek, Executive Director of CDFU. "Our organization believes that the State of Alaska has the authority and expertise to effectively manage fisheries in Alaska".

CDFU President, Jerry McCune, said that he respects all other users, and that as Alaskans we share common ground as well as resources on the Copper River. "Our number one priority is to protect our fishery – and that means ensuring that there are enough resources to meet the needs of all user groups, while ensuring that our salmon stocks are healthy and abundant. Balance is key, and the State of Alaska Department of Fish and Game have the skills and the expertise necessary to best manage our fishery."

"CDFU respects all Alaskans' opportunity to fish and eat salmon personally harvested. We believe that personal use fisheries are an important part of our culture in Alaska," McCune said. "Through balance and good management, it is CDFU's hope that all fisheries - subsistence, personal use and commercial - stay strong and healthy, and that there are adequate resources and opportunities available to meet all users' needs."

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