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February 12, 2014

Alaska Board of Fisheries
Board Support Section
P.O. Box 115526
Juneau, Alaska 99811-5526

RE: Cook Inlet Regulatory Meeting 01.31- 02.13/14

Proposal 209 as amended through Record Copy (RC) 151

Chairman Karl Johnstone,

The setnet commercial fishing community represented by the Kenai Peninsula Fishermen's Association request the Alaska Board of Fisheries (BOF) to invoke their authority using 2013-34-JB Criteria for Development of Board-Generated Proposal to bring to the table a Board Generated Proposal on proposal 209 as it amended 21.359 Kenai River Late-Run King (KRLRK) Salmon Management Plan.

We offer these reasons as specified in the criteria:

1. This is in the public's best interest that justifies government regulation as the motion as approved did not have consistent intent as it relates to current in-regulation management plans. Access to the harvestable surplus resources of sockeye and pink salmon may be denied. The public process was limited as it relates to adoption of the language of RC 151 without the benefit of the BOF members discussing other relative RC's before adopting substitute language. Instructions from the Chairman on recess of the session on 02.04.14 directed interested parties to submit relevant RC's in response to RC 139 by the start of the morning session on 02.05.14. The public was unaware of the RC 151 submitted by BOF vice-chair Tom Kluberton. We do not believe that the other BOF members had sufficient time to read and understand the information presented to them from the deadline of submittal time to the short time that final action was taken. In discussions with individual board members, concerns were expressed that this process moved "to fast" and they did not have a reasonable understanding of the presented information, and did not fully engage the Department of Fish and Game with relative questions because of their limited knowledge of the plans before them; competing plans that would be effected by adoption of this proposal 209 into regulation.
2. This is an urgent matter as provisions of this modified plan require considerable expenditures estimated in the hundreds of thousands of dollars and in the tens of thousands to the individuals who wish to participate. The official opening day for the ESSN is approximately four months away. Individuals

fishing under **5 AAC 21.331 (d)** do not use 35 fathom nets but 25 fathoms as stipulated. They would be precluded from fishing two nets in the step down measures as described in (b) (3) (B) (i) and (ii). The next scheduled regular meeting of the BOF is not until March 17-21 2014 and UCI, not until 2016/2017.

3. The use of an Agenda Change Request (ACR), normal cycle proposal, reconsideration policy or motion to rescind are not available due to time constraints and board policy.
4. We believe that board members could address this at this meeting but in order to give reasonable and adequate opportunity for public comment to address the changes in **5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan** as amended by proposal 209 and as amended by Record Copy 151, and to comply with notice requirements of the *Administration Procedures Act*, scheduling this BGP could be addressed at the March 17-21 2014 Statewide King and Tanner Crab And supplemental Issues meeting in Anchorage.

We have questioned the justification for the 22,500 number placed into regulation as we see no scientific justification or ownership from the Department of Fish and Game for this action point. This number will effectively shut down the ESSN before it can open July 1st on any year where a low sustainable range of KRLRK maybe forecasted or projected to return. This would preclude the Kasilof run of sockeye, a run harvested 70% by the ESSN and deny access to any late run Kenai River sockeye in the Kenai District or Kasilof Districts. It should be noted that both the Kenai River sockeye (**5.AAC 21.360 Kenai River Late-Run Sockeye Salmon Management Plan**) and the Kasilof River sockeye (**5 AAC 21.365 Kasilof River Salmon Management Plan**) have established goals and management directives associated with the specific management plans. It is not clear on how these directed plans will intersect with the new language of proposal 209 as amended. Managers will now have to consider three goals that are based only on highly subjective evaluations based on unproven methods that are in question.

In August, the plan becomes more unworkable. Instead of a **projected inriver goal** we now have a **projected escapement** when the inriver harvesters and personal use (PU) fisheries are scheduled to end by July 31st. ESSN fishermen could very well have been waiting on the beach in the entire month of July to meet objectives to attain the Sustainable Escapement Goal (SEG) of 15,000 to 30,000. It is possible that 30% of the KRLRK can pass through the sonar counter at mile 8.6 in August. Other than the SEG any other undefined goals are allocative as they have no reference to biological needs as expressed in **5 AAC 39.223 Policy for Statewide salmon escapement goals** for an SEG (d), **5 AAC 39.220 Policy for the management of a mixed stock salmon fisheries (b)** and **5 AAC 39.222 Policy for the management of sustainable salmon fisheries**. The board reaffirmed their commitment to an SEG for the KRLRK on a vote of reconsideration (*proposal 207*). This is not a stock of concern and implementations of any restrictions are arbitrary, allocative and are not supported by any qualified peer reviewed science.

We would respectfully request that the BOF address this issue at the earliest point within this January-February 2014 Upper Cook Inlet regulatory while in deliberation and in session. We would suggest that the BOF members thoroughly review the guidance given to them by **5 AAC 21.363 Upper Cook Inlet Salmon Management Plan** and consider the many changes they have adopted at this meeting that may relate to their previous action on Proposal 209. It is quite possible that unintended consequences may have occurred that have significantly and negatively impacted individuals and groups.

Thank you,



Robert V. Williams, President

Conflicting issues to consider with the Kenai River Late-Run King Management Plan

- Kasilof Section
 - June 25 – June 30 Managed under Kasilof Plan, June 29 – 30 is the start of new week, are these days included in the 36 hours, which do not technically start until July 1st?
 - What about EO hours under the existing Kasilof Plan, hence EO on June 29?

- July 1, Beginning of the Kenai River Late-Run King Management Plan
 - The entire East Side Set Net (ESSN) is now limited to no more than 36 hours of fishing time per week
 - 3 nets @ 29 meshes or 2 nets @ 45 meshes
 - 2 nets @ 29 meshes or 1 net @ 45 meshes
 - If the inriver fishery goes to catch and release the ESSN fishery is limited to no more than 12 hours of fishing time in a week, without gear restrictions
 - Management of the two fisheries is now duplicitous
 - The inriver fishery is now managed to meet the SEG 15,000 – 30,000
 - The ESSN fishery is to be managed to meet the SEG 15,000 – 30,000
 - Is the ESSN fishery to be managed (16,500 – 22,500) under the 36 hour restriction from August 1-15?
 - Is the ESSN fishery to be managed (22,500 – 30,000) with no hourly limitation?

- If the escapement of Kenai River king salmon will be 15,500 fish on July 31, will the inriver fishery be allowed to proceed, at any level they desire, as long as they do not fall below the 15,000?
- How would the Department fish the ESSN fishery on this projection knowing that they will still be fishing after August 1, with a minimum escapement of 16,500? The answer is likely “NO” as the burden to meet the 16,500 is now solely on the ESSN.
- This plan was sold as flexibility.
- It is possible that the burden will be enforced upon the ESSN fishery even early in July to ensure that we meet the 16,500 in August, while the inriver fishery stays open.
- The two fisheries are now held to different duplicitous standards. Flexibility? The burden of conservation, from 15,000 to 16,500 is on the ESSN.
- What does 15,000 estimated sonar passage mean in real numbers? The department admits they are undercounting. The early run may be off by 200 to 300%. There is not as much error in the late-run, but undercounting is still going on. How much more of a safety factor is needed?