

SUBJECT: A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING LAWS AND PERMITTING REQUIREMENTS THAT OUTLINE CLEAR STANDARDS FOR RESPONSIBLE RESOURCE DEVELOPMENT THAT PROTECTS OUR FISHERIES AND ENHANCES OUR COMMUNITIES AND ECONOMIES.

AGENDA OF: May 15, 2018

Assembly Action:

MANAGER RECOMMENDATION: Present to the Assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route To:	Department/Individual	Initials	Remarks
	Originator	PAB	
	Planning and Land Use Director	CP	
	Borough Attorney	NS	
	Borough Clerk	JAM	5/7/18

ATTACHMENT (S) : Fiscal Note: YES _____ NO X
BOF Recommendation January 2017 (2 pp)
FWC Draft Meeting Minutes April 19, 2018 (4 pp)
Resolution Serial No. 18-041 (2 pp)

SUMMARY STATEMENT: The Matanuska-Susitna Borough Fish and Wildlife Commission (FWC) was founded a decade ago to utilize science-based standards and forward looking policies to help ensure a balance between the critical fishing and wildlife resources of the region with our needs of the population, including responsible resource development.

Alaska's Title 16 Fish Habitat Permitting to ensure habitat protection for fish and wildlife was drafted just after statehood and has not been updated in the 60 years since. In January 2017, the Alaska Board of Fisheries (BOF) made a recommendation to strengthen the Department of Fish and Game's permitting program by considering the creation of enforceable standards. This was aimed

at protecting fish habitat and guiding a more certain permitting system.

RECOMMENDATION: In line with the January 2017 BOF recommendation, the FWC voted on April 19th to put forward the attached Assembly resolution supporting laws and permitting requirements that outline a clear standard so that responsible resource development protects our fisheries and enhances our communities and our economies.



THE STATE
of ALASKA

GOVERNOR BILL WALKER

Department of Fish and Game

ALASKA BOARD OF FISHERIES

1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526
Main: 907.465.4110
Fax: 907.465.6094

January 19, 2017

Honorable Senator Pete Kelly, Senate President
State Capitol Building
Room 111
Juneau, Alaska 99801

Honorable Representative Bryce Edgmon, House Speaker
State Capitol Building
Room 208
Juneau, Alaska 99801

Subject: Alaska Board of Fisheries Habitat Permitting Recommendations

Dear Senator Kelly and Representative Edgmon:

The Alaska Board of Fisheries (board) was established by the Alaska Legislature, "For purposes of the conservation and development of the fishery resources of the state", (AS 16.05.221(a)), and has the authority to adopt regulations it considers important for "watershed and habitat improvement" (AS 16.05.251(a)(7)). Since inception, the board's working protocol evolved into a strong, open public process to carry out its duties. This public process allows Alaskans to bring forward proposals for consideration within its delegated authority.

For the 2016/2017 meeting cycle, the board received a request from a group of 13 individuals representing various fishing interests across Alaska. The request asked the board to recommend to the Legislature amendment of Title 16 to adhere to the habitat provisions contained in the board's Policy for the Management of Sustainable Salmon Fisheries established in regulation at 5 AAC 39.222. The board heard a significant amount of testimony in favor of this concept at the October work session held in Soldotna and scheduled an additional follow up committee meeting in Homer at the regular Lower Cook Inlet meeting.

The committee meeting allowed time for additional public testimony and an overview presentation on the permitting process from the Alaska Department of Fish & Game's (ADF&G) Division of Habitat staff. At the conclusion of this meeting, the board moved to submit the following points for the Legislature's consideration in amending Title 16:

- **Improve public notification and opportunities for public comment.**

A common theme from public testimony was the lack of notification for activities that have the potential to impact salmon habitat. ADF&G Habitat staff tracks the average time for permit issuance after an application is received at 4 days. There are undoubtedly nuances to this efficient permitting that must be considered, and improved notification to the public for certain activities is in the public's best interest. Additionally, tracking permitted activities by geo-referenced location would facilitate better consideration of cumulative impacts.

IM 18-094
RS 18-041

January 19, 2017

- **Enforceable Standards**

Under current law, the commissioner of ADF&G is directed to approve a fish habitat permit for a “proposed construction, work, or use...unless the commissioner finds the plans and specifications insufficient for the proper protection of fish and game.” AS 16.05.871(d). Permits may be issued with little restriction because nothing in the statute or regulation defines what constitutes “the proper protection of fish and game.”

Additional guidance is warranted for the protection of fish, to set clear expectations for permit applicants and to reduce uncertainty in predevelopment planning costs. To strengthen ADF&G’s implementation and enforcement of the permitting program, the legislature may want to consider creating enforceable standards in statute to protect fish habitat, and to guide and create a more certain permitting system. The board recommends and supports the Legislature creating these enforceable standards by drawing on the concepts set forth in the portion of the sustainable salmon policy that expressly addresses habitat (5 AAC 39.222(c)(1)(A-F)).

Thank you for taking the opportunity to review these concerns. The board recognizes the broad responsibilities of the Legislature to promote economic development and the wise stewardship of resources for all Alaskans. The board finds that clear delineation of Alaska’s unwavering promise to protect salmon and fisheries habitat establishes a consistent and predictable business environment that will help all individuals and corporations wishing to do business in Alaska.

The board remains at your service if you have any questions or comments regarding these recommendations.

Sincerely,



John Jensen
Chair
Alaska Board of Fisheries

Matanuska-Susitna Borough
FISH AND WILDLIFE COMMISSION

Thursday, April 19, 2018 3:00pm

MINUTES

I. CALL TO ORDER/ROLL CALL

Meeting was called to order at 3:0pm by Terry Nininger; Commissioners present: Larry Engel, Andy Couch, Terry Nininger, Howard Delo, Jim Sykes, John Wood, Mike Wood and Bruce Howard.

II. APPROVAL OF AGENDA

MOTION: Larry Engel made a motion to approve the agenda; Howard Delo seconded the motion.

AMENDMENT: Terry Nininger added NPFMC to the Agenda; and Move Fish Protection Grants and Prince William Sound hatchery pink salmon straying to the May meeting; John Wood added Task Force meeting discussion.

Motion approved as amended by unanimous vote.

III. APPROVAL OF MINUTES

a. February 15, 2018

MOTION: John Wood made a motion to approve the minutes; Howard Delo seconded the motion.

Discussion: John Wood made a motion to amend the minutes on Page 3 to state he said "met with the Governor's staff".

Motion approved as amended by unanimous vote.

b. March 15, 2018

MOTION: Howard Delo made a motion to approve the minutes; John Wood seconded the motion.

Discussion: Terry Nininger advised the commission to keep the concept of a workshop on our radar. Bruce Knowles advised that Reuben Hanke will be providing a draft King Salmon management plan for Norther Cook Inlet for consideration shortly – he will forward to the commission when it is available.

Motion approved by unanimous vote.

IV. AUDIENCE INTRODUCTION/PARTICIPATION

Neil Dewitt – here representing himself – brought up road tree cutting in Trapper Creek.

Emily Anderson – Wilde Salmon Center-presenting on Ballot initiative

Rich Graham

Ron Benkert – ADF&G

Jerome Ryan – Su-Knik Mitigation Bank Presentation

Ray Nix – MSB Land and Resource Management
Greg Pralle – MSB Land and Resource Management

V. STAFF/AGENCY REPORTS & PRESENTATIONS

a. Wetland Mitigation – Jerome Ryan, Su-Knik Mitigation Bank

A power point presentation was shown along with other visuals regarding the Wetland Mitigation.

Discussion: The presentation was about the Army Corps of Engineers using old information for mitigation requirements. The commission was interested in Mr. Jerome's presentation. Mr. Larry Engel stated that this was a new issue for the commission. "As a commission, we need to be informed. Would like to put time and effort into this." Mr. Ryan would like a resolution from the FWC. Mr. Terry Nininger asked about the pipeline crossing borough land and using that as leverage. Mr. Jerome Ryan will be back in May and June and he is working with Mr. Ray Nix and legal regarding resolution wording. Mr. Howard Delo suggested that Mr. Jerome Ryan ask ADF&G for escapement data. Mr. Andy Crouch stated it is not just escapement data, it's also harvest data that is needed. Mr. John Wood recommended a resolution requesting borough attorney to get research on our legal rights and get back to us. The urgency of this is roughly three months. Mr. Howard Delo is uncertain of our position as the commission is an advisory board.

MOTION: John Wood made a motion to make a request to the manager and the Assembly to help the FWC get legal advice on our options on the mitigation bank and projects that may affect our wetlands in the borough and the departure of the 2008 rule by the Corps. and public input on the process; Howard Delo seconded the motion.

Discussion: Need to get the legal aspects figured out and then obtain the data.
Motion approved by unanimous vote.

Mr. Larry Engel asked Mr. Jerome Ryan how he became involved. Mr. Jerome Ryan stated that the borough put out for an RFP and his company responded – this was a long process. They were awarded the contract in 2006 from a second RFP.

Five-minute recess. Returned at 4:17pm.

b. Stand for Salmon Overview – Emily Anderson & Ron Benkert

A power point presentation was shown.

Discussion: Mr. Mike Wood stated the reason for having the Stand for Salmon Overview. "The commission asked for clarification on what the initiative language means. We wanted to show support or at least remain neutral. We are stepping out on a big limb if we

choose to support changes to Title 16. After the presentation we can have a debate on where we want to go with this.”

This is about updating the fish habitat permitting laws which are about 50 years old – passed just after Statehood. Ron Benkert gave an overview of current habitat permitting processes and what was proposed in HB199 (which looks it isn’t moving out of committee this session). Emily Anderson spoke to the Ballot Initiative and that the proposed changes would include standards that permits would have to meet for water quality, quantity and fish passage- but that those standards are purposefully not prescriptive so they allow the department the ability to craft regulations that make sense and can be enforced.

MOTION: Larry Engel made a motion to support the initiative; Howard Delo seconded the motion.

Discussion: None

Motion approved by a vote of six to one (Mr. John Wood opposed).

VI. ITEMS OF BUSINESS

a. Assembly Resolution

MOTION: Howard Delo made a motion to support the resolution; John Wood seconded the motion.

Discussion: Amend resolution to add aquatic habitat in front of laws and another WHEREAS, Alaska Board of Fish recommended that permit requirements for fish habitat be updated/visited/etc.

Motion approved by a vote of six (Mr. Jim Sykes abstained).

b. NPFMC (email)

Nomination deadline is June 1, @ 12:00pm; let’s review this at May meeting – encourage group to nominate themselves and to contact Sherry Wright.

VII. MEMBER COMMENTS

Howard Delo: Spoke with legislator to get an idea of how he feels about HB199 – he said he was against but if he received a letter, he would vote yes.

John Wood: Thanks to Mike for having Emily and Ron provide a presentation on the initiative. The Governor wanted to meet on smaller scale with respect to the Task Force. Terry should get ahold of Commissioner Cotton to get status of Task Force; what is our goal? Return to biological capacity of our watershed?

Mike Wood: Meeting was awesome – loved the questions. Glad Jerome Ryan was here. We are all fighting for the same thing.

Andy Couch: One of my goals is King Salmon. ADF&G to come out with answers that would be the trigger to the management plan.

Bruce Knowles: No comment.
Randall Kowalke: No comment.
Larry Engel: No Comment
Terry Nininger: We need to be proactive – have a workshop with ADF&G. Concur with John. Glad to have Jerome Ryan here. We need to keep focused on this.

MOTION: Andy Couch made a motion to have Howard Delo request information from ADF&G on runs that are not meeting escapement or are close to not meeting escapement; John Wood seconded the motion.

Discussion: no discussion

Motion approved unanimously.

MOTION: Howard Delo made motion to adjourn; Larry Engel seconded the motion.
Motion approved by unanimous vote.

VIII. ADJOURNED at 6:30pm

Terry Nininger, Chair

ATTEST: _____
Brianne Blackburn, Staff