

Open Pound Roe on Kelp as alternative for existing Sitka Sound Permittees

Chairman Jensen and Board Members,

Because of overlapping administrative areas the Board of Fisheries cannot, according to Department of Law, make a decision on a proposal allowing existing Sitka seine permittees the option of harvesting their herring stock using Open Pound Roe on Kelp.

Herring management is area specific based on the herring stock and its spawning location. The Sitka stock entered limited entry long before the Northern Pound area was determined. Due to the decision by CFEC to choose a large administrative area definition rather than a small area definition (Choices offered by then Commissioner Carl Rosier) the Northern Pound permittees, now that this caveat has come to light, feel they have access to the Sitka stock. If the Sitka stock is not removed from the Northern Pound administrative area the future could be filled with litigation over why the Sitka stock was flooded with more users on an already limited entry stock.

CFEC has indicated several times that if the Board were to favor the proposal they would propose complementary action. CFEC also indicated that the proposer would face a "significant burden of persuasion". CFEC had not seen the same materials as the Board has seen because CFEC indicated the merits of the proposal were not going to be debated at the public hearing. CFEC didn't see the reports of the experimental fishery, the department studies, the marketing reports, or the comments of those in support of the proposal the Board did during the last 2 cycles. If the Board feels the proposer has satisfied the "burden of persuasion" the Board needs to make CFEC aware of this. CFEC will be reluctant to act until the Board demonstrates they support the proposal as anything less could be viewed as a waste of their time and resources.

To close, with everything the Board has seen and heard of this proposal, if the Board believes this proposal would likely be carried favorably, then the Board should make their support abundantly clear to CFEC and be insistent that the Sitka Sound fishery area be removed from the Northern Pound administrative area.

With the understanding that the Board's time is limited I have taken liberty to assemble some points the Board could touch on in their letter to CFEC. I don't intend to overstep but thought the drafter of the letter would appreciate some ideas to work off of.

Respectfully submitted,

Ryan Kapp

RC 55

Possible points to touch on if the Board drafts a letter to CFEC:

The Board believes the proposer has satisfied the "burden of persuasion" significantly enough to allow the proposal to be carried.

The Board believes this proposal represents a positive change in the Sitka fishery by allowing the fishery to diversify product forms and add value while killing less fish. It also recognizes the Sitka Tribe's desire to reduce the harvest of herring.

The herring fishery value has declined and there is no immediate sign of relief. There is a need to look for new ways to do things.

The Board would approve this proposal if CFEC satisfied the requirements of the Department of Law and removed the Sitka Sound sac roe fishery area from the Northern Pound administrative area.

There may have been no support in the CFEC hearing testimony but the Board has seen support other than that of the proposer during the Board process for the last two cycles.

Decisions on methods and means is the responsibility of the Board (AS16.05.251) and is being impeded by the administrative area overlap.

AS 16.43.200 The commission shall establish administrative areas suitable for regulating and controlling entry into the commercial fisheries. The commission shall make the administrative area reasonable compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

AS 16.43.950 states nothing in the Limited Entry Act limits the powers of the Board of Fisheries including the power to determine legal types of gear.