

To: Tracy Welch, CFEC commissioner
Re: proposed regulation changes (ESSN stat areas tied to super exclusive fishery area - Oppose)

Date: August 29, 2026

Dear Commissioner Welch,

I adamantly oppose regulation changes on ESSN permit holders under Sec. 6 to reassign certain Cook Inlet Set Net Entry Permits- for the following reasons.

1/ Under section 1 (A) "the optimum yield from the harvest of the species has not been reached." Under the 1973 Limited Entry Act the purpose and intent for limited entry was to provide an optimum economic benefit to the commercial fleet on salmon stocks and maintain escapement's on all salmon stocks.

For decades UCI set netters held a belief/public trust that ADFG Commercial Fish Division would manage the salmon fisheries for maximum sustained yields and included the number of permits operating. Unfortunately over the last several years - millions of sockeye salmon over escapements have occurred on Kasilof river sockeye salmon and Kenai late-run sockeye salmon stocks.

7 Fishery disasters have occurred since 2018. The primary cause being Board of Fish regulatory changes and especially ADFG changing the late- run chinook salmon goal. The prior SEG goal was 15,000-30,000 All Fish goal. ADFG kept the same goal for only Large kings; thereby doubling the escapement goal (small kings make up to 40-60% of the run).

2/ Former senator Peter Micciche and Representative Justin Ruffridge both attempted to pass bills aligned to present one authored by Sen. Jesse Bjorkman. The earlier bills attached a buy-back provision on ESSN permit holders that didn't pass as private funds were required and placed a bet that perhaps they would be available in some unknown future date (a classic shell game to remove 200 CFEC SO4H permits). Even Glenn Haight stated the Entry Commission could not endorse these provisions under the Limited Entry Act.

Sen. Bjorkman dances around the buy-back program under his intent for passage of his bill and this remains arbitrary, vague, and capricious. Senator Bjorkman is a Drift dual permit holder with a conflict of interest in the allocation of permits/salmon stocks in UCI.

Further legal issues is the fact that Kenai River Sportfishing Association and the Kenai guides attempted by referendum to close set netting along the east-side. The Alaska Supreme Court decision held that allocation of fishery resources was unconstitutional by referendum and the ESSN permit holders had a right to exist and remain viable.

Somehow Sen. Bjorkman got the legislation passed even though the Grunert decision by Alaska Supreme Court held that the Board of Fish cannot create a sub-set within a fishery (cooperatives) and all CFEC permit holders in the Chignik Seine fishery have the same rights to equal access within the fishery.

3/ The way I read these regulatory changes - my permits are in jeopardy as well as my documentation to pass my permits to my sons and create a super-exclusive fishery.

I have over \$100,000 dollars invested in my permits and that doesn't take in forty years of improvements to my sites and gear. If this passes CFEC could render a legal tender of \$1 dollar and take my permits. I can't fathom that the Limited Entry Act envisioned such resulting nightmare scenario's. The Equal Protection Clause forbids this type of action.

Again, Please do Not pass this into CFEC regulations.

Sincerely,
Jeff Beaudoin
SO4H permit holders
Stakeholder, owner/operator
Kasilof, Alaska

Public Comments HB117/Notice Of Litigation on 192

From Cheryn Clark [REDACTED]

Date Sun 8/2/2026 10:21 PM

To DFG.CFEC.Questions <DFG.CFEC.Questions@alaska.gov>; DFG, CFEC PublicQuestions (DFG sponsored) <DFG.CFEC.PublicQuestions@alaska.gov>

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Date: August 2, 2026

To: Commercial Fisheries Entry Commission (CFEC)

Mailing Address: P.O. Box 110302, Juneau, AK 99811-0302

Email Submission: dfg.cfec.questions@alaska.gov

From: Russell Clark, [REDACTED]

Permit Type / Fishery Designator: S04 [REDACTED] – Upper Cook Inlet Set Gillnet (ESSN)

Subject: Formal Public Comment Regarding the Administrative Implementation of House Bill 117 (ESSN Carve-Out)

POSITION: FORMAL REQUEST FOR ADMINISTRATIVE MORATORIUM PENDING COMPLETION OF STATUTORY OPTIMUM NUMBER, EFFORT-DISPLACEMENT STUDIES, AND RESOLUTION OF ACTIVE LITIGATION OVER PROPOSAL 192.

To the Commissioners of the CFEC:

I am writing to formally submit comments regarding the administrative implementation of House Bill 117, which establishes a distinct administrative fishing area for the East Side Set Net (ESSN) fishery in Cook Inlet. As an active Cook Inlet set gillnet permit holder (S04H58304Q) directly tied to the ESSN fishery, my livelihood and business investment are directly threatened by these sweeping regulatory shifts.

NOTICE OF ACTIVE LITIGATION: Please be formally advised that I have filed a civil lawsuit against the Alaska Board of Fisheries (BOF), the Alaska Department of Fish and Game (ADF&G), the Commercial Fisheries Entry Commission (CFEC), and the State of Alaska challenging the validity, adoption, and implementation of Proposal 192. Because the entire justification for the administrative restructuring under HB 117 is inextricably linked to the gear transitions mandated by Proposal 192, the CFEC must issue an immediate administrative stay on HB 117 implementation until the courts resolve this litigation. [\[1\]](#), [\[2\]](#), [\[3\]](#)

While the legislature possesses the authority to adjust management boundaries, the CFEC holds an independent statutory duty under the Alaska Limited Entry Act (AS 16.43) to protect the economic stability of Alaska's commercial fishing fleets and the biological health of our marine resources. Proceeding with permit restructuring or geographic lock-ins under HB 117 without baseline administrative studies—and in the face of an active constitutional lawsuit—represents a severe procedural deficiency.

CFEC must thoroughly address and investigate the following issues before enacting final regulatory changes:

1. Absence of Statutory "Optimum Number" Feasibility Studies

Under the Limited Entry Act, the foundational mandate of the CFEC is to establish and maintain an "optimum number" of permits for a given fishery to prevent economic distress and promote conservation.

- To date, no permit feasibility studies have been completed to determine the optimum number of permits for the newly carved-out ESSN administrative area.
- Setting a baseline cap or altering existing permit privileges in a vacuum lacks the required data-backed, rational basis. Any administrative action taken without these studies is inherently arbitrary and capricious under the Alaska Administrative Procedure Act (APA). [\[1\]](#)

2. Failure to Analyze the "Spillover Effect" into Surrounding Districts

The proposed administrative carve-out does not exist in isolation. CFEC has failed to perform comprehensive impact analyses regarding how changes to the ESSN will ripple into surrounding Upper and Lower Cook Inlet districts.

- If ESSN permit holders face severe localized closures or are permitted to migrate gear, a massive influx of displaced effort will inevitably exit the ESSN boundary.
- CFEC has conducted no research to determine the biological or economic impact of this displaced gear on the **Northern District**—a region already characterized by intense allocative conflict and gear crowding.
- Furthermore, CFEC has ignored the critical "spillover effect" that this displaced gear will have on the **Kalgin Island District**, the **West Side District**, and the **Southern District**. These districts cannot absorb an unchecked influx of displaced effort without triggering localized overfishing, severe gear conflicts, and immediate economic distress for historical local participants who rely on the stability of those specific waters.

3. Severe Economic Devaluation of Existing Capital Assets

While the Alaska Supreme Court's ruling in *Vanek v. State* (2008) establishes that limited entry permits are legally classified as "use privileges" rather than compensable property under the Takings Clause, the CFEC is still statutorily bound to consider the economic health of the fleet.

- Cook Inlet permits are highly valued, liquid assets used by independent fishermen as business collateral and retirement security.
- Segmenting the historically unified Cook Inlet permit pool without matching economic opportunity risks stranding assets and tanking

permit valuations overnight. CFEC must model the market impacts on permit liquidity and transferability before dividing the fishery.

4. Lack of Regulatory Coordination with the Board of Fisheries

The administrative boundaries set by CFEC must seamlessly align with the practical, in-season conservation management executed by the Alaska Board of Fisheries.

- Given the ongoing, severe restrictions surrounding Kenai River king salmon stocks and the regulatory mandate forcing alternative gears (like beach seines), a geographic carve-out under HB 117 could inadvertently trap permit holders in an un-fishable zone. [1, 2, 3]
- CFEC should issue a temporary administrative hold on HB 117 implementation until a joint CFEC-Board of Fisheries task force can comprehensively map out how these new administrative permit lines will interact with real-time conservation closures.

5. Logistical Impossibility and Spatial Conflict Resulting from DNR's Lease Determination

The Commission must closely evaluate the severe management crisis introduced by the Department of Natural Resources' (DNR) recent formal determination. Initiated upon the request of a formal complaint that I submitted, DNR legally analyzed the proposal and ruled that state shorefishery leases apply *strictly* to set gillnets under AS 38.05.082, meaning leaseholders hold no priority rights or exclusive access for beach seining. [1]

If the Board of Fisheries' transition to a 400-foot beach seine gear type under Proposal 192 had been tied strictly to shore leases, only an elite 10 percent of the fleet with optimal beach topography would have had the physical capability to participate. However, by declaring the proposed 400-foot beach seine fishery open to *any* valid permit holder along public tidelands, the state has stripped away orderly management. [1, 2]

If the BOF moves forward with beach seine mandates and CFEC fails to complete an Optimum Number Study, it will trigger an unprecedented and dangerous "race for space." Forcing a historic fleet of over 400 permit holders to compete for a handful of topographically suitable, road-accessible public shorelines with 400-foot nets will cause immediate gear overcrowding, localized gear destruction, and unsafe conditions on the sand. CFEC has a statutory mandate to prevent economic distress and promote orderly fisheries management. The Commission must place an administrative hold on HB 117 until a multi-agency spatial analysis determines how an open-access beach seine framework can be conducted safely and equitably by the existing permit pool.

CONCLUSION AND REQUESTED ACTION

The CFEC should not rush the administrative implementation of HB 117. Doing so without empirical data, and while the validity of Proposal 192 is actively being litigated in court, invites immediate litigation under the APA for procedural deficiency. [1]

I respectfully request that the Commission place a formal hold on final regulatory actions regarding the ESSN area until the CFEC completes and publishes:

1. A comprehensive **Optimum Number Study** for the newly defined ESSN area.
2. An **Effort Displacement and Socioeconomic Impact Study** specifically analyzing gear migration risks into the Northern, Kalgin Island, West Side, and Southern Districts.
3. The final judicial resolution of my active lawsuit against the State of Alaska, BOF, ADF&G, and CFEC regarding Proposal 192. [1]

Thank you for your time, your diligence, and your strict adherence to the protective mandates of the Alaska Limited Entry Act.

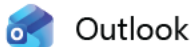
Respectfully submitted,

Russell Clark

Permit S04 [REDACTED]

[REDACTED]

[Sent from Yahoo Mail for iPhone](#)



Supplemental Comment HB 117, Path Forward, Russell Clark

From Cheryn Clark [REDACTED]**Date** Sun 8/2/2026 10:32 PM**To** DFG, CFEC PublicQuestions (DFG sponsored) <DFG.CFEC.PublicQuestions@alaska.gov>; DFG.CFEC.Questions <DFG.CFEC.Questions@alaska.gov>

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Date: August 2, 2026**To:** Commercial Fisheries Entry Commission (CFEC)**Mailing Address:** P.O. Box 110302, Juneau, AK 99811-0302**Email Submission:** dfg.cfec.questions@alaska.gov**From:** Russell Clark, [REDACTED]**Permit Type / Fishery Designator:** S04 [REDACTED] – Upper Cook Inlet Set Gillnet (ESSN)**Subject:** SUPPLEMENTAL Public Comment Regarding HB 117 – Proposed Lawful Administrative Framework and Sequence for Implementation

POSITION: FORMAL PROPOSAL OF A LAWFUL ADMINISTRATIVE SEQUENCE UNDER THE ALASKA LIMITED ENTRY ACT TO PREVENT ARBITRARY AND CAPRICIOUS REGULATORY OUTCOMES.

To the Commissioners of the CFEC:

Following my primary comment submission detailing the statutory deficiencies and multi-district spillover risks associated with House Bill 117, I am submitting this supplemental comment to provide the Commission with a specific, legally sound framework under which the CFEC can procedurally discharge its duties.

Because the legislature has enacted HB 117, the Commission is tasked with administrative execution. However, to proceed without

inviting swift judicial reversal under the Administrative Procedure Act (APA), the CFEC must follow the explicit statutory sequences built into the Alaska Limited Entry Act (AS 16.43). The only lawful path forward requires the Commission to adopt the following structured, four-step framework:

1. Classification of the ESSN Boundary Under an "Interim-Use" Status

The CFEC cannot legally lock in permanent, restricted entry permit numbers for a brand-new administrative area without prior data.

- To implement the geographic lines required by HB 117 without causing an unconstitutional "taking" or a due process violation, the CFEC must initially manage the new ESSN boundary under the open, transitional mechanisms of **AS 16.43.100**.
- The Commission should issue **interim-use permits** to all historically active Upper Cook Inlet setnetters. This allows the fleet to continue operating in the transitional area while the agency gathers empirical harvest and effort data, preventing the immediate economic exclusion of historic participants.

2. Immediate Initiation of the Mandatory AS 16.43.290 "Optimum Number" Study

Once the transitional interim framework is established, the CFEC must immediately trigger a formal, independent scientific and economic study to calculate the **optimum number** of permits specifically for the new ESSN area.

- Per statutory mandate, this study must mathematically prove a rational balance between long-term salmon conservation and fleet economic health (ensuring a reasonable average rate of economic return).
- Rushing to finalize a permanent permit cap before this study is fully published and peer-reviewed constitutes a fatal procedural flaw that violates the core protective tenets of the Limited Entry Act.

3. Execution of a Multi-District Spatial and Gear-Conflict Analysis

Following the Department of Natural Resources' (DNR) formal ruling that shorefishery leases do not apply to alternative gear types, the 400-foot beach seine fishery is officially open to any valid permit holder on public tidelands.

- To satisfy the APA requirement that an agency must look at all relevant data and downstream impacts, the CFEC must execute a spatial analysis.
- This study must model the exact "race for space" on road-accessible public beaches and project the precise volume of gear displacement into the **Northern, Kalgin Island, West Side, and Southern Districts** by the 90 percent of the fleet who do not have viable beach-seining shoreline. The CFEC cannot legally finalize ESSN regulations until it accounts for the economic and biological strain this spillover will inflict on adjacent fleets.

4. Implementation of an Administrative Stay Pending the Outcome of Active Litigation

Finally, because I have filed a civil lawsuit against the State of Alaska, BOF, ADF&G, and CFEC challenging the underlying validity of the 400-foot beach seine mandate (**Proposal 192**), the most prudent framework for the CFEC is to issue a formal **administrative stay**.

- The Commission should finalize its data-gathering and preparatory framework but freeze the final execution of the ESSN rules until the Superior Court issues a final judgment on Proposal 192.
- Proceeding with a permanent regulatory rollout built on top of a highly contested gear mandate that a judge may strike down is an inefficient, high-risk allocation of state resources.

CONCLUSION

The CFEC has a clear, lawful mechanism to handle HB 117: issue interim-use permits, study the optimum fleet size, analyze the 90

percent displacement ripple-effect on the surrounding districts, and stay final enforcement until my lawsuit over Proposal 192 is resolved. Rushing past this framework invites immediate court intervention for procedural non-compliance.

Respectfully submitted,

Russell Clark

Permit S04 [REDACTED]

[REDACTED] [Sent from Yahoo Mail for iPhone](#)

RUSSELL CLARKCFEC Permit No. S04H-58304
[REDACTED]
[REDACTED]
[REDACTED]

August 2026

TO: Commercial Fisheries Entry Commission
[REDACTED]
[REDACTED]
[REDACTED]**RE: Written Comment on HB 117 East Side Upper Subdistrict Administrative Area Implementation -- Objection and Request to Suspend Implementation Pending Legal Resolution, Completion of Optimum Numbers Studies, and Comprehensive Receiving District Impact Analysis**

Dear CFEC:

I submit these written comments as holder of CFEC Permit No. S04H-58304 and as pro se plaintiff in an active lawsuit against the State of Alaska, the Alaska Board of Fisheries, CFEC, and the ADF&G; Commissioner, pending in the Third Judicial District at Anchorage. I respectfully request that CFEC suspend implementation of the HB 117 administrative area framework pending resolution of the following unresolved legal, scientific, and procedural deficiencies.

1. NO COMPLETED CFEC OPTIMUM NUMBERS STUDY EXISTS FOR THE S04H FISHERY

This is the foundational deficiency in the HB 117 implementation framework and must be resolved before any consolidation proceeds. Under AS 16.43.290, the permit reduction process requires CFEC to determine the optimum number of permits before it can reduce permit holders below that number. The optimum number is defined as the maximum number of units of gear that can be operated in a fishery consistent with proper management while providing an economic return sufficient to support individual fishing operations and allow for reasonable living standards for those engaged in the fishery.

CFEC's own FY2027 budget submission confirms that a prior Cook Inlet set gillnet optimum numbers study had to be redesigned and was not complete. The most recent published CFEC comprehensive report on the S04H fishery is CFEC Report 19-7N (November 2019), which covers permit holdings, earnings, and transfers from 1975 to 2018. It is an economic overview and statistical history, not an optimum numbers determination. No completed, published CFEC optimum numbers study for the S04H fishery exists in the public record.

The 200 permit feasibility figure cited at the August 2026 KPFA general membership meeting by KPFA leadership has no published CFEC optimum numbers study as its source. Russell Clark corrected this figure on the record at that meeting. The most recent legislative feasibility analysis, used as the basis for buyback legislation in SB 135, SB 29, SB 82, and HB 195, supports 100 to 110 permits as the correct feasibility figure. CFEC proceedings cannot be based on an uncited, uncorroborated, and inflated permit number. Using 200 instead of 100 to 110 dramatically underestimates the number of permit holders who would be displaced and

the scale of the impact on receiving districts.

CFEC must complete a proper optimum numbers study for the S04H fishery before any consolidation framework is finalized. Proceeding without it violates the statutory mandate of AS 16.43 and the constitutional property rights of permit holders under *Isakson v. Rickey* (Alaska 1978).

2. NO OPTIMUM NUMBERS OR IMPACT STUDIES FOR ANY RECEIVING DISTRICT

This is the second foundational deficiency. HB 117 creates a sealed new administrative area for the East Side Upper Subdistrict. Permit holders who do not qualify for the new area retain valid S04H permits, which currently allow registration in one of three Cook Inlet areas: (1) the Upper Subdistrict of the Central District, (2) the Northern District, or (3) all remaining areas of Cook Inlet known as Greater Cook Inlet. Displaced permit holders would migrate to the Northern District or Greater Cook Inlet. No optimum numbers study, no stock impact analysis, and no receiving district capacity assessment has been conducted for any of the areas that would absorb displaced permits, including:

- The Northern District, including the Susitna Section and the Nikiski and Kenai Section
- The Western District and Kustatan areas
- The Southern District, including the English Bay and Port Graham areas
- The Kalgin Island area and surrounding subdistricts of the Central District
- The Greater Cook Inlet registration area as a whole

Without these studies, CFEC cannot determine how many displaced S04H permits would migrate to each area, what additional harvest pressure those permits would create on stocks already shared with commercial drift gillnet, sport, personal use, and subsistence fisheries, whether existing fish populations in those areas can sustain additional commercial effort, or whether the presence of additional permits would trigger conservation-driven closures and restrictions that harm all existing users in those districts. These studies must be completed before any consolidation framework that displaces permit holders is finalized.

3. NORTHERN DISTRICT IS ALREADY IN CONSERVATION CRISIS AND CANNOT ABSORB DISPLACED PERMITS WITHOUT ANALYSIS

The Northern District is the most likely receiving area for displaced ESSN permit holders and is simultaneously under the most severe conservation stress in its documented history. The following facts are confirmed by ADF&G; emergency orders, public announcements, and federal regulatory findings:

- Zero Northern Cook Inlet Management Area king salmon spawning escapement goals were attained during 2023, areawide. This triggered the most sweeping Upper Cook Inlet sport king salmon fishing closures in over 50 years, including complete closure of sport king fishing in Units 1-6 of the Susitna River drainage and the Little Susitna River from May through July 2024.
- The Deshka River king salmon forecast for 2024 predicted an exceptionally low run due to expected poor returns of 4 and 5 year old fish. Even without any directed fishing, the run was forecast below the sustainable escapement goal of 9,000 to 18,000 fish.
- Northern Cook Inlet coho salmon harvest was closed for three consecutive years by emergency order in 2023, 2024, and 2025. Even after commercial and sport fishery restrictions and harvest closures during all three years, weir counts at the Deshka River and Little Susitna River appeared inadequate to meet state escapement goals.
- In 2026, Northern Cook Inlet coho returns are forecast to be as poor as 2023 through 2025, and additional restrictions are under active consideration.

- The Susitna and Yentna River sockeye salmon stocks were declared a State Stock of Concern in 2008 after repeated failures to meet escapement goals.
- Under federal reference points, overfishing occurred on other sockeye salmon in 2008 and on Cook Inlet coho salmon in 2013. Both of these stock complexes have substantial components originating from the Northern District, as documented in the NOAA Amendment 16 Final Rule published April 30, 2024.
- State management measures restricting drift gillnet effort in Cook Inlet EEZ late July waters began in 2015 specifically to protect Northern District origin stocks. Overfishing is not thought to have occurred on any stock since those restrictions began, demonstrating that the Northern District stocks are sensitive to harvest pressure and require active management restraint to remain viable.

Introducing displaced ESSN commercial set gillnet permits into the Northern District without optimum numbers analysis, without stock impact study, and without assessment of cumulative harvest across all user groups would add commercial fishing pressure to stocks that are already failing to meet escapement goals under current restricted harvest levels. This is not a speculative risk. The historical record confirms that these stocks overfished when harvest was less controlled. The conservation consequences of displacing additional permits into this district without prior study could be severe and irreversible.

4. KALGIN ISLAND AREA AND EEZ INTERACTION RISKS

The Kalgin Island area and surrounding waters present a distinct additional concern. Set gillnet operations near Kalgin Island are geographically proximate to the Cook Inlet EEZ area managed under NOAA Amendment 16, which runs south from Kalgin Island to approximately Anchor Point. An increase in state-water commercial set gillnet effort near Kalgin Island without optimization analysis could interact with federal fishery management in ways that have not been evaluated. If increased state-water harvest reduces Chinook or coho salmon availability below federal reference points, NOAA may be required to reduce the federal TAC for the drift gillnet fishery operating in the EEZ, creating a regulatory cascade that affects the entire Cook Inlet commercial salmon industry. This interaction risk has not been studied and cannot be assessed without the optimum numbers and impact studies identified in this comment.

5. POLITICAL AND USER GROUP CONFLICT IN RECEIVING DISTRICTS

Cook Inlet is one of the most intensively used salmon fisheries in Alaska, with multiple user groups competing for the same stocks in each district. An influx of displaced commercial set gillnet permits into any district would intensify this competition and create predictable political and management consequences:

- Sport fisheries in receiving districts would face additional pressure to absorb conservation burden from increased commercial harvest, as has repeatedly occurred when escapement goals are not met. Northern Cook Inlet sport king and coho fisheries have been subject to emergency closures for three consecutive years precisely because of this dynamic.
- Subsistence fisheries that depend on the same stocks targeted by commercial set gillnet operations in the Northern and Western Districts would face increased competition from newly arrived permit holders with no established historical presence in those management areas.
- Existing commercial permit holders registered in receiving districts would face new competitors for the same resource, reducing their per-permit earnings and potentially triggering buyback or restriction demands for those districts as well.
- Alaska Native tribes and communities in Northern Cook Inlet, who have already expressed conservation concerns about management measures that prioritize commercial fishing over subsistence access, would face increased commercial pressure on stocks they depend on for cultural and subsistence purposes.

6. FISH TRAP PROHIBITION AND CFEC RC022 LEGAL DEFECTS ARE UNRESOLVED

A formal DOL legal opinion request on whether the Gabriel set beach seine system constitutes a prohibited fish trap under Alaska Constitutional Ordinance No. 3 and AS 16.10.100 was submitted to the Attorney General on May 8, 2026, distributed simultaneously to CFEC, DNR, ADF&G; Commissioner, BOF, and the House Fisheries Committee. AS 16.10.070 makes operation of a fish trap a criminal misdemeanor. CFEC cannot facilitate implementation of an administrative area built around gear that may be constitutionally prohibited as a fish trap. The DOL opinion must be obtained before implementation proceeds.

Additionally, CFEC's own official written comments (RC022, April 6, 2026) identified four specific legal barriers to lawful implementation of Proposal 192 before the Board voted, including that mandating a gear switch may constitute creation of a new fishery requiring formal limitation proceedings under AS 16.43 that were never conducted, and that conditioning gear authorization on DNR lease characteristics has no basis in the Limited Entry Act. None of these barriers have been formally resolved. CFEC proceeding to implement an administrative area around Proposal 192 before resolving its own identified legal defects is inconsistent with CFEC's statutory obligations.

7. PC70 WAS FILED BY A REVOKED NONPROFIT

KPFA filed Public Comment PC70 on April 29, 2026, which shaped the regulatory language of Proposal 192 that HB 117 is designed to implement. It has been confirmed through the IRS Tax Exempt Organization public database at apps.irs.gov that KPFA's 501(c)(6) nonprofit status was revoked in 2023 for failure to file required returns. KPFA represented itself as a valid 501(c)(6) membership organization in PC70. That representation was false. The regulatory record underlying the 4-2 BOF vote includes a submission that misrepresented the submitter's legal status. Additionally, no membership vote was taken on PC70, and the Kenai/Soldotna Advisory Committee representing KPFA's membership community voted 0-13 against Proposal 192. CFEC should not treat PC70 as valid stakeholder input from a legitimate membership organization.

8. FEASIBILITY NUMBER IN THE RECORD IS INCORRECT

KPFA leadership stated at the August 2026 KPFA general membership meeting that CFEC had determined approximately 200 permits were feasible on the East Side. This figure is incorrect and was corrected on the record at that meeting. The most recent legislative feasibility analysis used as the basis for ESSN buyback legislation supports 100 to 110 permits as the correct feasibility figure. The administrative record must reflect the accurate number. Using an inflated figure of 200 dramatically understates the number of permit holders who would be displaced and the scale of the receiving district impact that must be studied before any consolidation framework is finalized.

9. DISPLACED PERMIT HOLDERS HAVE NO PATHWAY, CONSTITUTIONAL PROPERTY RIGHTS

The HB 117 implementation framework as described provides no answer to where permit holders who do not qualify for the new administrative area can fish their S04H permits. S04H permits are constitutionally protected property interests under *Isakson v. Rickey* (Alaska 1978). Permit holders cannot be involuntarily displaced from a fishery without a lawful process that addresses their constitutional property rights. Directing those permit holders into receiving districts that are already under conservation stress, without optimum numbers studies, without stock impact analysis, and without assessment of cumulative harvest pressure, does not constitute a lawful or constitutionally adequate pathway. It merely transfers the harm from the ESSN administrative area to the Northern District and Greater Cook Inlet, placing already-stressed salmon stocks and existing fishery users in those areas at additional risk.

10. WRITTEN COMMENT ONLY PROCESS IS PROCEDURALLY INADEQUATE

A CFEC meeting that implements a new administrative area affecting the constitutional property rights of 432 permit holders, determines permit feasibility numbers without a completed optimum numbers study, and sets in motion a January consolidation process that will determine who stays and who is forced to leave, should not proceed on written comment only without oral public testimony. The complexity and magnitude of the issues identified in this comment cannot be adequately addressed through written submissions alone. The affected permit holder community spans the entire Cook Inlet coast from Ninilchik to Boulder Point and includes fishermen from areas that would be significantly impacted as receiving districts. All of those voices deserve to be heard before irreversible implementation decisions are made.

11. PENDING LITIGATION

I have an active lawsuit pending in the Third Judicial District at Anchorage directly challenging Proposal 192 and all related implementation proceedings. I respectfully request that CFEC suspend implementation of the HB 117 administrative area framework pending: (a) a formal DOL determination on whether the Gabriel beach seine system constitutes a prohibited fish trap under AS 16.10.100, AS 16.10.070, and Alaska Constitutional Ordinance No. 3; (b) completion of DOL review of implementing regulations as required by CFEC RC022; (c) completion of a proper CFEC optimum numbers study for the S04H fishery under AS 16.43.290; (d) completion of optimum numbers and stock impact studies for the Northern District, Western District, Southern District, Kalgin Island area, and Greater Cook Inlet registration area; and (e) resolution of the pending litigation in the Third Judicial District at Anchorage. Implementation that creates irreversible facts on the ground before these studies are complete and before the court can act causes irreparable harm to 302 or more ESSN permit holders and to the fishing communities, user groups, and salmon stocks in every district that would receive displaced permits.

I am available to provide any additional documentation and respectfully request the opportunity to be heard on these issues before any implementation decision is made.

Respectfully submitted,

Russell Clark

 H-58304

Date: August 03, 2026

Sources: AS 16.43 Limited Entry Act | AS 16.43.290 Optimum Numbers | CFEC Report 19-7N (November 2019) | CFEC FY2027 Budget Submission | ADF&G; Northern District 2024 Emergency Orders | ADF&G; Little Susitna River King Salmon Closure 2024 and 2025 | NOAA Amendment 16 Final Rule (April 30, 2024) | Deshka and Little Susitna River coho closure documentation 2023-2025 | CFEC RC022 (April 6, 2026) | Clark AG Fish Trap Filing (May 8, 2026) | Isakson v. Rickey (Alaska 1978)

RUSSELL CLARK

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

August 04, 2026

TO: Commercial Fisheries Entry Commission**COMMISSIONER WELCH:** tracy.welch@alaska.gov**COMMISSIONER GREEN:** rick.green@alaska.gov**COPY:** Jennifer Findley, jennifer.findley@alaska.gov, (907) 790-6940**COPY:** DFG.CFEC.PublicQuestions@alaska.gov**MAIL:** P.O. Box 110302, Juneau, AK 99811 | 8800 Glacier Highway, Suite 109, Juneau, AK

[REDACTED]

RE: Formal Notice of Conflicts of Interest in HB 117 Administrative Area Implementation | DNR July 2026 Ruling | S04H Permit Holder and Party to Pending Litigation

Dear Commissioners Welch and Green:

I am the holder of CFEC Limited Entry Permit No. S04H-58304 and a pro se plaintiff in Clark et al. v. State of Alaska et al., pending in the Third Judicial District at Anchorage, which directly challenges Proposal 192 and all related implementation proceedings including the HB 117 East Side Upper Subdistrict administrative area framework. I write to formally place on the CFEC record information regarding conflicts of interest held by parties who have been active participants in the regulatory proceedings CFEC is implementing, and to advise CFEC of a July 2026 DNR ruling that directly affects the legal basis of the beach seine access framework CFEC is being asked to implement. All statements in this letter are based on publicly available government records, official BOF and ADF&G; administrative filings, and events I personally witnessed and documented.

1. THE DNR JULY 2026 RULING, FUNDAMENTAL IMPACT ON THE FRAMEWORK CFEC IS IMPLEMENTING

In July 2026, the Alaska Department of Natural Resources issued a ruling that DNR shore fishery leases do not give lease holders a preferred right or exclusive access to beach seine on their lease sites during the Stock of Concern period. This ruling is directly relevant to what CFEC is being asked to implement.

DNR shore fishery leases are set net leases. They remain fully in force for set net operations. DNR has waived lease fees during announced season closures as a standard accommodation when set netting cannot be operated. The ruling addresses a specific and narrow question: whether a set net shore fishery lease converts into a beach seine preference right when the Board of Fisheries substitutes beach seine gear under the Stock of Concern plan. DNR's answer is no.

This ruling is critical to CFEC's proceedings for the following reasons:

- The regulatory language of 5 AAC 21.382 as amended by Proposal 192 conditions beach seine access on AS 38.05.082 DNR shore fishery lease sites. DNR has now ruled that those leases do not authorize the

beach seine preference the regulation assumes. The foundational premise of the access framework CFEC is implementing has been rejected by the agency that administers the leases the framework is built on.

- Board of Fisheries members stated at the May 1, 2026 special webconference that the beach seine gear substitution applies only during the Stock of Concern plan. DNR's ruling is consistent with that statement, the leases authorize set netting, and when set netting is restored the leases return to full operation. The consolidation process described under HB 117, which would permanently determine who stays in the administrative area and who is displaced, treats what BOF characterized as a temporary SOC measure as a permanent restructuring. That inconsistency is directly relevant to CFEC's implementation authority.
- My objection letter to DNR dated May 6, 2026, which identified this precise legal problem, was validated by the July 2026 ruling. That letter was filed before the BOF voted. DNR reversed its earlier position based on that objection.
- CFEC RC022, dated April 6, 2026, independently identified that conditioning gear authorization on DNR lease characteristics has no basis in AS 16.43. The DNR ruling confirms there is no DNR-based authorization for the preference either. Both the administering agency for the leases and CFEC's own prior analysis have identified the same legal problem from different directions.

2. DOCUMENTED CONFLICTS OF INTEREST IN THE REGULATORY RECORD

The following facts are matters of public record that I respectfully bring to CFEC's attention:

- Brian Gabriel holds DNR shore fishery lease ADL 78916 in the Cook Inlet Upper Subdistrict. Lisa Gabriel holds DNR shore fishery lease ADL 78915 in the same area. These are confirmed public records in the DNR Shore Fishery Leasing Program. Beach seine access under Proposal 192 is conditioned on AS 38.05.082 DNR shore fishery lease sites. The Gabriels' specific lease sites would benefit from the regulatory language that was adopted, language that DNR has now ruled does not give the preference the regulation assumes.
- Brian Gabriel and Lisa Gabriel filed Public Comment PC80 with the Board of Fisheries on April 29, 2026, through their commercial entity Alaska Blue Harvest Seafoods, identifying themselves as the original developers and testers of the beach seine gear that Proposal 192 authorizes. This is in the official BOF public comment record.
- The Kenai Peninsula Fishermen's Association filed Public Comment PC70 with the Board of Fisheries on April 29, 2026, proposing substitute regulatory language tying beach seine access to AS 38.05.082 DNR shore fishery lease sites. Lisa Gabriel is a KPFA board member and employee. KPFA's IRS 501(c)(6) nonprofit status was revoked in 2023 for failure to file required returns, confirmed through the IRS Tax Exempt Organization Search public database at apps.irs.gov. KPFA represented itself as a valid 501(c)(6) organization in PC70. That representation was false.
- Brian Gabriel was a member of the Alaska Bycatch Advisory Council during the period in which Proposal 192 was developed, filed, and adopted. His simultaneous service on a state advisory body and active advocacy for a regulation directly benefiting his own DNR lease sites has been documented in formal ethics complaints filed with the Alaska Personnel Board and the Attorney General.
- At the KPFA 2026 Annual Meeting on August 1, 2026, Lisa Gabriel publicly announced that the Eastside Consolidation Association would participate in decisions on permit reduction under HB 117 and identified herself as one of its officers. She did not disclose that Brian Gabriel was placed on the Eastside Consolidation Association board following BOF approval of Proposal 192, as a replacement for Kenneth Coleman who had passed away. The Eastside Consolidation Association that will participate in HB 117 permit reduction decisions therefore includes both Brian and Lisa Gabriel, both of whom hold the DNR shore fishery leases whose value is directly affected by the HB 117 decisions that association will

participate in making.

- Lisa Gabriel stated publicly at the same meeting that DNR had reversed its position on beach seines on DNR lease sites. This confirms the July 2026 DNR ruling was known to the parties who drafted PC70 and who are now participating in the Eastside Consolidation Association's role in HB 117.

3. WHAT I ASK CFEC TO DO

- Treat the DNR July 2026 ruling as a development that fundamentally undermines the lease-based access structure CFEC is being asked to implement and suspend HB 117 administrative area implementation proceedings pending resolution of this conflict between the DNR ruling and the regulatory language of Proposal 192.
- Require that any party submitting comments to CFEC on the HB 117 administrative area implementation disclose any DNR shore fishery leases they hold in the affected area, any financial interest they have in the outcome of the proceeding, and any official positions they hold on the Eastside Consolidation Association or any other body participating in permit reduction decisions.
- Confirm whether the Eastside Consolidation Association is a properly constituted body with appropriate authority to participate in permit reduction decisions under AS 16.43 and whether its officers have disclosed their financial interests in the outcome of those decisions.
- Suspend implementation of the HB 117 administrative area framework pending: (a) resolution of the conflict between the Proposal 192 regulatory language and the DNR July 2026 ruling; (b) completion of a proper CFEC optimum numbers study for the S04H fishery under AS 16.43.290; (c) completion of receiving district impact studies for all districts that would absorb displaced permits; and (d) resolution of pending litigation in the Third Judicial District at Anchorage.

4. BASIS FOR THIS NOTICE

Every factual statement in this letter is based on: official BOF public comment records (PC70, PC80); DNR shore fishery lease public records (ADL 78915, ADL 78916); the IRS Tax Exempt Organization Search public database confirming KPFA revocation; CFEC RC022 (April 6, 2026); the DNR July 2026 ruling; or events I personally witnessed at the KPFA 2026 Annual Meeting on August 1, 2026. I am prepared to provide supporting documentation for any statement in this letter upon request and respectfully request that this letter be included in the official CFEC record for the HB 117 administrative area implementation proceedings.

Respectfully submitted,



Russell Clark

CFEC Permit No. S04H- [REDACTED]

[REDACTED]

[REDACTED]

Date: August 04, 2026

[REDACTED]

Sources: BOF Official Record PC70 and PC80 | DNR Shore Fishery Leasing Program public records ADL 78915 and ADL 78916 | IRS Tax Exempt Organization Search database apps.irs.gov | CFEC RC022 April 6, 2026 | DNR July 2026 Ruling | Clark DNR Objection Letter May 6, 2026 | KPFA 2026 Annual Meeting contemporaneous notes August 1, 2026 | Clark et al. v. State of Alaska et al., Third Judicial District at Anchorage

Russell Clark
CFEC Permit No. S04H- [REDACTED]

Jennifer Findley, Law Specialist
Commercial Fisheries Entry Commission
P.O. Box 110302
Juneau, Alaska 99811
dfg.cfec.publicquestions@alaska.gov

August 29, 2026

RE: Addendum to Public Comment -- Proposed Regulation 20 AAC 05.230(a)(1)(A) (DOL File No. 2026200313) -- New East Side Set Net Administrative Area

Original Comment Submitted: August 2, 2026

Dear Ms. Findley and Members of the Commission:

This addendum supplements the public comment I submitted on August 2, 2026 regarding the proposed regulation establishing the new East Side Set Net administrative area as exclusive to gear type 04, set gillnet. Several matters arising after submission of my original comment warrant the Commission's attention before the final regulation is adopted.

I. CFEC Commissioner Green's August 20, 2026 Public Statements

On August 20, 2026, National Fisherman published an article by Paul Molyneaux titled 'Sorting out the new administrative district in Cook Inlet,' which included direct quotations from CFEC Commissioner Rick Green. These statements are now part of the public record and are directly relevant to this rulemaking.

Commissioner Green stated: 'As far as I know, we have never done either one. We haven't issued new permits, and we've never done a buyback. Most of our work is overseeing the transfer of permits and tracking the economics of limited entry and interim use fisheries.'

On the possibility of a buyback for the new east side area, Commissioner Green stated: 'They have their own administrative district now. And it wouldn't surprise me if they were looking for a buyback. But they would have to find the funding for that.'

These public statements by the Commissioner confirm three points central to my original comment. First, CFEC has never administered a buyback program, which reinforces the urgent need for CFEC to coordinate with ADF&G and the administration on Section 312(a) disaster relief spend plan development before the optimum number determination process begins. Second, the Commissioner publicly confirms that the new administrative area is the necessary foundation for any future buyback consideration, consistent with the statutory chain under AS 16.43.100(9) and AS 16.43.310 and 16.43.320. Third, the Commissioner's statement that the fleet would have to find the funding confirms that no buyback is imminent and that the gap between structural authority and funded implementation is the central risk for East Side permit holders following passage of HB 117.

The Commission should incorporate the August 20, 2026 National Fisherman article into the administrative record for this rulemaking as a public statement by Commissioner Green bearing directly on the implementation questions raised in my original comment. Commissioner Green is also identified as Chair of the Commission in official CFEC documents including RC022.

II. The Dual and Multiple Permit Holder Problem

The National Fisherman article and the Commission's proposed regulation raise a question my original comment did not address but which the Commission must resolve before the final regulation is adopted: how will the qualifying and reassignment provisions apply to permit holders who hold more than one S04H entry permit?

The qualifying determination per permit vs. per holder. Section 6(a) of HB 117 is structured around the individual: 'an individual holding an entry permit' who provides proof of participation. Where an individual holds two S04H permits, the statute does not specify whether proof of east side participation qualifies all permits held by that individual, or whether each permit must independently satisfy the five-year participation requirement. CFEC should publish guidance on this interpretation before January 1, 2027. Under CFEC regulations, a permit holder with two S04H permits must register both permits in the same administrative area. A holder cannot register one permit in the east side statistical areas and the other elsewhere. This means dual permit holders either qualify both permits for the new area or neither. If the holder fished the east side under both permits, both qualify. If participation documentation is insufficient for one, both are at risk of defaulting to the broader Cook Inlet administrative area. CFEC should clarify in its published guidance how the five-year qualifying window applies to dual permit holders and whether documented participation under one permit satisfies the requirement for both when they must be registered together.

Multiple permits and concentration of access under Proposal 192. Proposal 192 does not specify how many beach seines a dual permit holder may operate. CFEC's own

RC022 flagged this as a legal defect, noting that since permit holders may hold up to two permits and may lease up to two DNR sites in Cook Inlet, the proposal could allow up to two complements of gear for some individuals -- an outcome RC022 identified as directly contrary to the intent and structure of the Limited Entry Act. A holder of two S04H permits could potentially operate two beach seines simultaneously, giving them twice the effective capacity of a single permit holder. This compounds the concentration problem identified in my original comment. The Commission should address whether the gear type 04 exclusive designation in the proposed regulation eliminates this concern under the set gillnet framework, and whether it would re-emerge if Proposal 192's beach seine authorization were ever upheld and ratified by CFEC.

The optimization study and multiple-permit concentration. Commissioner Green's public statements confirm CFEC will conduct an optimization study once the new area is established. When CFEC determines the optimum number of permits for the new area, the economic analysis must account for the concentration of multiple permits in single hands. A permit holder with two S04H permits accounts for two permits against the optimum number but represents one fishing operation. CFEC's optimization methodology should treat permit concentration as a relevant factor, not merely the raw count of outstanding permits, to avoid setting an optimum number that still permits significant concentration in few hands.

The buyback price per permit for multiple-permit holders. Prior buyback legislation established \$260,000 per permit as fair value, calculated from average gross revenue per permit over ten years. A permit holder with two S04H permits who retires both would receive \$520,000 under that formula. The per-permit calculation may produce inequitable outcomes if multiple-permit holders receive a price per permit that exceeds the marginal value of each additional permit in a single operation. The Commission should evaluate whether the optimization study methodology should address multi-permit holder concentration and whether the buyback price structure should be calibrated accordingly.

Household-Level Permit Concentration: The Family Fishing Unit Problem.

HB 117 does not address permit concentration at the household level, and the Commission's proposed regulation and optimization study framework must do so. In the east side set net fishery, many fishing operations are structured as family businesses in which husband, wife, and adult children each hold individual S04H permits. Each individual is subject to the two-permit maximum, but a household unit of four family members each holding two permits could collectively control eight S04H permits. More commonly, a husband and wife each holding two permits represents a household controlling four permits, with children who also participate in the fishery holding additional permits.

Under the individual permit framework of the Limited Entry Act, each permit is counted separately and each holder's rights are individual. But the **practical effect** of household-level aggregation under Proposal 192's beach seine framework, if ratified, is that a small number of family fishing units could control a disproportionate share of viable beach seine operations. A household controlling four permits and holding DNR lease sites that cover sufficient beach frontage could run four beach seine operations simultaneously -- or rotate

gear across multiple sites -- while a single-permit non-lease holder cannot fish at all. The Alaska Board of Fisheries' own board member estimated that only 35 to 45 permit holders out of 442 can participate under the current beach seine framework. If a significant share of those 35 to 45 positions are controlled by a handful of related family units each holding multiple permits, the practical concentration of commercial fishing access is even narrower than the raw permit count suggests.

This is not a hypothetical concern. The east side set net fishery has historically been a multi-generational family fishery. Permit transfers within families are common and are specifically accommodated by HB 117's Section 6(c) immediate family member qualifying provision. That same structure means family units with long participation histories will be best positioned to qualify multiple permits for the new area. CFEC's optimization study must account for household-level permit aggregation as a distinct concentration factor. An optimum number determination based solely on individual permit counts without accounting for how those permits are distributed across family units could set a floor that still allows a handful of households to dominate the fishery's viable commercial access.

The buyback economics compound this concern. Prior buyback legislation established \$260,000 per permit. A household controlling four permits that retires all four receives \$1,040,000 under that formula. A single-permit holder who cannot fish under Proposal 192 and cannot afford to wait years for a funded buyback receives \$260,000 if and when the program materializes. The per-permit formula does not account for the fact that the household with four permits may have been generating revenue from all four under the prior set gillnet framework, while the single-permit holder in the same conditions generated the same revenue from one. The Commission should evaluate whether the optimization study and any eventual buyback program should apply household-level analysis to permit concentration to ensure the program achieves genuine fleet rationalization rather than a consolidation of commercial opportunity within a small number of family fishing enterprises.

III. The Latent Permit Distinction and Recently Transferred Active Permits

Permit holder Lisa Gabriel is quoted in the August 20 National Fisherman article as noting that HB 117 includes mechanisms to prevent holders of latent permits from entering the new area to capitalize on a potential buyback. This is an important protection, but CFEC must be precise about the distinction between latent permits and recently transferred active permits.

A latent permit is one that has historically never been fished or has been inactive for an extended period -- the holder never participated in the east side fishery and cannot prove participation. The five-year qualifying window in Section 6(a) of HB 117 correctly excludes such permits from the new area.

A recently transferred active permit is fundamentally different. During 2024 and 2025, many east side permit holders sold their permits under financial duress. The buyers in those transactions were acquiring permits with documented east side participation histories in CFEC's gross earnings database. These are not latent permits seeking to

capitalize on a buyback. They are active permits that changed hands between willing sellers and buyers at distressed market prices, in a fishery where the permit's value was already severely diminished by the regulatory conditions this rulemaking seeks to address.

CFEC must distinguish clearly between these two categories in its reassignment guidance. Treating recently transferred active permits the same as historically latent permits would compound the harm already suffered by buyers who paid for permits with documented east side participation histories. The Commission's gross earnings database contains the participation history needed to make this distinction accurately. CFEC should publish formal guidance confirming that the documented east side participation history of a permit -- as recorded in CFEC's own database -- constitutes satisfactory proof of participation for a current permit holder who acquired the permit through a non-family transfer, and that this protection does not extend to permits with no documented east side participation history at any point in time.

IV. Regulatory Closure Is Not Voluntary Non-Use: The Latent Permit Standard Cannot Apply to a Closed Fishery

The latent permit concern the Commission must address goes beyond the category of recently transferred active permits. It extends to every S04H permit holder who was unable to fish during the qualifying window because the fishery was legally closed or effectively closed by BOF regulations -- regardless of whether they transferred their permit to anyone.

The standard definition of a latent permit under Alaska limited entry law is a permit whose holder has made no bona fide use for an extended period by **voluntary choice**. CFEC's active participation authority under AS 16.43.640 has historically been directed at permit holders who chose not to fish -- not at permit holders who could not fish because a state agency closed their fishery. The legal distinction between voluntary non-use and regulatory non-use is fundamental and well-established. An agency cannot penalize a permit holder for non-participation that the agency itself mandated.

The ESSN fishery had zero commercial openings in 2024. In 2025 there were two eight-hour periods. From 2020 through 2024 the fishery was under extreme restriction or full closure under the Kenai River Late-Run King Salmon Stock of Concern Management Plan. A permit holder who produced no fish tickets during that period was not voluntarily absent from the fishery. They were legally prevented from fishing by BOF regulations adopted over ADF&G's own biological recommendations and over the objections of both relevant advisory committees. Their non-participation is the direct and documented result of state regulatory action, not permit latency.

This has a direct consequence for HB 117's five-year qualifying window. A permit with decades of documented east side participation followed by four or more years of regulatory closure looks identical on paper to a historically latent permit that was never fished in the east side statistical areas. CFEC must not treat them identically. A permit whose participation history in CFEC's gross earnings database shows documented east

side fishing prior to the closure years, followed by a gap that corresponds precisely to the period of BOF-mandated closures, is not a latent permit. It is an active permit in a regulated-closed fishery. Treating it as latent for qualification purposes would be legally indefensible and would expose CFEC to the same takings arguments that apply to any forced removal of a recognized property right without compensation.

CFEC's gross earnings database contains the full participation history of every S04H permit going back to the inception of the limited entry program. The Commission has the data needed to make this determination accurately and should not require permit holders to overcome a latency presumption that the regulatory record itself disproves. The Commission should publish formal guidance before January 1, 2027 confirming that a permit whose participation gap corresponds to the period of BOF-mandated closures from 2020 through 2024 will not be treated as latent for purposes of the HB 117 qualifying determination, and that the Commission will review the full permit participation history -- not only the five-year window -- in making its reassignment decisions.

Every permit holder who was unable to fish during the closure years should request a complete participation history printout for their permit number from CFEC immediately and submit it as qualifying documentation before January 1, 2027. The five-year window sets the statutory threshold, but CFEC's interpretation of what satisfies that threshold in a regulated-closed fishery has not yet been published. Permit holders should not wait for that guidance before gathering and submitting their documentation.

V. What the August 20 Article Does Not Address

The National Fisherman article presents the new administrative area entirely from the perspective of permit holders who can participate under the current regulatory framework. It does not address the regulatory conflict between the Commission's proposed set gillnet exclusive designation and BOF Proposal 192's beach seine authorization, the DNR Shore Fishery Leasing Program's July 23, 2026 formal determination that shore leases grant priority rights for set gillnet gear only, the pending Preliminary Injunction motion in *Clark et al. v. State of Alaska* (Case No. 3KN-26-00515CI) challenging Register 258 on grounds that include the Commissioner's own ratification condition not having been satisfied, or the CFEC ratification vote of June 4, 2026 in which CFEC voted 1-1 and declined to ratify beach seines as authorized gear for S04H permits.

The article accurately describes the sequence Commissioner Green and permit holder Gabriel outline for the new area's implementation. That sequence -- permits settled, optimization study, fleet vote, funding -- is the correct process. What the article does not reflect is that the gear authorization governing the new area during that process is in active legal dispute, that CFEC's own proposed regulation designates the area as set gillnet exclusive, and that three Alaska state agencies have now issued determinations that together make Proposal 192's beach seine authorization effectively unimplementable in its current form.

The Commission's adoption of the proposed set gillnet exclusive designation would resolve the regulatory uncertainty the article does not address, provide a stable gear

authorization framework within which the optimization study and fleet consultation can proceed, and avoid implementing a new administrative area whose primary alternative gear authorization is subject to active challenge on constitutional, statutory, administrative, and ethical grounds.

VI. The August Fishing Exclusion and Fishery Viability

Proposal 192 eliminated all August commercial set gillnet windows for the Upper Subdistrict East Side Set Net fishery. This has direct consequences for any viability determination CFEC must make in its optimization study. August has historically been the primary production month for the ESSN fleet, coinciding with the peak sockeye migration and the period when the fishery generates the majority of its annual exvessel value. The significance of that loss is demonstrated by the 2025 season: under the prior regulatory framework, the ESSN fished only two eight-hour periods in August after the recovery goal was barely met on August 4, harvesting seven king salmon on fish tickets while other commercial fisheries generated \$36.4 million in exvessel value from the largest Kenai River sockeye run on record at 12.1 million fish. Even in the best recent season, August access produced only two periods and minimal harvest. Under Proposal 192, even those two periods no longer exist. All August commercial set gillnet access has been eliminated entirely for 2026 and beyond. The optimization study will therefore be conducted against a baseline that excludes the fishery's most productive month. A viability determination made without August access does not measure what the ESSN fishery is worth -- it measures what it is worth with its most productive month removed by regulatory action. That is not a neutral baseline for an economic analysis. CFEC must ensure its optimization methodology accounts for the fishery's historical August productivity and does not use Proposal 192's August exclusion as a proxy for the fishery's inherent economic capacity.

I respectfully ask that this addendum be incorporated into the administrative record for this rulemaking alongside my original comment of August 2, 2026. I remain available to answer questions at the Commission's request.

Respectfully,



Russell Clark

CFEC Permit No. S04H- [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

cc: Alaska Board of Fisheries Boards Support (dfg.bof.comments@alaska.gov) | ADF&G Commissioner's Office (douglas.vincent-lang@alaska.gov) | DNR Shore Fishery Leasing Program (meghan.wolfe@alaska.gov) | Department of Law (DOL File No. 2026200313) | Senator Cathy Giessel (Senator.Cathy.Giessel@akleg.gov) | Representative Louise Stutes (Representative.Louise.Stutes@akleg.gov) | United Cook Inlet Drift Association (info@ucida.org) | Kenai Peninsula Fishermen's Association (kpfa@alaska.net) | Alaska Congressional Delegation | Retained Counsel

To: Tracy Welch, CFEC Commissioner

Re: Proposed regulation changes (ESSN stat areas tied to super exclusive fishery area- Oppose)

Date: August 31, 2026

Dear Commissioner Welch,

I adamantly oppose regulation changes to ESSN permit holders under Section 6 to reassign certain Cook Inlet Setnet Limited Entry permits for the following reasons:

1. Article VIII, section 2 of the Alaska Constitution provides General Authority.
 - a. General Authority: The Legislature **SHALL** provide for the utilization, development, and conservation of all natural resources belonging to the state.
2. Article VIII, section 3:
 - a. Common use, whenever occurring in their natural state; i.e. Fish, Wildlife, and Waters, are reserved to the people for common use.
3. Article VIII, section 4 provides sustained yield.
 - a. Sustained yield: Fish, forests, wildlife, grasslands, and all other resources belonging to the state **SHALL** be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses to all people.
4. This new regulation violates the Equal Protection Clause, Commerce Clause, the intent of the act itself; i.e. to provide a stable livelihood, and the opportunity for growth. Millions of fish have and continue to be wasted with no yield; i.e. surplus not harvested, and not once has the gross over-escapement been addressed. Nor have the future losses of yield for this fishery, i.e. harvestable surplus, been addressed pertaining to Commerce Clause.
5. This regulation is a bait and switch game resulting in all CFEC permits to become susceptible to this new regulation if not stopped. In turn, removing **ANY** and **ALL** value from the ESSN permits. How is this Equal Protection?
6. Hughes V Oklahoma, 441 U.S. 322,995 1979.
 - a. Ruled that state ownership of Fish and Wildlife is 19th century legal fiction. Therefore, this resource is held in public trust for all, including ESSN SO4H permit holders.
7. ESSN permit holders are now being required to reapply for a permit they already own. Plus, being required to give away all fishing rights, use of their property, equipment, gear, and fishing locations that would then become a Legislative taking. This is arbitrary and capricious in nature.

8. Who stands to gain?
 - a. Both Senator Peter Micciche, who started this as a buy back and owns a drift permit, and Senator Jesse Bjorkman, who is a UCI Drift dual permit holder.
 - b. This is a conflict of interest in the allocation of permits and Salmon stocks in Upper Cook Inlet.
 - c. This will allow both of those individuals to have the advantage to catch more fish thus increasing the value of their permits.
9. The actions by the Board of Fish and ADFG have been unchecked by an unbiased, independent, and outside review.
 - a. I.e. increasing the large fish goal for King Salmon to 15,000 to 30,000. Equal to the all fish goal of 15,000 to 30,000 which includes fish of **all sizes** of the **same stock** showing a 40% to 60% **increase!**
 - b. State statute requires the whole stock to be assessed not a portion.
 - c. There was also no meaningful public outreach of the whole ESSN permit holders.
10. Senator Jesse Bjorkman managed to get the regulation passed. Even though, Grunert V Alaska AK Supreme Court held that all permit holders in the Chignik Seine Fishery have the same rights to equal access within the fishery. Therefore, all setnet permit holders in Cook Inlet must be treated equally according to this ruling.

All of these points detail how the ESSN permit holders have been singled out with the condition being labeled as, “due to low King Salmon stocks”. However, we as a whole are the only fishery in the entirety of the state who have been completely shut down due to low King abundance numbers, providing us with zero opportunity to sustain our livelihoods at all. These entities and individuals listed above have grossly overstepped their bounds and left the ESSN permit holders to question whether they will ever fish again. Thus, these unchecked regulations and proposals have diminished the value of our permits and the only jobs we have ever known. Again, I ask, please do **NOT** pass this into CFEC regulations.

Sincerely,

Mark Ducker

Mark Ducker

SO4H permit holder, Stakeholder, and Owner/Operator

Kasilof, Alaska

Suzanne Ducker

Suzanne Ducker

SO4H permit holder and Stakeholder

Kasilof, Alaska

Brandon Ducker

Brandon Ducker

SO4H permit holder, Stakeholder, and Owner/Operator

Kasilof, Alaska

Brooklyn Ducker

Brooklyn Ducker

Stakeholder

Kasilof, Alaska



Outlook

HB 117

From Gary Hollier [REDACTED]

Date Sun 8/23/2026 10:39 AM

To DFG, CFEC PublicQuestions (DFG sponsored) <DFG.CFEC.PublicQuestions@alaska.gov>

[REDACTED]

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

I am a 73 year life long resident of Kenai, Ak.

I am a 55 year set net fisherman, that fishes in the Upper Subdistrict of Cook Inlet.

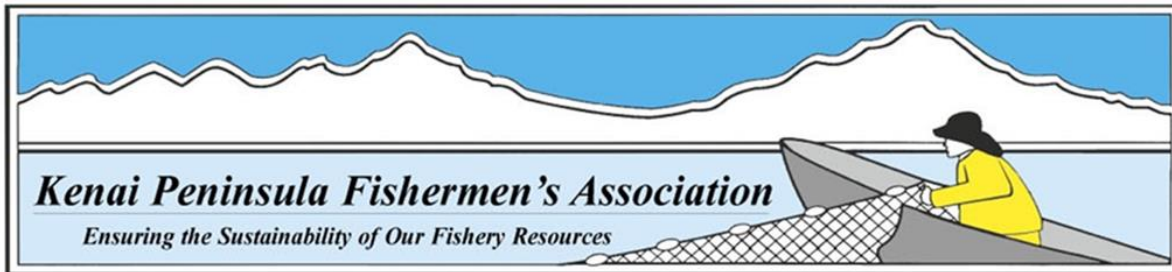
My family is a 4th generation, multi permit operation.

We totally support HB 117, that would make the ESSN fishery its own administrative area.

Thank you

Gary Hollier

Kenai Ak



43961 Kalifornsky Beach Road • Suite F • Soldotna, Alaska 99669-8276
(907) 262-2492 • Fax: (907) 262-2898 • E Mail: kpfa@alaska.net

August 26, 2026

Alaska Commercial Fisheries Entry Commission
Attn: Public Comment — Cook Inlet Set Net Administrative Area
Submitted via DFG.CFEC.PublicQuestions@alaska.gov

Re: Support for Establishment of the Cook Inlet Set Net Administrative Area (AS 16.43.200(c))

Dear Commissioners,

The Kenai Peninsula Fishermen's Association (KPFA) is a 501(c)(6) trade association representing commercial fishing families throughout the Cook Inlet region, including East Side Set Net (ESSN) permit holders. We write to express KPFA's strong support for the Commission's implementation of the new Cook Inlet set net administrative area established under AS 16.43.200(c), separating the ESSN fishery of the Upper Subdistrict, Cook Inlet Central District — from the broader Cook Inlet administrative area, and the associated permit renewal process under AS 16.43.150(c).

A Fishery Under Sustained Pressure

The ESSN fishery has been the subject of unprecedented regulatory scrutiny for decades, repeatedly targeted by allocative actions of the Alaska Board of Fisheries that have progressively constrained set net operations on the east side of Cook Inlet. This pressure culminated on May 1, 2026, when the Board of Fisheries voted to remove set nets from the Kenai River Late-Run King Salmon Stock of Concern Management Plan entirely, replacing the fishery's traditional gear with beach seines over the objections of ESSN permit holders and members of the Board itself. This action followed the 2023 closure of the fishery and further management restrictions adopted in 2024 that had already nearly foreclosed commercial set netting in the region. These are not isolated events but the outcome of a sustained, decades-long pattern of allocation decisions that has fallen disproportionately on ESSN permit holders and their families and communities on the Kenai Peninsula.

The severity of this impact is not anecdotal. The ESSN fleet has been the subject of eight federal fishery resource disaster declarations in the last nine years alone, and current indicators suggest 2026 is likely to mark a ninth. No other Cook Inlet fishery has experienced disaster designations with anything approaching this frequency. A fishery facing repeated federal disaster determinations at this rate is, by definition, in a fundamentally different economic and regulatory position than the broader Cook Inlet administrative area, and it should be managed and evaluated as such.

Why a Distinct Administrative Area Matters

Establishing the ESSN fishery as its own administrative area, distinct from the broader Cook Inlet administrative area, ensures that permit issuance, entry control, and related determinations affecting this fleet are evaluated on the basis of its own history, participation, and economic circumstances — rather than folded into decisions calibrated for a larger and dissimilar administrative area. Given the disproportionate impact of recent Board of Fisheries actions on the ESSN fleet specifically, this distinction is both appropriate and overdue. It provides a clearer basis for future management, entry, and any economic assistance decisions to reflect the fishery's actual condition.

The Kasilof Special Harvest Area Must Be Included

KPFA further asks that the statistical area encompassing the Kasilof Special Harvest Area (KSHA) or future defined statistical areas defined by regulation be included within the new Cook Inlet set net administrative area. The KSHA is fished under the same ESSN set gillnet permits, is subject to the same Kasilof River Salmon Management Plan and emergency order management, and is economically and operationally inseparable from the rest of the ESSN fishery. Omitting this statistical area, or future defined statistical areas from the new administrative area would fragment management of a single, interconnected fishery and undercut the very purpose of establishing a distinct administrative area for ESSN permit holders. The KSHA stat area should be defined consistent with the same December 31, 2024 boundary snapshot used for the other statistical areas in the new administrative area.

Requested Actions

KPFA respectfully asks the Commission to:

1. Proceed with implementation of the Cook Inlet set net administrative area as established by statute, using the December 31, 2024 boundary configuration (statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, 244-42);
2. Include the statistical area covering the Kasilof Special Harvest Area (244-25) within the new administrative area or any new statistical areas defined within its boundaries by regulation, consistent with its role as an integral part of the ESSN fishery;
3. Ensure the permit renewal and reassignment process is administered promptly, transparently, and with clear, accessible notice to affected permit holders regarding their status and any deadlines;
4. Provide a fair and accessible adjudication process for any permit holder who disputes their reassignment or exclusion, consistent with the appeal rights contemplated under the transition provisions; and
5. Keep KPFA and the ESSN fleet informed as implementing regulations are drafted, and provide adequate opportunity for public comment and hearings accessible to permit holders on the Kenai Peninsula.

KPFA appreciates the Commission's attention to this matter and stands ready to provide additional data — including fleet survey results and economic impact analysis — to support the Commission's work. We welcome the opportunity to discuss this further at the Commission's convenience.

Respectfully submitted,

Daniel Norman

President, Kenai Peninsula Fishermen's Association

Comments on New ESSN Administrative Area

From Lisa Gabriel [REDACTED]

Date Mon 8/31/2026 9:27 PM

To DFG, CFEC PublicQuestions (DFG sponsored) <DFG.CFEC.PublicQuestions@alaska.gov>

[REDACTED]

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioners Green and Welch:

We are holders of three SO4H limited entry setnet permits and have fished in Upper Cook Inlet for 40 years. We are writing in strong support of the Commission's implementation of the new Cook Inlet setnet administrative area established by HB 117 under AS 16.43.200(c) and the associated permit renewal process under AS 16.43.150(c).

We respectfully ask the Commission to focus on the legislation before it and implement what the Legislature has established in a clear, straightforward, and practical manner. The creation of a separate administrative area for the Cook Inlet setnet fishery provides a specific statutory direction. We believe the process should remain focused on carrying out that direction without adding unnecessary complexity or creating additional barriers for affected permit holders.

The ESSN fleet has been the subject of seven federal fishery resource disaster declarations in the last eight years alone, and 2026 will likely mark the ninth. No other Cook Inlet fishery has experienced disaster designations with this frequency. These repeated disasters demonstrate that the ESSN fishery is in a substantially different economic and regulatory position from the broader Cook Inlet administrative area and warrants separate consideration based on its own history, participation, and circumstances.

The new administrative area should also accurately reflect the fishery as it has historically operated. All statistical areas currently identified in existing fishery management plans, as well as any future statistical areas established by regulation within the boundaries of the ESSN fishery, should be included within the new administrative area.

We also ask that the implementation process provide affected permit holders with clear information and a fair opportunity to address any questions or disputes regarding their permits. Specifically, we respectfully request that the Commission:

1. Proceed with implementation of the Cook Inlet setnet administrative area as established by statute.
2. Include all statistical areas currently defined in the ESSN management plans within the new administrative area, along with any future statistical areas established by regulation within its boundaries.
3. Administer the permit renewal and reassignment process promptly and transparently, with clear notice to affected permit holders regarding their status, requirements, and deadlines.
4. Provide a fair and accessible process for adjudicating disputes involving permit reassignment or exclusion, consistent with the appeal rights contemplated under the applicable transition provisions.
5. Keep S04H Limited entry permit holders informed as implementing regulations are developed, with adequate opportunities for public comment and hearings accessible to permit holders.

After forty years of participating in this fishery, we believe the intent of the legislation is clear. The ESSN fishery has been recognized as a distinct administrative area, and the Commission's role is to put that decision into practice in a manner that is timely, transparent, and consistent with the statute.

The fleet has experienced significant economic hardship and substantial regulatory changes in recent years. We ask that this implementation provide clarity and certainty rather than create another layer of complexity for the permit holders directly affected.

Thank you for your consideration and for your work to implement this legislation. We respectfully request that the Commission move forward with the process without unnecessary delay or complication.

Sincerely,

Brian and Lisa Gabriel

August 31, 2026

Alaska Commercial Fisheries Entry Commission

Commissioner Rick Green, Chair

Commissioner Tracy Welch

P.O. Box 110302

Juneau, Alaska 99811-0302

RE: Public Comments on Proposed Regulations Implementing HB 117 — East Side Setnet Administrative Area

Chair Green and Commissioner Welch:

I am opposed to the creation of a new East Side Setnet administrative area under HB 117. I recognize that CFEC has been directed by the Legislature to implement the new administrative area. That being said, I believe it is important to place my objections on the record and urge CFEC to implement HB 117 narrowly, without imposing additional restrictions or qualification requirements beyond those enacted by the Legislature.

My primary concern is the precedent created by subdividing an existing limited-entry administrative area. Cook Inlet S04H permit holders have already qualified for permits authorizing participation throughout the Cook Inlet set gillnet administrative area. CFEC previously recognized that there were no restrictions on which district an S04H permit could be used to make landings. Where a permit holder historically chose to fish did not change the geographic authority of the permit.

HB 117 removes a portion of the existing administrative area and requires existing permit holders to establish a new qualification to retain access to that portion of the fishery. Those who do not qualify lose a fishing option previously available under a permit for which they had already qualified.

The implications extend well beyond Cook Inlet. If an existing limited-entry administrative area can be subdivided and existing permit privileges restricted based upon where a permit holder recently chose to fish, the same approach could potentially be applied to limited-entry fisheries throughout Alaska. This precedent deserves careful consideration, particularly in light of the Limited Entry Act's direction that entry be regulated "in the public interest and without unjust discrimination."

I also question how this action advances Alaska's constitutional and limited-entry objectives. Article VIII, Section 2 of the Alaska Constitution calls for the "utilization, development, and conservation" of state resources for the "maximum benefit of its people," while Section 4 requires replenishable resources to be "utilized, developed, and maintained on the sustained yield principle." Similarly, AS 16.43.010 identifies conservation, sustained-yield management, and the "economic health and stability of commercial fishing in Alaska" as purposes of the Limited Entry Act.

Creating another administrative boundary and restricting existing permit holders does not develop the resource, increase productivity, create additional harvest opportunity, or address the biological and management issues that have restricted this fishery.

I am not opposed to providing reasonable documentation demonstrating participation in the East Side fishery. However, CFEC should not create eligibility requirements beyond those enacted by the Legislature. HB 117 provides that satisfactory proof "may include" a shore fisheries lease, area registration, buoy tag, or previously submitted fishing statistics. This language recognizes that participation can be demonstrated in different ways and that no single form of documentation should be treated as the exclusive measure of participation. CFEC should apply these provisions consistent with the language enacted by the Legislature and without imposing additional qualification standards through regulation or administrative procedure.

Most importantly, an otherwise qualified permit holder should not lose access to this historical fishing area because an application contains incomplete information when the information can readily be verified through records maintained by or available to CFEC and ADF&G. Before denying an application for insufficient documentation, CFEC should make reasonable efforts to verify participation using records readily available to the Commission.

Requiring a fisherman to pursue a court appeal over information already in the possession of the State would impose unnecessary expense and hardship and serve no apparent conservation, sustained-yield, economic-health, or limited-entry purpose.

I urge CFEC to implement HB 117 no more broadly than the Legislature expressly required and ensure that existing permit holders are not unnecessarily deprived of historical fishing opportunities because of administrative or documentation issues.

Respectfully,



Norm Darch
Cook Inlet S04H Permit Holder