

HB

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BILL ANALYSIS

ASSIGNMENT DATE 2/2/77

UNASSIGNED

DEPARTMENT Public Safety SPONSOR (PRINCIPAL) Osterback BILL NO. HB 111

DIVISION POSITION Oppose. CO-SPONSORS OR COMMITTEE SPONSORS Gardiner DATE LAST AMENDED

DIVISION DIRECTOR Waldster DATE 2-2-77 COMMISSIONER DATE

GOVERNOR'S OFFICE USE

POSITION NOTED POSITION APPROVED POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) Related bills (similar or conflicting)

Unknown.

(2) a. Organizations sponsoring and supporting bill

Unknown.

(2) b. Organizations opposing bill

Unknown.

(3) Program effects of bill The primary effect is that it would require a substantial increase in personnel staff to perform and accomplish an identical level of service in protection of the commercial fisheries. Present program of "stake-out crews" utilizes concealment to create a deterrent to closed water fishery violations and has successfully achieved this goal. To remain visible is announcing where stream protection is being afforded and would be the most effective aid to the potential and habitual violator in unlawful fishing activity.

To adequately provide protection of anadromous spawning areas with placement of "stream guard" personnel utilizing the concept of remaining visible would require an increase of both permanent and seasonal staff to a similar level in which this concept was practiced during the early 1960's. A departure from this concept became necessary due to funding restrictions and return would have an outstanding fiscal impact as well as substantial program planning changes.

4) Fiscal impact: none Fiscal analysis attached X

5) Amendments proposed: None.

6) Comments: Implementation of the bill would have severe detrimental results to the fishery resources unless an approximate 400% increase in temporary man months were funded to provide stream guards for protection of salmon spawning streams. In addition to the temporary man months support funds would be necessary to provide field gear such as: tents, skiffs, outboard motors, cots, mattresses, cooking equipment, food, mooring tackle, charter funds for field servicing, outboard fuel and maintenance plus a major item, warehouse space throughout the coastal areas to accommodate winter storage of gear.

Implementation of the bill is legislating enforcement methods and provides a license to steal. It would offer the maximum advantage to theft of fish stocks by commercial fishermen that can be envisioned. Perpetuation of fish stocks would be limited to those areas where a stream guard was stationed during the spawning activity and would be directly proportional to the funding provided for temporary personnel. Southeastern Alaska alone has in excess of 2,500

(cont. on back)

FISCAL ANALYSIS

DEPARTMENT Public Safety	SPONSOR (PRINCIPAL) Osterback	BILL NO. HB111
DIVISION POSITION Opposed.	CO-SPONSORS OR COMMITTEE SPONSORS Gardiner	DATE LAST AMENDED
DIVISION DIRECTOR	DATE	COMMISSIONER
		DATE

FISCAL EFFECTS OF BILL

(1) CHANGES IN PERSONNEL

(See attachment).

(2) CHANGES IN GOVERNOR'S PROPOSED BUDGET

(3) CAN COSTS BE ABSORBED

Costs cannot be absorbed.

(4) REVENUE/EXPENDITURE CLASSIFICATION AND FUND -- SOURCE (GENERAL FUND/BUDGET, FEDERAL FUNDS, BONDS, SPECIAL APPROPRIATIONS)

COMMENTS:

FISCAL ANALYSIS.

(Attachment)

1. CHANGES IN PERSONNEL.

To provide a minimal level of surveillance to spawning activity on a stream guard concept, temporary man months must be increased to the following level:

SOUTHEASTERN ALASKA:

Ketchikan, Craig, Wrangell, Petersburg, Sitka, and Juneau.

	60 temp. employees at 3 mo. each.
Yakutat	5 temp. employees at 3 mo. each.
Cordova	12 temp. employees at 4 mo. each.
Valdez	6 temp. employees at 3 mo. each.
Seward	10 temp. employees at 3 mo. each.
Homer	8 temp. employees at 3 mo. each.
Kodiak	32 temp. employees at 3 mo. each.
Sand Point and westward	16 man months at 3 mo each.

TOTAL TEMP. EMPLOYEES - 149

TOTAL TEMP. MAN MONTHS - 459

The following is an estimate of the costs of hiring, equipping and maintaining one stream guard for a 10 week period:

EQUIPMENT

Tent, 10 x 12 white wall	100.00
Boat, Avon S-400 Sportboat, 12' 4" (40 h.p. rated)	1,200.00
Motor, 25 h.p. Johnson, Short Shaft, Manual Start	520.00
Coleman Lantern	30.00
Coleman Stove	30.00
Foam Mattress	35.00
Tent Frame	200.00
Cooking Utensils	20.00
Gas cans, funnels, misc. gear	<u>100.00</u>

Sub Total \$2,135.00

Air Charter - Minimum  
6 trips including setting up camp 600.00

Food - 10 weeks at \$50.00 per week 500.00

Fuel - White gas, outboard fuel 100.00  
1,200.00

Wages - 12 weeks - 37.5 straight time (hourly rate \$ \_\_\_\_\_) \_\_\_\_\_

15 hours overtime/week \_\_\_\_\_

TOTAL \$1,301,200

This figure does not include the cost of training or the cost of maintaining the man in the field. Depending on the number of stream guards in the field, it will take one to two men to handle engine repairs, buy groceries, run errands and chauffeur.

6) Comments, Cont.

spawning streams and each should receive protection from fishery theft. It would be physically and financially impossible to thoroughly protect the areas unless the fisherman is faced with the prospect of apprehension during the violation through a means he cannot predetermine. Under the terms of the bill, absence of a visible stream guard would assure the fisherman the stream is unprotected and vulnerable.

# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 18, 1977

SUBJECT: Stream Surveillance Control

TO: Representative Alvin Osterback

FROM: Joel Bennett *JEB*  
Legislative Counsel

You asked me to investigate the commercial fisheries "stake-out crew" situation within the Department of Public Safety. You said current procedure allowed violations to occur first, before arrest and apprehension, thereby allowing the waste of fisheries resources.

I have talked with Capt. Frank Sharp, Division of Fish and Wildlife Protection (under whose jurisdiction this is) and he informs me that what happened in Sand Point last summer was the exception - what usually happens is that the violators are apprehended while in the act of setting the net and they are ordered to release the fish before they are landed. Apparently in most cases, the fish are released in good shape.

He went on to say that stake-out crews, (concealed at the sites) have been the most effective enforcement tool for violations of this type since 1960. Although some stream guard crews still operate in certain situations, the state has found that there are just too many producing stream sites to cover (2500 in Southeast Alaska alone); the boats just switch to a stream around the corner in another arm of the same cove, for instance, and take their illegal catch there.

The real problem, in his opinion, is lack of funds in the budget for Fish and Game to hire adequate "temporary personnel" for stream surveillance. He said they don't even have a quarter of the personnel they used to have. Last season, about 40 people operated during the fishing season statewide in this capacity. Eleven in Southeast, six in the Aleutians and Alaska Peninsula area, and the rest elsewhere.

TO: Representative Alvin Osterback  
January 18, 1977  
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After hearing this, you may wish to alter your bill request. If statistics have shown concealed "stake-outs" to have been more effective than visible "stream guards", with few cases of resource loss, and if the Sand Point case was really an exception, I would suggest leaving things as they are. To be more effective, it might be better to push for a fish and game budget increase for that category of employees. You could perhaps ask that the category be made more specific, i.e. temporary stake-out guard instead of just "temporary employee".

Please consider this - if you want to get further details on the stream guard situation, call Capt. Frank Sharp, Division of Fish and Game Wildlife Protection, Department of Public Safety, in Anchorage at 272-1561.

If you still feel that legislation requiring all stream surveillance to be conducted openly and visibly is appropriate, please contact me. I will wait on further word from you.

JB:hjd



# Alaska State Legislature

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

10 February 1977

## AGENDA

CALL MEETING TO ORDER.

BILLS UNDER CONSIDERATION:

~~HJR 12~~ OPPOSING S. 499 & 500 AS INTRODUCED IN THE  
95TH CONGRESS

~~HJR 16~~ INTERNATIONAL CONVENTION FOR THE HIGH SEAS  
FISHERIES OF THE NORTH PACIFIC OCEAN

~~SB 1 am~~ RELATING TO FEES FOR VENDORS OF COMMERCIAL  
FISHING LICENSES

*Burton* → HB 111 RELATING TO STREAM SURVEILLANCE FOR FISH-  
ERIES VIOLATIONS

HB 157 RELATING TO UTILIZING WASTE HEAT FROM OIL  
& GAS PIPELINES

HB 158 APPROPRIATION TO THE UNIVERSITY OF ALASKA  
FOR DEVELOPING UTILIZATION OF WASTE HEAT  
FROM OIL & GAS PIPELINES

DISCUSSION, QUESTIONS.

ADJOURNMENT.

→ HB 121

TO: Representative Osterback  
FROM: Hugh Malone  
DATE: March 1, 1977  
SUBJ: Summary of Incident at Sand Point

*file HB III  
(out of committee)*

## MEMORANDUM

FEB 28 1977

TO: [ Richard L. Burton  
Commissioner  
Department of Public Safety  
Juneau

DATE : February 16, 1977

FROM: Col. Fred M. Woldstad  
Director  
Fish & Wildlife Protection  
Anchorage

SUBJECT: E-76-0811/Controversial  
Incident - House Resources  
Committee.

I have taken the liberty of summarizing a rather lengthy investigation report that includes a number of statements attesting to identical information. Two seine vessels were involved and six defendants:

F/V "Andronica"

William Dushkin - Captain, Sand Point.  
Carl R. Furguson - Crewmember, Sand Point.  
Jack Foster, Jr. - Crewmember, Sand Point.

F/V "Norse Maid"

Carl G. Carlson, Jr. - Captain, Sand Point.  
Charles G. Gundersen - Crewmember, Sand Point.  
Henry P. Nielsen - Crewmember, Sand Point.

On July 23, 1976 at 10:30 a.m., a stakeout team composed of Officer Steve Case and Officer Mike Webber was placed at Bay Point by a Department of Public Safety Goose flown by Ed Fleek. They set up camp about a mile from the creek at Bay Point.

At approximately 9:30 p.m., Officer Case observed two boats heading toward Bay Point. Both boats were white in color and towing skiffs. The boats were later identified as the "Andronica" and the "Norse Maid". The two subject vessels anchored up, side by side, about 30 yards from the entrance to the lagoon at Bay Point (Nigger Head). At approximately 10:15 p.m., two skiffs left the anchored boats and entered into the lagoon. Each skiff contained two men.

Shots were fired from one skiff into the brush around the edge of the lagoon, apparently by a semi-automatic rifle. The two skiffs then returned to the "Andronica" and "Norse Maid".

At 11:00 p.m., four skiffs left the subject boats and proceeded into the waters of the lagoon at Bay Point. Officer Case moved around to where he could observe what they were doing. He observed the skiffs engaging in making two sets with their commercial type salmon seines, taking salmon from the closed waters at Bay Point. At 11:25 p.m., one skiff headed back to the anchored vessels. At midnight the other three seine skiffs followed. Officer Webber observed that two of the boats were low in the water and had what appeared to be a seine with a bulge in it alongside. At 12:45 a.m.,

Officer Case, who has commercial fished in the past, heard the hydraulics start up, as if the brailer was in operation on the subject vessels. At 3:00 a.m., the two vessels pulled anchor and left Bay Point.

On 7/24/76, the Captain of the P/V "Enforcer" was patrolling in a skiff at Settlement Point with Fish and Wildlife Aide Shaul when he observed the "Norse Maid" pull their anchors and head off toward the North.

Gunnar Hamren, the Captain of the tender "Logger", reports in his statement that the F/V "Norse Maid", Captained by Carl Carlson, Jr., got into the line behind his tender at 11:00 p.m. on 7/24/76. About midnight the "Norse Maid" pulled up alongside the Logger with approximately 7,000 salmon on board. Carlson asked Hamren to split his load with the "Andronica", stating they had been fishing together. The crew from the "Andronica" came over and helped take the salmon off the "Norse Maid". The "Logger" was anchored in Canoe Bay.

Mrs. Bertha Jean Hamren, who made out the ADF&G Fish tickets #393789 and #393319, in her statement relates a conversation with Carlson in which he told her that the "Andronica" and "Norse Maid" had been fishing together and he wanted to split his load with the "Andronica". The fish tickets were made out at approximately 12:30 a.m. on 7/25/76. Later that day the skipper of the "Andronica" came over and signed his fish ticket, #393789. The poundage on the fish tickets totaled 32,255; 16,127 lbs. to William Dushkin on the "Andronica" and 16,128 lbs. to the "Norse Maid", skippered by Carl Carlson, Jr. James Harrington, a crew member on the "Logger", was present when the Captain of the "Andronica" signed his fish ticket the morning of 7/25/76.

William Fishell was a Fish and Game employee sampling the catches on board the "Logger" when the subject fish were delivered. He states he remembers one boat bringing in a large number of salmon and states that without the delivery made by the "Norse Maid" figured into the daily catches, the boat average was 1,149.5 salmon per boat. The catches reflected for the "Norse Maid" and the "Andronica" were over three times the average for boats delivering to the "Logger" on the day in question.

On 7/26/76 at 12:20 p.m., the F/V "Norse Maid" was boarded soon after it moored at the fuel dock in Sand Point. Corporal Winn advised the Captain and crew of their legal rights and that they would be charged for seining in closed waters. Also on 7/26/76, Captain Sharp flew to Canoe Bay and boarded the F/V "Andronica", advised the Captain and crew of their rights and that they would be charged for seining in closed waters. While aboard the "Andronica" Captain Sharp observed a 30 caliber carbine semi-automatic weapon with a 30 shot clip and during the conversation the owner of the weapon was identified as Jack Foster, Jr.

The six defendants were cited to the Sand Point District Court and each entered a not guilty plea requesting a jury trial. Subsequent trial in Sand Point before a jury found all six defendants not guilty. Stated cause for the not guilty verdict was that the state did not prove fish were taken by the skiffs in the stream mouth, and the jury was not advised that "take" is also defined as "attempting to take".

Two additional statements are found in the report which are pertinent to the character and honesty of the defendants involved. Both are statements of Fish and Wildlife Aide Steve Case.

"On the 4th of July, 1976, at the New England Reservoir in Sand Point, I was testing outboards and rafts when we were approached by Charles G. Gundersen on the subject of bribery and asked what our salary was and if we were getting paid enough for watching the streams. I said, "yes, we were getting paid enough". Then he approached me with an offer for \$2,000.00 or \$3,000.00 for turning my back while they made a couple sets in the creek. He kept saying he would make it good to me for twice the amount I'm getting paid. He said that if I would get hold of him later we would talk real business and a part of \$2,000.00 or \$3,000.00. Then we departed the area."

On August 29, 1976, Charles G. Gundersen approached Officer Steve Case and Officer Jim Johnston stating that if the State lost their case, he would sue for false arrest. He also advised that they better be careful or they would leave Sand Point in a pine box. Gundersen stated he was passed out drunk when the skiff from the "Norse Maid" went up into the creek. Gundersen was drunk while making the statements.

FMW:rp