

**STATE OF ALASKA  
THE LEGISLATURE**

**2010**

**Source**

HCS CSSJR 22(FSH)

**Legislative  
Resolve No.**

33



Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye salmon personal use dip net fisheries.

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**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**WHEREAS** the United Cook Inlet Drift Association is a group of nonresident and resident commercial gill net fishermen in Cook Inlet; and

**WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the United States Secretary of Commerce requesting that the United States Department of Commerce preempt state management of its salmon stocks in Cook Inlet; and

**WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the United States Secretary of Commerce claiming, among other things, that the association's nonresident members are discriminated against because they cannot participate in the resident-only dip net fishery, thus requesting the court to declare that the state-authorized resident-only salmon fisheries are unconstitutional and therefore preempted by federal law; and

**WHEREAS** Herbert T. Jensen has filed a lawsuit in the United States District Court for the District of Alaska based on claims similar to those stated by the United Cook Inlet Drift Association; and

**WHEREAS** all five species of Pacific salmon are an integral part of Alaska's history, heritage, and cultural identity, helping to meet both its economic and nutritional needs; and

**WHEREAS** the Magnuson-Stevens Fishery Conservation and Management Act explicitly excludes state waters from the jurisdiction of the Act; and

**WHEREAS** the exclusive economic zone is closed to commercial fishing under the Magnuson-Stevens Fishery Conservation and Management Act unless specifically authorized by the state; and

**WHEREAS** the Alaska Board of Fisheries has devoted an inordinate amount of time to the extremely complex salmon management program in the Cook Inlet region in an attempt to balance the interests of all stakeholders; and

**WHEREAS** the potential results of those lawsuits, if the plaintiffs are successful, would not only preempt state fisheries management but could result in a larger number of nonresident dip net fishermen being allowed to fish, causing an even smaller allocation to the commercial fisheries, thus conceivably further adversely affecting the members of the United Cook Inlet Drift Association; and

**WHEREAS** the establishment of federal and state recognized commercial fisheries limited entry programs has drastically limited the ability of residents to use efficient commercial gear for taking subsistence and personal use salmon resources, which has resulted in the establishment of less efficient methods, such as the dip net fisheries, for taking salmon to meet Alaska's nutritional needs; and

**WHEREAS** members of the United Cook Inlet Drift Association are able to use their exclusive limited entry permits to use efficient gear that is not available to the average Alaskan for the purpose of taking salmon for personal use; and

**WHEREAS** members of the United Cook Inlet Drift Association, including all nonresidents, are allowed an unlimited bag limit, an unlimited possession limit, and an unlimited annual limit under state law for salmon retained for personal use if taken during the commercial fisheries, which is a luxury not afforded to Alaskans who do not possess a state limited entry permit; and

**WHEREAS** both the federal government and the state recognize in law and place a high priority on the importance of taking of wild resources for food; and

**WHEREAS** the State of Alaska restricts dip net salmon fisheries to Alaska residents;

and

**WHEREAS**, in 1984, a resident-only dip net fishery for Copper River red salmon stocks was established in Chitina; and

**WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game issued over 8,000 permits allowing Alaskans to dip net for salmon in Chitina; and

**WHEREAS**, in 1981, a dip net fishery for red salmon stocks was established at the mouth of the Kenai and Kasilof Rivers; and

**WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game issued between 18,500 and 23,700 permits allowing Alaskans to dip net for salmon in the Kenai and Kasilof Rivers; and

**WHEREAS** the Alaska Department of Fish and Game calculates that those dip net fisheries provide an average of 14 fish for each household for those households that participated in the Kenai and Kasilof Rivers dip net fisheries in 2006, 2007, and 2008; and

**WHEREAS** there appears to be a growing groundswell of support within the commercial fishing industries represented at the North Pacific Fisheries Management Council and state Board of Fisheries levels for a more dominant role in the regulatory process; and

**WHEREAS** the Constitution of the State of Alaska dictates that "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people," which clearly means that the state's common property resources must benefit all Alaskans and not just a few commercial fishermen;

**BE IT RESOLVED** that the Alaska State Legislature hereby requests that the United Cook Inlet Drift Association and Herbert T. Jensen each drop their lawsuits advocating federal preemption of Alaska's salmon management in state waters in Cook Inlet and opposing the personal use of salmon by Alaska residents; and be it

**FURTHER RESOLVED** that the Alaska State Legislature also requests Governor Sean Parnell to direct the attorney general to oppose those lawsuits.

**COPIES** of this resolution shall be sent to the Honorable Gary F. Locke, United States Secretary of Commerce; the Honorable Sean Parnell, Governor of Alaska; the Honorable Daniel S. Sullivan, Alaska Attorney General; and the Honorable Denby Lloyd, Commissioner, Department of Fish and Game.