

● **Alaska Quiet Rights Coalition** ● **Cook Inletkeeper** ●
● **Kachemak Bay Conservation Society** ●
● **Friends of Kachemak Bay State Park** ●

March 2, 2021

Governor Mike Dunleavy
State of Alaska
Post Office Box 110001
Juneau, Alaska 99811-0001

Dear Governor Dunleavy:

In a recent letter, you wrote that you swore “an oath to support and defend the Constitution of the United States and the Constitution of the State of Alaska. That oath reads, in part, that public officials will ‘faithfully discharge [your] duties as ... to the best of [your] ability.’ That premise, of faithfully discharging duties, is the basis of public service; that those empowered by the citizens of a land can be trusted to act in good faith on their behalf.”¹

We are writing now with serious concerns about your constitutional mandate to administer the laws and rules of the State of Alaska in a fair and impartial manner, and to act in good faith on behalf of Alaskans.

More specifically, [recently released public records](#) and other information show your Administration engaged in a series of private communications and meetings – while ignoring an established public process - in an illegitimate effort to overturn the ban on personal watercraft, jet skis and other “thrillcraft” (“jet skis”) in the Kachemak Bay Critical Habitat Area (KBCHA).

As you know, Alaskans strongly endorsed a ban on jet skis in the KBCHA in 2000 and again in 2017. The issue arose again in 2019 as the Alaska Department of Fish & Game sought to revise the management plan for the KBCHA.

The State of Alaska embarked on a rigorous public process to revise the KBCHA management plan. Yet in more than a dozen meetings to revise the plan, state, federal and local agency experts chose not to undo the jet ski ban because, among other reasons, such action would conflict with the state statute protecting Critical Habitat Areas.

¹ Letter from Governor Mike Dunleavy to Senator Lora Reinbold (Feb. 18, 2021) (emphasis added).

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But on November 19, 2019 - fourteen days before the release of the public notice on the rule making process and fifty-one days before the public process on the rulemaking closed - ADFG Habitat Division staff wrote to the KBCHA planning team with a surprising announcement:

“The governor’s office has decided to repeal the PWC prohibition for Kachemak Bay and Fox River Flats CHAs (5 AAC 95.310 Personal watercraft use prohibited). This change will be conducted as a stand-alone regulation change pursuant to the Administrative Procedures Act, and will be done independently of the ongoing plan revision.”²

Why would the Governor’s office circumvent sound public process, and unilaterally decide – before any public notice and without any opportunity for Alaskans to submit comments – that it had already decided to repeal the jet ski ban? And why would the Dunleavy Administration adopt the changes in a new regulation when the state had announced in a public notice to Alaskans it would address the jet ski issue during the Critical Habitat Area planning process?

The answer is now clear: people and groups – including the Personal Watercraft Club of Alaska – relied on relationships with the Dunleavy Administration and insider access to key decisionmakers to help circumvent the management planning process and to repeal the jet ski ban outright.

In fact, public records reveal your staff helped jet ski proponents draft letters and devise strategies to ignore the carefully-crafted KBCHA management planning process.

For example, one communication from a representative of the Personal Watercraft Club of Alaska boasted “I had some help from [Special Assistant to the ADFG Commissioner] Rick Green with my letter regarding the KB management plan. I had sent a draft to him and he re-worked it....”³

In another email to jet ski proponents and ADFG Special Assistant Rick Green, a representative of the Personal Watercraft Club of Alaska referred to an ADFG staff member well-versed on jet skis issues, and in a clear indication of “us vs. them” bias, said he was “not on our side.”⁴

² Email from Tammy Massie, ADFG, to KBCHA Planning Team (Nov. 19, 2019) (emphasis added).

³ Email from Gina Poths, Personal Watercraft Club of Alaska, to numerous recipients & copied to ADFG Special Assistant Rick Green (June 11, 2019)

⁴ Email from Gina Poths, Personal Watercraft Club of Alaska, to jet ski proponents & ADFG Special Assistant Rick Green (May 22, 2019).

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And a Personal Watercraft of Alaska representative bragged to Mr. Green about intentionally violating the then-current ban on jet skis by illegally launching and riding in Kachemak Bay:

“We launched [in Homer] and rode straight out of the bay and didn’t stop until out of the [critical habitat] area...Only one person said something and of course we ignored her!”⁵

Your Administration, however, took no enforcement action on this blatant and admitted violation of Alaska’s habitat protection laws.

Furthermore, individuals and businesses with direct financial interests in repealing the jet ski ban – including businesses in Wasilla and Homer - were repeatedly included in communications involving your Administration outside of the normal rulemaking process.

Finally, in tallying the public comments on the jet ski rulemaking, ADFG recognized, counted and relied upon fraudulent signatures on a petition submitted by jet ski proponents. For example, some of those phony signatures included:

Here are a few examples from the change.org petition:

| | | |
|---------------------|------------------------|------------|
| Ic Wiener | Fort Scott, US | 2019-12-15 |
| neeraj balani | Castaic, US | 2019-12-13 |
| bruh souls | Seattle, US | 2019-12-14 |
| Rachel Chlup | Sa., US | 2019-12-14 |
| Michael Fefelov | Cabo San Lucas, Mexico | 2019-12-14 |
| stephen hoffman | Huntington Beach, US | 2019-12-14 |
| Ingrid Gatward | US | 2019-12-15 |
| anonymous jr | Ashburn, US | 2019-12-16 |
| big bruh | US | 2019-12-16 |
| Anonymous Anonymous | Citrus Heights, US | 2019-12-17 |
| and i oof | Seattle, US | 2019-12-17 |
| ◆◆◆◆◆◆◆◆ | Uh, US | 2019-12-28 |

⁵ Email from Gina Poths, Personal Watercraft Club of Alaska, to ADFG Special Assistant Rick Green (July 26, 2019).

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These are but a few of the fraudulent petition “signatures” – many from Outside, and none with street addresses or contact information - used by ADFG to justify its repeal of protections for the Kachemak Bay Critical Habitat Area.

Alaskans elected you to protect due process of law, and to abide by your constitutional mandate to manage our public resources in a fair and equitable manner. Unfortunately, the rulemaking process used by your Administration to repeal the jet ski ban in Kachemak Bay ignored readily available facts, science and law, and instead catered to a small but influential group of your supporters.

We believe Alaskans deserve better from our government. We believe the State of Alaska should adopt rules in an open, fair and transparent manner based on facts and science. Accordingly, we urge you now to uphold the rule of law, and to immediately correct the deficiencies identified above.

Yours for Cook Inlet & Kachemak Bay,

A handwritten signature in black ink, appearing to read "Bob Shavelson". The signature is fluid and cursive, with a prominent initial "B" and "S".

Bob Shavelson
Cook Inletkeeper

On behalf of:

Alaska Quiet Rights Coalition
Kachemak Bay Conservation Society
Friends of Kachemak Bay State Park