



United Cook Inlet Drift Association

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UCIDA statement on the pending Cook Inlet fishery closure.

The headline news last week was “NOAA closes Cook Inlet federal waters to salmon fishing.” And once again the commercial fishing industry is forced to file another lawsuit against NOAA/NMFS. Their pending action, that closes a major salmon fishery, involves backroom deals with the State of Alaska, violations of a court order and violations of federal laws including the Magnuson – Stevens Act (MSA), the Administrative Procedures Act (APA) and the National Environmental Policy Act (NEPA). If their illegal backroom deals and violations of law are allowed to stand then the commercial fishing industry in Cook Inlet, that creates thousands of jobs, adds tens of millions of dollars every year to the regional economy and keeps the coastal communities of Cook Inlet alive, will be finished. Here is the backstory.

The Cook Inlet commercial salmon fishery has existed for over a hundred years. The first salmon cannery in Cook Inlet was built at the mouth of the Kasilof River in 1882. Since then, the salmon fishery has been the backbone of the regional economy.

Cook Inlet has been one of the best commercial salmon fisheries in the state. At times, when the fishery was properly managed, Cook Inlet has been the second most valuable salmon fishery in the state, second only to Bristol Bay. About half of the area open to commercial salmon fishing in the Upper Cook Inlet management area is in federal waters, in the Exclusive Economic Zone (EEZ), the area intended for closure. National Marine Fisheries Service (NMFS) is an office of the National Oceanic and Atmospheric Administration (NOAA). This is the agency responsible for closing the EEZ in Cook Inlet.

Salmon are an anadromous fish, spending most of their lives at sea and returning to freshwater to spawn and rear. Due to their unique lifestyle that crosses many jurisdictional lines, Congress has declared that all anadromous fish, including salmon, are a national resource, and therefore must be managed by federal rules in the national interest. A federal law, the Magnuson-Stevens Act (MSA), named in part for Alaska Senator Ted Stevens who helped create the law, was enacted in 1976 to provide management and conservation to the nation’s fishery resources. The MSA has now been in existence for over 40 years and is considered the gold standard for fishery management.

The State of Alaska has been managing many of the salmon fisheries around the state since statehood. One of the requirements for Alaska becoming a state was the agreement that the state would manage the fishery resources in the “broad national interest”.

In 2010, after more than twenty years of ongoing and increasing management failures by the State of Alaska in Cook Inlet, commercial fishermen and processors asked the National Marine Fisheries Service (NMFS), and its regional administrative body, the North Pacific Fisheries Management Council (Council), to comply with the federal law, the MSA, write an amendment to the Alaska Salmon Fishery Management Plan (FMP) that included the entire Cook Inlet salmon fishery and then properly delegate the authority for managing the fishery to the State. This should have been done back in 1976 when the MSA was first enacted, but it wasn't. For over 40 years the state has been managing the fishery without any guidelines or oversight and that has led to numerous management failures, loss of essential fish habitat and tremendous waste of the salmon resources.

In 2012, instead of complying with the request of the stakeholders and federal law, the Council and NMFS responded by creating Amendment 12 to the Alaska Salmon FMP which *removed* the Cook Inlet salmon fishery from the FMP and deferred all salmon management to the State of Alaska. The fishermen and the processors then filed a lawsuit in federal court.

In 2016 the Ninth Circuit Court agreed with the fishermen and ordered NMFS and the Council to create an amendment to the Alaska Salmon Fishery Management Plan for the entire Cook Inlet salmon fishery that would comply with the MSA. The Ninth Circuit Court then remanded the case back to the Federal District Court in Anchorage to carry out the judgement.

What followed, after the fishermen and processors won the case, can only be described as a farce. The Council, an eleven-member body with six members appointed by the State of Alaska, dragged their feet every step of the way. Over a year into the process, they reluctantly convened a stakeholder Salmon Committee with industry representatives who actually understood how the Cook Inlet fishery works, then refused to even consider the one alternative suggested by the Salmon Committee, then adjourned the committee altogether. The Council spent four years discussing three alternatives: Alternative 1 - no action; Alternative 2 – a fishery management program that delegated implementation to the State; and Alternative 3 - a federally managed fishery in the exclusive economic zone (“EEZ”) and a separately managed State fishery.

Stakeholders spent hundreds of hours preparing for and attending Council meetings and Salmon Committee meetings focused entirely on modifications to Alternative 2. Then, in October 2020, just two months before the Court-ordered deadline for developing an FMP, the State representative on the Council proposed a new alternative (Alternative 4) to *close the fishery in federal waters altogether*. Without any public input, the Council agreed to include this new alternative for further consideration. At the next meeting in December 2020, the Council

received 225 written comments and 35 oral testimonies, and all (except one) were in opposition to the new Alternative 4. The opposition included commercial fishers as well as State legislators, local city governments, the Kenai Peninsula Borough, fishing organizations, economic development associations, trade associations, and many members of the public.

In response to this overwhelming opposition, and *after the close of public comment*, the State of Alaska representative on the Council (ADFG Deputy Commissioner) played bait and switch. After four years of pushing support for Alternative 2, the State announced *to the public for the very first time* that it *refused to accept any delegated federal management* for salmon in Cook Inlet. This made Alternative 2, the primary alternative discussed for the last four years, infeasible. This possibility was never once mentioned in the previous years while the State representatives worked to develop Alternative 2. Nor was this new-found objection to delegated management credible given that Alaska accepts a delegated management program for salmon in other areas of Alaska, and for many other fisheries in Alaska (e.g., groundfish, crab, and others, including the scallop and cod fishery that also occur in Cook Inlet). Following the State's announcement, the rest of the Council members bowed to the State's political pressure and adopted the State's proposed Alternative 4, now called Amendment 14 to the Alaska Salmon FMP. Through public records we have learned that NMFS was well aware of, and coordinating with the State on, their bait and switch scheme but hid that information from the public.

It's sad to think that NMFS, the federal agency entrusted with the management and conservation of the nation's fishery resources, will resort to backroom deals and outright lying to stakeholders, and the public, to avoid doing their job.

Amendment 14 is not sound fishery management based on the scientific principles of the Magnuson Act. It is backroom Alaska politics at its worst. It is a duplicitous and a punitive action against the commercial fishing industry for our efforts to ensure a sustainable fishery for the future.

It is also another example of the Dunleavy administration's "wrecking ball" approach to government. Just as the Dunleavy administration has attempted to wreck the economy of the state, wreck the University system, wreck public education, and wreck the State Ferry system, they are also intending to wreck the Cook Inlet commercial fishery.

Closing the federal waters in Upper Cook Inlet will effectively shut down the commercial salmon industry here. The Cook Inlet salmon fishery is unlike many of the other salmon fisheries around Alaska in that a large part of the fishery occurs in federal waters. This fishery traditionally started in mid-June and was mostly finished by late August or early September. The salmon harvested up to mid-to-late July are harvested primarily by the drift gillnet fleet and are harvested almost entirely in federal waters, in the EEZ. This early harvest is critical for the seafood processing companies as it allows them time to train employees before the peak of the

run and it supplies a premium product for a very valuable fresh market in the lower 48 states. The timing of the salmon harvest is of extreme importance as premium quality fish supplied to a fresh market are worth two to three times more than a lesser quality frozen product. The lower half of Cook Inlet, the EEZ, can also be the most productive area for the drift fleet to fish later in July and into August. Without access to this area the drift fleet cannot harvest enough salmon to meet expenses and cannot afford to operate. Without the drift fleet harvest, the seafood processing companies cannot afford to operate and will close their businesses. When the processing plants shut down there will no market for any remaining fishermen.

Amendment 14, if allowed to stand, will eliminate the Cook Inlet commercial fishery and the thousands of jobs it creates directly and indirectly. It will eliminate the tens of millions of dollars of new money the industry generates in the regional economy every year. It will eliminate the livelihoods and lifestyles of thousands of families and severely damage the economies of the coastal communities in the Cook Inlet region. The Cities of Kenai, Homer and Seward will be particularly hard hit, the Kenai Peninsula Borough will lose millions in tax revenues.

The commercial fishermen and processors are now back in federal court, still seeking the relief that was granted to them in 2016. In the meantime, the state management of the Cook Inlet salmon fishery has gone from bad to worse, with back-to-back fishery disasters in 2018, 2019 and 2020. In 2021 the state managers once again restricted and closed much of the Cook Inlet fishery which allowed far more salmon to enter the rivers than was needed for spawning. The *excess* escapement into the rivers last summer was more than the entire commercial harvest. This same pattern has been repeating for over a decade.

In Cook Inlet, under current state management of the fishery, more salmon go unharvested and are wasted every year than many other areas of the state produce. This has to stop.

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