



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Fish and Game**

DIVISION OF COMMERCIAL FISHERIES
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April 19, 2016

Michael Tinker
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Dear Mr. Tinker:

On March 29, 2016, you sent an email to Glenn Haight, Executive Director of The Alaska Board of Fisheries (board), asking several questions that appear relevant to the Alaska Department of Fish and Game's (department) proposed rulemaking, noticed on March 18, 2016, which proposes changes in certain subsistence and personal use fishery harvest limit regulations. These regulation changes are proposed to be adopted pursuant to delegated authority of the board under AS 16.05.270. As I understand it, you asked:

- Did the board return to AS 16.05.258 to determine whether the "annual limits" were within the amount necessary for subsistence?
- How was the number used in the annual limit derived?
- Is it possible that in some fisheries the annual limit could produce a high enough harvest to exceed the amount necessary for subsistence?
- Does the "annual limit" restrict my customary and traditional harvest?

My response to your questions is as follows:

Since the board meets in recorded public meetings, I encourage you to visit the board's website concerning the January 12-16, 2016 Arctic-Yukon-Kuskokwim Finfish meeting for a record of what the board considered and determined in making the delegation to the commissioner to establish in regulation harvest limits for certain personal use and subsistence fisheries. As a general matter, the board usually considers whether regulations provide a reasonable opportunity for subsistence uses of a fish stock when the fish stock is in cycle or included within the board's agenda and when material changes are proposed in regulations that will affect subsistence fisheries, an issue concerning subsistence fishing or reasonable opportunity is brought to the board's attention by the public, and in consultation with the department.

As the board's delegation notes, the harvest limits proposed to be adopted in regulation were previously established by the commissioner via permit to ensure, to the extent possible, the maximum sustained yield or sustained yield of the fish stocks. The board's delegation requires the commissioner to adopt in regulation the same harvest limits for these fish stocks that the commissioner established for the most recent fishing season, unless the commissioner determines that a different limit is necessary to ensure maximum sustained yield or sustained yield of the fish stock.

For all of the fish stocks, including for smaller stocks like those you mentioned in the Pilgrim River, the delegation requires the commissioner to use the best available data and information concerning the fish stock when establishing a harvest limit to ensure, to the extent possible, the maximum sustained yield or sustained yield of the fish stocks. The data and information that the commissioner uses includes estimates of run sizes and effort. It is possible that an annual limit combined with other regulations will provide a more-than-reasonable opportunity for subsistence uses of certain fish stocks. An annual limit in a fishery restricts the number of fish that can annually be taken in that fishery.

The board's delegation of authority specifically provides that the board retains its powers and responsibilities under AS 16.05.258, and provides that the board shall review its regulations, as appropriate, to ensure that the regulations continue to provide a reasonable opportunity and the appropriate preference for subsistence uses of these fish stocks.

Sincerely,



Forrest R. Bowers
Deputy Director,
Division of Commercial Fisheries