



January 25, 2019

Chairman Reed Morisky
Alaska Board of Fisheries
Board Support Section
P.O. Box 115526
Juneau, AK 99811

Dear Chairman Morisky and Members of the Alaska Board of Fisheries:

We are deeply disappointed in the action taken by the Board of Fisheries (Board) on January 18, moving the location of the Upper Cook Inlet (UCI) 2020 Finfish meeting without reasonable public notice, and after being assured by the Board Chair that no action would be taken. Given the legitimate and numerous concerns with the public process, we encourage the Board to rescind that decision and re-schedule the issue to be considered at a later date. Regardless of the outcome of the eventual vote, we hope Board members recognize the need to reassure all Alaskans in the fairness of the public process. Addressing the location of the 2020 UCI Finfish meeting at a future date would also allow the Board to consider the decision within the context of the current policy establishing rotating meeting locations. This policy, 2018-289FB¹, was not referenced in the Board's action last week and we presume is still in effect.

We recognize that the UCI Finfish meeting location is a perpetual topic for discussion, that comes up every cycle. However, several stark differences exist with how this most-recent vote was handled. When the Board revisited the 2020 UCI Finfish meeting location in early 2018, it was added to the agenda for the March meeting², and included in the *Supplemental Notice of Regulatory Actions to be Taken*³. This notice was published February 2nd, which was 35 days ahead of the vote and well before the cut-off for providing on-time written comments. Members of the public did provide written comments in the Board packet, and attended the meeting to speak to this issue in-person. The public also had access to the written proposal that was to be voted upon (referenced in the policy as RC50), before the Board ultimately approved the policy by a 4-2 vote.

Prior to the meeting last week, there was no advance notice given to the public that this item would again be revisited. No document was posted on the meeting website as a proposal. This topic wasn't published in the original *Notice of Proposed Changes*, and a *Supplemental Notice* was not issued. And

¹ Policy 2018-289-FB, adopted March 9th, 2018

² Statewide Dungeness Crab, Shrimp, and Miscellaneous Shellfish, held March 6-9 2018, Anchorage.

³ https://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/supp_notice_final.pdf

even the Miscellaneous Business Agenda, posted on the website as RC70, fails to identify this topic as an action item.

Nonetheless, after learning via text message about the Chairman's intent to bring the 2020 UCI Finfish meeting location up for a vote, and despite not knowing exactly when the vote would occur, Kenai Mayor Brian Gabriel, Soldotna City Manager Stephanie Queen, and Kenai City Manager Paul Ostrander drove to Anchorage to attend the meeting in person. Knowing that there would be no opportunity for public comment directly to the Board, the group hoped to talk to individual members during breaks to learn what was being considered. During a morning break, the Board Chair informed the City delegation that no vote would be taken that day – a position he reiterated to the City officials when the Board broke for a lunch recess. He indicated that a teleconference would be scheduled to address the issue, and that public notice would be given and public comments taken. The City delegation left the meeting in reliance on the Chair's assurances, and was already back in Soldotna when we learned that the Board did in fact approve a motion to relocate the 2020 UCI Finfish meeting after returning from lunch.

When the audio was posted online later that evening, we were able to listen to the deliberation and decision. In justifying the decision to move ahead with a vote despite concerns raised about the lack of public notice, it was noted that the agenda states that it is subject to change. The statement Board Chair Morisky made on Tuesday, that "there's been an interest expressed in discussing the Upper Cook Inlet meeting location and so...that will likely happen near the end of this meeting"⁴ was referenced. When pressed to explain why the motion was being made at that particular time, in the middle of other unrelated agenda items on Friday afternoon, Board Member Jensen explained that Friday was his last day of availability and he wanted to vote on this particular item. We note that had this action item come up during the 'Miscellaneous Business' section of the agenda on Saturday, Mr. Jensen's personal schedule would have prevented him from voting, and the motion to move the meeting back to Anchorage may have lacked sufficient votes to pass.

We believe these actions cannot be considered "reasonable" public notice, as required by law. If items can be added to the agenda without specific prior notice (and not even posted as an update to the meeting agenda after the fact), and then brought to a vote at any point in the meeting, the public would essentially be required to attend every Board meeting in its entirety just to make sure that no issue of interest was unexpectedly added, considered, and voted on. In a multi-day meeting, which in this case was scheduled to discuss completely unrelated matters, we find this expectation unreasonable. In a practical sense, this version of "reasonable" notice serves the same function as no notice at all.

We work in government, and are familiar with Alaska's laws designed to guarantee public notice and access to decision-making. And we understand that public processes require flexibility so we can effectively deal with business at hand. But standard practices exist, to allow boards to have flexibility in conducting their business, without leaving the public in the dark. We know the Board of Fisheries can do better. Public notice in this case was insufficient, inconsistent with past Board practices, and does not meet the requirements of the Open Meetings Act.

Adhering to customary policy and procedures for adding and considering new agenda items, and providing reasonable notice, would not only better serve the public but Board members as well. In our conversations with Board Members during breaks in the meeting on Friday morning, it was clear that

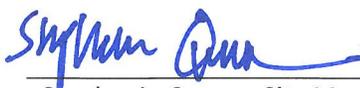
⁴ Audio available on meeting website. See AYK Finfish meeting, Chair Morisky 2:26:43 PM Tuesday, Jan. 18th

there was confusion as to what the Board was potentially reconsidering. One Board member believed that the policy to rotate communities was still in place, and that the Board was simply reconsidering which community should go first. Another Board member was apparently unaware of the rotating policy entirely, telling us that the Board had never adopted a policy that set rotating meeting locations. Without any packet materials to provide the background, nor comments from staff or the public, we feel the Board's decision was made in haste, and without access to all the relevant information.

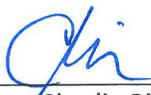
Furthermore, we feel that the policy adopted by the board in March 2018 to rotate the location of the UCI Finfish meetings, is a thoughtful solution to the sensible goal of providing access for all Alaskans impacted by the Board's decisions. It doesn't require the Board to designate one 'best' meeting location. Instead, it recognizes that stakeholders are significantly spread out geographically, and experience different personal sacrifices and expense to attend the two-week long UCI Finfish meeting. The difference between a 45-minute commute versus a 2 hour and 45-minute commute, for many Alaskans, means the difference between being able to participate or not. The rotating policy gives favorable access to Anchorage/Mat-Su residents by keeping the meetings within an hour drive most of the time (two out of every three cycles), while also bringing the meeting to the Kenai Peninsula to afford KPB residents the same opportunity once every nine years.

The Board's decision on Friday, to proceed with a vote to relocate the UCI 2020 Finfish meeting despite the concerns raised at the time, has the potential to erode public trust in this important process moving forward. Alaska's Open Meeting Act was designed not only for the public, to ensure they have access to deliberative processes and government decision-making, but also to benefit government decision-makers by hearing from residents who have knowledge, experience and valuable perspectives to offer. We expect that the Board will recognize the significance of the errors made last week, and take corrective actions to remedy them.

Sincerely,



Stephanie Queen, City Manager
City of Soldotna



Mayor Charlie Pierce
Kenai Peninsula Borough



Paul Ostrander, City Manager
City of Kenai

Cc: The Honorable Governor Mike Dunleavy
John Jensen
Orville Huntington
Alan Cain
Israel Payton
Robert Ruffner
Fritz Johnson
Glenn Haight