

SCOMM

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THOMAS A. BIRCH •
 BRIAN E. HORTON •
 WILLIAM H. BITTNER •
 BRUCE MONROE •
 SUZANNE C. PESTHOGER
 LLOYD V. ANDERSON
 GREGORY C. TAYLOR
 ROD CARMAN
 RITA T. ALLEE
 GORDON F. SCHADT
 HARVEY A. LEVIN •
 JOSEPH H. CHOMSKI •
 MICHAEL R. SPAAN •
 RONALD NOEL •
 CAROL A. JOHNSON
 GERALD D. STOLTZ •
 MICHAEL J. O'BRIEN
 JOSEPH W. EVANS
 WINSTON S. BURBANK
 DIANNE H. PIERSON
 E. BUDD SIMPSON
 CONSTANCE E. BROOKS
 JAN S. OSTROVSKY
 WALLER TAYLOR, III

LAW OFFICES

BIRCH, HORTON, BITTNER AND MONROE

4400 JENIFER ST., N. W. - SUITE 800

WASHINGTON, D.C. 20015

(800) 244-4250

TELEX 9-89-2501

100 W. FOURTH AVE., SUITE 800
 ANCHORAGE, ALASKA 99501
 (907) 579-8400
 TELEX 90-880

1800 AIRPORT HERBERTS DRIVE
 ANCHORAGE, ALASKA 99504
 (907) 579-8801

701 OLD RICHARDSON HWY., SUITE 340
 FAIRBANKS, ALASKA 99707
 (907) 482-1888

130 SEWARD STREET, SUITE 314
 JUNEAU, ALASKA 99801
 (907) 886-2890

July 7, 1978

• ADMITTED IN D.C.

Michael Harvey, Esq.
 Chief Counsel
 Committee on Energy and
 Natural Resources
 U.S. Senate
 Washington, D. C. 20510

Dear Mike:

We have prepared the attached two-page summary of the Steering Council for Alaska Lands' positions on d-2, per your request at our June 29, 1978 meeting. It is organized along the lines of the "issue priority schedule" that your Committee has set up for dealing with the Alaska Lands Legislation.

Both Senator Mike Colletta and I appreciated the time you spent with us, as well as your candor. We will continue to work with you and the Committee toward enactment of balanced legislation.

I have included several extra copies of the summary in the event that you may need them.

Cordially,

BIRCH, HORTON, BITTNER & MONROE


 Joseph M. Chomski

JMC/cjh
 Enclosures

REP. STEVE COWPER
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SEN. JOE ORSINI
WALTER PARKER
COMM. ROBERT LERESCHE
JAMES HOFFMAN
C. C. HAWLEY
DAVE CLINE



1016 WEST 6TH AVENUE, SUITE B
ANCHORAGE, ALASKA 99501
(907) 277-2415/16
[POUCH V, JUNEAU, ALASKA 99811]

July 7, 1978

Summary
of
d-2 Policy Positions
contained in
Working Draft Bill

I. STATE AND NATIVE SELECTIONS

The State of Alaska should be allowed to select its entire 104 million acre entitlement before d-2 withdrawals are made; the Native Selection provisions of H.R. 39 are satisfactory;

II. OIL AND GAS MANAGEMENT

The Arctic Range should be open to a joint federal-private industry study for oil and gas deposits, as well as a Federal-State study of wildlife and ecological values; all new National Wildlife Refuges should be subject to an expedited oil and gas exploration program; oil and gas assessments shall continue throughout all public lands in Alaska;

III. HARDROCK MINERALS

Valid existing rights must be honored, including access to such claims even if through wilderness areas; existing law shall apply to National Wildlife Refuges, Park Preserves, and Forests; Federal mineral assessment shall continue on all public lands;

IV. TRANSPORTATION ACCESS

Existing law is retained for nonwilderness areas; transportation and utility corridors access across wilderness and wilderness study areas must be provided in a workable fashion, not involving Congressional approval;

July 7, 1978

V. SUBSISTENCE/SPORT HUNTING/COMMERCIAL HUNTING

The Title adopted by the House of Representatives is satisfactory as long as the native community continues to support it and certain problems recently raised by the State of Alaska are ironed out;

VI. WILDERNESS

The Steering Council strongly opposes instant wilderness and proposes that 11 million acres be added to the Wilderness Preservation System in Alaska, all of which have already been studied; the Council also believes that wilderness study areas should be chosen selectively;

VII. COOPERATIVE MANAGEMENT AND OTHER SYSTEMS

The Steering Council urges the Senate to apply the management system adopted in the California Desert Conservation Act to a substantial portion of Alaskan lands; that system was created for fragile ecosystems threatened by the incursion of man, exactly the circumstance facing Alaska's ecosystems; this approach would allow intense management by the Interior Department without precluding multiple use possibilities; the Steering Council also supports the concept of cooperative management and urges passage of the Bristol Bay Cooperative Management Region as included in the House bill;

VIII. ANCSA AMENDMENTS

Section 22(e) should be deleted; native corporations and villages should be given acreage compensation where native selected lands are declared navigable water and therefore under Federal control;

IX. BOUNDARIES

The Steering Council supports the general boundary designations proposed by the Federal-State Land Use Planning Commission, with certain limited amendments recently forwarded by the State of Alaska; the Council proposes approximately 50 million acres of d-2 conservation system unit withdrawals, and approximately 45 million acres of land to be managed by Interior under the California Desert Act management principles;

X. ALASKA LANDS ADVISORY COMMISSION

This Federal-State advisory commission would be created to exist for 10 years and to provide expertise regarding management of the Alaska's conservation system lands, lands adjacent to these areas, and would make recommendations for future cooperative management regions in Alaska;

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

ALASKA D-2 STEERING COUNCIL

Adopted Amendments
and
Policy Positions

November 22, 1977

WILDLIFE MANAGEMENT

1
2 Sec. 4304. The taking of fish and game on all lands
3 subject to this Act shall be regulated by the State of Alaska
4 in accordance with applicable State law, including, but not
5 limited to, the regulation of seasons, bag limits, means and
6 methods, the administrative structure for wildlife manage-
7 ment and regulations, the determination of resource deple-
8 tion, and the definition of subsistence use and local residency.
9 Where there is a conflict caused by depletion, the taking of
10 fish and game for subsistence purposes shall be given prefer-
11 ence over the taking of fish and game for other purposes.
12 Such preference shall be granted to the local residents of the
13 area affected by a conflict between consumptive uses.
14 Nothing in this section shall be construed to require that
15 hunting or fishing be permitted where depletion of the re-
16 source would dictate a complete prohibition of such activities.

Interior National Forest

AMENDMENT

An amendment to H.R. 39 (Committee Print #1, 10/17/77) to establish a Yukon-Porcupine National Forest:

Page 40:

ADD a new section 401 (renumber subsequent sections accordingly) to read:

YUKON-PORCUPINE NATIONAL FOREST

Sec. 401. (a) The following area is hereby established as a unit of the National Forest System and shall, subject to valid existing rights, be administered by the Secretary of Agriculture pursuant to the provisions of law governing the administration of such units and under the provisions of this Act: Yukon-Porcupine National Forest, of approximately ten million three hundred thousand acres of public lands, as generally depicted on a map entitled "Yukon-Porcupine National Forest", dated _____, 1977, which shall be managed to maintain multiple values and for the following purposes: to provide opportunity for commercial harvest of timber; to provide opportunity for agricultural enterprise,

including but not limited to cultivation and grazing; to assure continued viability of subsistence resources for continued subsistence uses; and to protect and perpetuate internationally significant waterfowl and other migratory bird resources that utilize the lands and waters of the Yukon Flats.

DELETE: pp. 33, 34 -- Sec. 301(10)

pp. 65, 66 -- Sec. 602(17)

MINERALS

STEERING COUNCIL POLICY POSITION SUBJECT: USGS AND BUREAU OF MINES MINERAL POTENTIAL MAPS AND DATA

The U.S. Geological Survey is scheduled to release its most current Alaska mineral potential maps -- known as its "Level II" survey -- in January. The United States Bureau of Mines has recently completed its information-gathering and drafting of its most current mineral potential data covering Alaska.

It is imperative that the Alaska Lands Subcommittee of the House Interior Committee have before it this most current data before making decisions on acreage withdrawals and mineral exploration, extraction, and access. Therefore, the Steering Council implores the Subcommittee to consider the USGS Level II maps before making decisions in mark-up regarding withdrawals, minerals, and access. Furthermore, the Steering Council requests that the Subcommittee take all steps necessary to acquire and consider Alaska mineral potential data currently in the possession of the U.S. Bureau of Mines before marking-up the d-2 proposals before it.

The Steering Council believes the decision effecting exploration and extraction of critical and strategic Alaskan minerals are of great national importance. Any conclusive actions taken without the benefit of current and readily available data must be considered hasty, ill-conceived and not in the best interest of our nation.

RESOLUTION

Subject: Mark-Up Vehicle

Move that: The D-2 Steering Council hold that H.R. 39 as represented in the Committee Print of October 28 and as slated for mark-up by the subcommittee has areas which are not in the best interests of Alaska and that we urge the subcommittee to generally amend the mark-up vehicle by substituting elements which will be closer in philosophy to that developed in §1787.

CONGRESSIONAL REVIEW AMENDMENT

As presently constituted, H.R. 39 over-emphasizes the use of Congress as a final arbiter in Alaska land use decisions and under-emphasizes the administrative process. Clearly, it is sometimes appropriate to have Congress oversee major federal administrative actions. It is not, however, appropriate for Congress to review and approve each and every land use decision covering federal lands in Alaska.

The Steering Council therefore adopts the policy that congressional review of Alaska land decisions made via the administrative process as described in the D-2 Act and the Administrative Procedures Act, be excluded or at least limited to "major" administrative decisions and that "major" be defined in a restricted manner.

**AMENDMENTS TO ALASKA
NATIVE CLAIMS SETTLEMENT ACT**

It is suggested that the Council propose an amendment which would repeal Section 22(E) of the Alaska Native Claims Settlement Act. Section 22(E) currently provides:

§22(E) If land within the national wildlife refuge system is selected by village corporation pursuant to provisions of this Act Secretary shall add to the refuge system other public land in the state to replace land selected by the village corporation.

What the council would be saying here is that it holds the view that enough land will be classified into parks and wildlife refuges on any of the pending D-2 bills and that this clause is just now unnecessary.

"ACCESS" IN HOLDINGS AMENDMENT

Every proposal protects prior existing rights although certain requirements are placed on the holders of those claims in order to keep them. The Council's position is that reasonable access must be guaranteed. Without access there is no protection of prior existing rights.

SUBSISTENCE

Amends Andrus Proposal

Sec. 701. (a) Except as otherwise provided by Federal law the State of Alaska is authorized to permit subsistence uses of fish[,] and wildlife[, and plant] resources within designated subsistence management zones by establishing within eighteen months of the enactment of this Act, a program:

(1) Defining "subsistence uses" to include the taking and use of customary or traditional wild foods [and other renewable biological resources] from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter [among] by qualified subsistence users for personal or family consumption, including customary barter to obtain a nominal cash supplement, and the sale of traditional native handicrafts made out of the non-edible products of resources taken for personal or family consumption pursuant to this subsection;

(2) prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number of type of fish[,] and wildlife[, or plant] species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence [prior to December 18th, 1971] on the effective date of this Act.

(3) determining, without regard to race or ethnic origins, who is qualified for subsistence uses within subsistence management zones based upon the following factors which shall be weighted by the State to reflect their relative importance; customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and [cultural needs] the traditional lifestyle of the subsistence user;

(4) creating a system of regional and local advisors to assist in [determining who is qualified for subsistence uses within] carrying out the State's responsibilities under this section, including, to the maximum practicable extent, determining who is qualified for subsistence uses within subsistence management zones; and

(5) giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or [anticipated] projected population declines in a specific subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and wellbeing of the fish[,] and wildlife[, and plant] population affected.

(b) Within eighteen months of the enactment of this Act, t[T]he Secretaries of Interior and Agriculture, after a rule making procedure implemented pursuant to the Administration Procedure Act (5 U.S.C. 551 et seq.), shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or [before] about the effective date of this Act and where continued subsistence uses would be consistent with the purposes for which the area was established

and is being managed. The appropriate Secretary, after rule making pursuant to the Administrative Procedure Act, shall [is authorized to] periodically revise the boundaries of subsistence management zones in order to reflect changes in fish[,] and wildlife [or plant populations] migration patterns or [subsistence] the needs of qualified subsistence users.

(c) (1) After Consultation with the State of Alaska, [T]he appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, protection and management of the lands and habitat which support living resources, administration, or public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a) (2) of this section [are inconsistent with the purposes for which any area was established or] constitute a danger to the population of any species, he may close the area to subsistence uses, subject to the procedure described in the following subsection.

(c) (2) If the Secretary of Interior determines that the State has failed to comply with the requirements specified in this section, he shall first give the State a reasonable period, but not less than one hundred twenty days, to rectify the alleged deficiency. If the State refuses to make such changes, the Secretary shall initiate a hearing pursuant to the Administrative Procedure Act in order to ascertain the validity of the State's claim. Upon a finding of noncompliance by the State with the requirements specified in this section, the Secretary or the Secretary of Agriculture, as appropriate, may close any affected subsistence management zone or portion thereof to subsistence uses; provided that upon his finding that an emergency exists, the appropriate Secretary may close a subsistence management zone or portion thereof pending a hearing, which shall be convened within one hundred twenty days of the closure.

(d) (1) Except for those subsistence uses authorized in titles _____, _____, and _____ in this section, [a] all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but [may] shall be open to sport fishing in accordance with the appli-

cable laws of the United States and the State of Alaska; provided, however, the Secretary shall permit fishing, trapping, and [non-commercial] sport hunting within areas established by this Act as "national preserves" and national rivers' in accordance with the applicable laws of the United States and the State of Alaska; provided further, that nothing in this subsection shall be construed as limiting the authority of the State of Alaska to manage and regulate fish and resident wildlife within such preserves and national rivers.

(2) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may designate for all units of the National Park System, the National Wildlife Refuge System, the National Forest System, and the Wild and Scenic Rivers System in the State of Alaska areas where, and periods when, hunting, fishing, trapping or entry may be limited or prescribed for reasons of public safety, administration, protection and management of the lands and habitat which support living resources, [preservation of subsistence resources,] or public use and enjoyment. Except in emergencies, any regulation prescribing such restrictions relating to hunting, fishing, trapping or entry shall be put into effect only after consultation with the appropriate

State agency having jurisdiction over such activities, and after a hearing pursuant to the Administrative Procedure Act at which the validity of the restrictions shall be considered. In the event that restrictions are imposed under the emergency authority granted herein, a hearing shall be held within one hundred twenty days of such imposition.

(e) Any person who violates or fails to comply with any regulation issued pursuant to subsections (c) or (d) of this section shall be fined not more than five hundred dollars or imprisoned for not to exceed six months, or both.

(f) The Secretary of Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report every two years to the president of the Senate and the Speaker of the House of Representatives on subsistence uses within designated subsistence management zones. The report shall include among other things, the status of fish and wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses, the status of subsistence in the native cultures and in the general resident population of Alaska, the scope, nature and effectiveness of the state subsistence program, whether the state is in compliance with the standards set forth in this Act

on subsistence use, and whether there is a need for increased federal funding or legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of this Act or other law, the Secretaries of Interior and Agriculture shall permit the use of snowmobiles, motorboats, and other means of transportation traditionally used for subsistence purposes within areas open to subsistence uses, subject only to such reasonable regulations as are necessary to prevent damage to terrain, to protect the values of the public lands, and to fulfill the purposes for which affected conservation system units are established or expanded by this Act. [law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snow-machines for subsistence purposes.]

(i) The Secretaries of Interior and Agriculture shall take steps to ensure that subsistence users shall have access to subsistence management zones, including access by means of easements across public lands. Such access shall be subject only to such reasonable restrictions as the appropriate Secretary may determine from time to time are necessary to protect the values of the public land.

(j) Subject to the restrictions specified in this section, the Secretaries of Interior and Agriculture shall consider subsistence uses of plants in designating subsistence management zones, and said Secretaries shall seek to protect such subsistence resources in the development and implementation of management plans affecting particular subsistence management zones.

(k) (Possible Addition)

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy or dispositions (other than valid State and Native selections) of public lands in any subsistence management zone, the Secretaries of Interior and Agriculture shall evaluate the subsistence needs of the persons affected, the availability of

nonsubsistence lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the requirement for any taking of lands needed for subsistence uses. To the maximum extent practicable, said Secretaries shall take steps to ameliorate or eliminate adverse impacts resulting from such actions.

(l) Except as otherwise provided by this section and any other Federal law, the State of Alaska is authorized to manage and regulate the taking of fish and wildlife on Federal lands.

(m) If the State refuses to accept regulatory responsibility under this section, the Secretary of Interior or the Secretary of Agriculture, as appropriate, shall carry out the functions assigned to the State hereunder.

(n) Nothing in this Act shall be construed to grant a property right in fish, wildlife, or plants to any subsistence user.

(o) In order to carry out the provisions of this section, the sum of per annum is hereby authorized to be appropriated to the Secretary of the Interior for

transfer to the State of Alaska; provided, however, that said sum is not authorized for any year in which the State has refused to accept regulatory jurisdiction under this section. In the event that the sums authorized in this subsection is not appropriated for a particular fiscal year, the requirements of this section shall no longer apply, and the State may manage and regulate fish and resident wildlife within subsistence management zones in accordance with other applicable Federal and State law.

(p) International waters, territorial waters, navigable waters, private lands, state lands, and the resources therein are exempt from the subsistence provisions of this Act.

STATE SELECTIONS

Draft
11/21/77

Sec. _____. State of Alaska Land Selections and Conveyances. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain federal lands in Alaska for community development and expansion purposes, Section 6(a) of the Act of July 7, 1958, 72 Stat. 339, hereinafter referred to as the Alaska Statehood Act, is amended in part by addition of the following provision: The State is hereby authorized a ten-year extension of the time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain federal public lands in Alaska, Section 6(b) of the Alaska Statehood Act is amended in part by addition of the following provision:

(1) The State is hereby authorized a ten-year extension of time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(2) The provision regarding Presidential approval of land selections heretofore or hereafter made north and west of that line described in Section 10 of the Alaska Statehood Act is hereby repealed.

(c) The State of Alaska is hereby granted and shall be entitled to select on or before January 3, 1994 from surveyed or unsurveyed federal lands which are vacant, unappropriated and unreserved at the time of their selection, those school indemnity lands reserved to the Territory of Alaska under Section 1 of the Act of March 4, 1915, as amended by the Act of March, 1952 and the Act of August 27, 1958. Patent to the State of Alaska of indemnity land selections granted by this subsection is authorized pursuant to the provisions of 43 U.S.C. Sec. 852.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, and to conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971).

(e) All State of Alaska land selections made pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), and tentative approval and patent pursuant to Section 6(g) of the Alaska Statehood Act.

(f) All applications for selection by the State of Alaska of Federal lands which were not, or are not, on the date of such application vacant, unappropriated, unreserved Federal lands within the meaning of Section 6 of the Alaska Statehood Act are hereby confirmed and shall be hereafter treated as valid state selections upon the subsequent revocation or other termination of any such Federal withdrawal or reservation.

(g) To insure that the State of Alaska fulfills its entitlement to Federal lands granted or confirmed by Section 6 of the Alaska Statehood Act, the State may file and maintain selection applications for lands exceeding by one hundred and twenty-five percent in total area the amount of remaining State entitlement under each such grant. The State shall list such selections in desired priority order

of conveyance. Such excess selections shall become void upon fulfillment of each such grant unless transferred by the State to any remaining unfulfilled grant, if such lands are otherwise eligible for conveyance under such remaining entitlement.

(1). The State of Alaska may, by written notification to the Secretary, relinquish any previously-filed selections of land or applications for selection prior to receipt by the State of tentative approval.

(2). Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision: All selections made by the State after January 1, 1977 shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least one thousand two hundred and eighty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundred and sixty acres.

(3). Land selection applications heretofore or hereafter filed by the State which select all available lands within the descriptions set forth in the selection

applications shall be effective selections of all uplands and non-navigable shore and submerged lands which are in fact available at the time of selection, or which later become available prior to fulfillment of the land grants made by the Alaska Statehood Act and this Act.

(4). A charge against the State's appropriate acreage entitlement under Section 6 of the Alaska Statehood Act shall be made by the Secretary only upon issuance of patent.

(h) The United States hereby recognizes valid State of Alaska land selections of the following described Federal lands, and such lands shall be segregated from any other reservation, withdrawal or disposal under the laws of the United States:

DESCRIPTION

(i) Lands identified in subsection (h) shall be tentatively approved to the State, subject to valid rights existing as of the date of enactment of this Act. Existing federal withdrawals or reservations for public purposes, excepting the smallest practicable tract, as determined by

the Secretary of the Interior within three years after adoption of this Act, enclosing land actually used in connection with the administration of any Federal installation, shall be subject to selection to the extent that such lands lie within those areas described in subsection (h) of this section. Equitable title to the lands described in said subsection shall vest in the State of Alaska upon tentative approval of such selections, with legal title to vest upon issuance of patent to the State. Patent may be issued pending survey, or subject to competing claims of right to or interest in such lands, with the consent of the State.

**LAND USE COMMISSIONS
AND
FIFTH SYSTEMS**

1. Lands: Place designated Federal and State lands and possibly private lands under the new entity. These could include:
 - a so called fifth system Reserve lands designated by Congress out of the present (d)(2) withdrawal lands,
 - Some or all of the remaining unreserved Federal lands,
 - lands to be designated by the State,
 - lands to be designated by the private sector.

2. Authority: The entity could be granted authority;
 - only to plan and coordinate;
 - only to classify lands under its mandate;
 - to designate managers and provide management guidelines.

Amendment, Fishing, Aquaculture and Wilderness

(d) In accord with principles of ground fisheries management, the appropriate Secretary is authorized to permit fish stocking, enhancement and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall involve no permanent housing for personnel or equipment and only minimal facilities essential to the aquacultural operations and shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures, no alteration to the natural contours of the terrain shall be permitted.

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LAW OFFICES

BIRCH, HORTON, RITTNER AND MONROE

733 WEST FOURTH AVENUE-SUITE 208

ANCHORAGE, ALASKA 99501

(907) 279-9403

TELEX 25-356

January 24, 1978

RONALD S. BIRCH
KAL R. HORTON
WILLIAM H. RITTNER
SUZANNE CHEROT PESTINGER
LLOYD V. ANDERSON
BRUCE MONROE
GREGORY C. TAYLOR
ROD CARMAN
RITA T. ALLEE
GORDON F. SCHADT
MICHAEL R. SPAAN
HARVEY A. LEVIN
JOSEPH M. CHOMSKY
JAMES D. DEWITT
CAROL A. JOHNSON
MARK S. BLEDSOE
MICHAEL J. O'BRIEN
GERALD D. STOLTZ
RONALD E. NOEL
PETER A. GALBRAITH
JOSEPH W. EVANS
WINSTON S. BURBANK
DIANNE H. PIERSON

1200 AIRPORT HEIGHTS DRIVE
ANCHORAGE, ALASKA 99504
(907) 279-9901

751 OLD RICHARDSON HWY., SUITE 248
FAIRBANKS, ALASKA 99701
(907) 452-1888

130 SEWARD STREET
JUNEAU, ALASKA 99901
(907) 586-8880

4400 JENIFER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
(202) 244-4280
TELEX 9-89-2591

* NOT ADMITTED IN ALASKA

Sharon Long
Steering Council for Alaska Lands
1016 W. 6th Avenue, Suite B
Anchorage, Alaska 99501

Dear Sharon:

Please find attached, a copy of the amendments prepared at the direction of the Council regarding cooperative management system.

The amendments add federal and state land into the Alaska Land System as well as provide the opportunity for private land to be added.

Section 105 outlines the administration powers that the commission has while Section 201 outlines the structure and responsibilities of said commission.

Title III contains language already adopted by the Council concerning wildlife management, mineral development, and access for transportation and utility purposes.

The one caveat I have is that these amendments were drafted over a period of several days and I will not guarantee that they are correct as far as the technicalities of legislative drafting and construction

Sharon Long
January 24, 1978
Page Two.

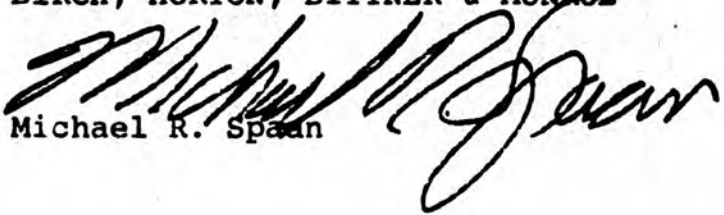
are concerned. The Council members should use this language as an indication of the types of changes they want in the D-2 Bill and not as if they were written in stone.

I would also like to add that these amendments address only one issue concerning the D-2 proposal and was not intended and should not be taken as the whole input of the Council. I know you are aware many other proposals have been addressed by the Council.

With best wishes,

Cordially,

BIRCH, HORTON, BITTNER & MONROE


Michael R. Spaan

MRS/kpo
Attachments

TITLE I. - ALASKA LANDS SYSTEM

Section 101:

New Federal Units: Subject to valid existing rights, the following areas are hereby established as units of the Alaska Lands System --- [list of specific additions and managers]

ADDITIONAL FEDERAL LANDS

Section 102:

In addition to federal lands designated by Congress in Section 101, all other unreserved federal lands in Alaska after the date of enactment of this Act shall become part of the Alaska Lands System.

STATE LANDS

Section 103:

(a) The State of Alaska shall designate an appropriate amount of state land which is of like character and adjacent to federal lands placed in the Alaska Lands System into said system. Such lands shall be classified and managed in accordance with Titles II & III of this Act and the applicable laws of the State of Alaska.

(b) The State of Alaska must designate an equal percentage of its lands into the Alaska Land System as that designated by this Act of federal lands. The percentage figure will be based upon the number of acres of federal lands in the State of Alaska in relation to the total acreage of Alaska as compared to the percentage of state lands within the state in

relation to the total acreage. The location boundaries of such lands shall be determined by mutual agreement of the Secretary and the State of Alaska. Prior to such agreement, the Secretary shall consult as necessary with other federal officials, including, but not limited to the Secretaries of Agriculture, Defense, Transportation and State. As soon as practical after the date of designation pursuant to Subsection (a) of this Title, a map and legal description of the areas established by this title shall be published by the Secretary in the Federal Register and filed with the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act.

PRIVATE LANDS

Section 104:

(a) With the approval of the Commission, and subject to valid existing rights, private landowners may dedicate their lands for periods of not less than ten years as Private Alaska Lands. Upon dedication, such lands shall be classified by the Commission and managed by the landowner in accordance with such classification and other provisions of this Act.

(b) With the concurrence of the State of Alaska, private owned lands designated as "Private Alaska Lands" under this title shall be exempt from State and local real property taxation and assessment so long as such lands are not developed

or leased to third parties. For purposes of this subsection, development shall mean any disturbance of the land which results in the production of revenue. The Commission shall promulgate regulations to supplement the meaning of development for purposes of this section.

(c) Private Alaska Lands shall be open to all uses, except that the Commission may close areas to a particular use if it finds that such use is incompatible with a land use plan developed by the Commission pursuant to section 201(0), or upon a finding that exigent circumstances exist: Provided, however, That lands dedicated pursuant to this title may, upon notification to the Commission, be removed from the designation of Private Alaska Lands, and effective upon such removal, the provisions of this title shall no longer be applicable to such land so removed: Provided further, That if such lands are removed from the designation of Private Alaska Lands prior to the expiration of each ten-year period, such landowner shall be liable for accrued local and State property taxes and assessments which would have been owing on such lands but for their designation as Private Alaska Lands, together with interest thereon in an amount to be determined at the rate charged by the appropriate taxing agency for delinquent property taxes.

ADMINISTRATION

Section 105:

(a) The Commission shall classify the lands, waters and interests therein referred to in Sections 101, 102, 103 and

104, in accordance with the requirements specified in this Section 201 of this Act. As provided in Section 301, the area will be open to mining and mineral leasing prior to the land classification being made. Hunting, fishing and other wildland recreational activities, trapping, information gathering activities, conducted or sponsored by federal agencies or the State Department of Fish and Game, and snow machine use shall be permitted unless specifically prohibited by the Commission or by then existing regulations of the appropriate managing agency: Provided further, and nothing herein shall be construed to abrogate or otherwise adversely affect valid existing rights of access. In making planning and classification decisions, the Commission shall provide the high level of environmental protection necessary to maintain the natural values and characteristics of the affected land. The Commission shall permit such uses as it finds to be in the national interest or to be consistent with the level environmental protection specified in the preceeding sentence.

(b) The agencies listed in Section _____ (federal lands classified into the Fifth System will have a lead agency, either the Parks Service, Forest Service, or Fish and Wildlife Service) shall manage the units placed under their jurisdiction, and shall regulate uses within such units, in accordance with classifications made by the Commission. Except to the extent that they would be inconsistent with the Commission classifi-

cation or the provision of this Act, land use and management decisions made by an agency referred to in Section ____, shall be in accordance with the laws and regulations which generally govern the function of such agency.

TITLE II - ALASKA LAND COMMISSION

Section 201:

(a) There is hereby established the Alaska Land Commission (hereinafter referred to as the "Commission"), which shall be composed of eight members as follows:

(1) Four members appointed by the President with the advice and consent of the Senate, of whom one will be designated by the President, at the time of appointment, as Co-Chairman; and

(2) Four members appointed pursuant to the law of the State of Alaska, one of whom shall be designated, at the time of appointment, as Co-chairman.

(b) (1) The Federal Co-Chairman shall be compensated at a rate to be determined by the President not to exceed the rate provided for GS-18 of the General Schedule under Section 5332 of Title V, United States Code.

(2) The other Federal members of the Commission shall be compensated at a rate to be determined by the President not to exceed the rate provided for GS-16 of the General Schedule under Section 5332 of Title V, United States Code.

(3) The State Co-Chairman and the State members of the Commission shall be compensated in accordance with applicable State law.

(c) Members shall serve at the pleasure of the appointing authority. A vacancy in the membership of the Commission shall not affect its powers but shall be filled in the same manner as the original appointment [was made].

(d) With respect to all Federal lands subject to the jurisdiction of the Commission, the Secretary may veto a decision of the Commission. With respect to all State lands subject to the jurisdiction of the Commission, the Governor of the State of Alaska may veto a decision of the Commission.

(f) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(g) The Commission, or on its authorization, any subcommittee or member thereof, may hold such hearings, take such testimony, receive such evidence, and print such reports as are deemed necessary to carry out the functions specified in this title.

(h) The Co-Chairmen, acting jointly shall have the authority, in accordance with regulations prescribed by the Commission, to create and abolish employments and positions, including temporary and intermittent employments; to fix and

provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Commission employees; and to procure needed office space, supplies, and equipment.

(i) The principal office of the Commission shall be located in the State of Alaska.

(j) Within any one fiscal year, the Federal government shall pay only 50 percent of the costs and other expenses incurred by the Commission in carrying out its duties under this Act.

(k) The Commission is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursements. Each department and agency of the Federal government is authorized to cooperate fully in making its services, equipment, personnel, and facilities available to the Commission.

(l) The Commission is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(m) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(n) The Commission shall submit annually to the President and Congress of the United States and to the Governor

and Legislature of the State of Alaska, a report concerning its activities to implement the provisions of this Act during the year. In addition to other subjects included, the Commission shall make recommendations for any additional administrative or legislative action necessary to accomplish the purposes of this Act.

(o) It shall be the function of the Commission:

(1) To review resource inventories prepared by the managing agencies of Alaska's scenic areas, referred to in Section _____ and by the U.S. Geological Survey and the Bureau of Mines; to develop comprehensive land use plans with respect to such lands; and to make land classifications based on the plans;

(2) Make recommendations of ways to improve coordination and consultation between officials of the United States and the State of Alaska in wildlife managements, transportation planning, wilderness review, guaranteed access; and other governmental activities which require regional or statewide coordination;

(3) To make recommendation to the appropriate state and federal officials on ways to insure that the orderly development of Alaska is compatible with state and national economic, social, and environmental objectives;

(4) To make recommendations to the appropriate state and federal officials with respect to changes in laws, policies, and programs relating to public lands and resources which the Commission deems necessary;

(5) To make recommendations to the appropriate state and federal officials with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native corporations upon their request;

(6) To make recommendations to appropriate State and Federal officials with respect to needed modifications in existing withdrawals of Federal and State public lands; and

(7) To make recommendations to appropriate State and Federal officials with respect to the programs and budgets of Federal and State Agencies responsible for the administration of public lands in Alaska.

(p) Notwithstanding any provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in Section 17(a) of the Settlement Act, shall cease upon the expiration of the 90-day period

following the date of enactment of this Act. Immediately upon the expiration of such period, all unexpended funds appropriated to the Joint Commission shall be returned, as appropriate, to the United States and the State of Alaska, and, all Federal property of said Commission, at the discretion of the Commission, established in this section, shall either be transferred to said new Commission or disposed of pursuant to applicable law.

TITLE III

MANAGEMENT AND ADMINISTRATION

Section 301 - Wildlife Management:

The taking of fish and game on all land subject to this Act shall be regulated by the State of Alaska in accordance with applicable State law, including, but not limited to, the regulation of seasons, bag limits, means and methods, the administrative structure for wildlife management and regulations, the determination of resource depletion, and the definition of subsistence use and local residency. Where there is a conflict caused by depletion, the taking of fish and game for subsistence purposes shall be given preference over the taking of fish and game for other purposes. Such preference shall be granted to the local residents of the area affected by a conflict between consumptive uses among subsistence users such preference shall be granted on the basis of economic need. Nothing in this section shall be construed to require that hunting or fishing be permitted where depletion of the resource would dictate a complete prohibition of such activities.

*Note - Second option is language adopted by Council and prepared by state has second choice. See appendix One.

MINEKAL DEVELOPMENT

Section 302:

(a) The location, lease, sale, or other disposition of minerals and mineral materials found in National Parks are prohibited subject to valid existing rights.

(b) The location, lease, sale, or other disposition of minerals and mineral materials on National Park Preserves is permitted in accordance with existing laws.

(c) In regard to those areas included in the National Wildlife Refuges Systems, mining and mineral leasing shall be administered by the Secretary in accordance with the laws which generally apply to such system.

(d) Jointly managed areas created pursuant to this Act in Title I will be open for mining and mineral leasing unless specifically closed by the Commission pursuant to a land classification as set forth in §201(0)(1) of this Act.

(1) Previous to the land classification plan being made pursuant to §201(0)(1) mining and mineral leasing shall be subject to the requirements set forth in 43 U.S.C. 1701 Et. Seq.

(2) The Mineral Leasing Act of 1920 (30 U.S.C. 181 et. seq.) and the Act of July 31, 1947 (30 U.S.C. 101 et. seq.) shall apply with respect to said lands classified pursuant to Title I of this

Act. The exploration and development of minerals currently subject to location under General Mining Laws (30 U.S.C. 21 et. seq.) shall be governed by the system provided for in Title ____ (Note H.R. 5931)

(e) In holdings:

(1) The Secretary is hereby directed to administer and attempt to see that the Clean Air Act (42 §1357 et. seq.) and Water Pollution Control Act (33 U.S.C. §466 et. seq.) and other Environmental Acts are administered in a manner that would not frustrate the development of valid existing claims within areas included within the systems described in § ____.

(2) In any case where state-owned or privately owned land (including native land) or a valid mining claim or other valid occupancy is surrounded by public lands within one or more conservation systems units, the state or private owner or occupier shall be given such easements or other rights as may be necessary to assure adequate access to such surrounded land or occupancy by such state or private owner or occupier and his successors in interest, under reasonable regulations to protect the values of the unit or units.

(3) If the development of a valid existing claim is prevented by the denial of access or other restrictions imposed by the federal government in its management of areas surrounding the claim, the amount due the holder of the claim should be calculated on the basis of net profit to be realized on the mineral deposit defined at the time the forced sale occurs.

Section 303:

ACCESS FOR TRANSPORTATION AND UTILITY PURPOSES

(a) Existing law shall govern the establishment of corridors and the issuance of rights-of-way and easements for transportation and utility purposes across the units of the system referred to in Title ____ of this Act. (National Forest).

(b) The establishment of corridors and the issuance of rights-of-way and easements for transportation and utility purposes across the units of the systems referred to in Titles ____, ____, ____, and ____ of this will be governed by the following process:

(1) The Commission may at its own initiative or pursuant to a request may recommend the establishment of a corridor, issuance of a right-of-way or easement across a system described in §303(b) to the Secretary of Interior and the Secretary of Transportation when he is involved pursuant to existing law.

(2) If the Commission considers a proposal pursuant to a request a decision on said request will be given by the Commission within 120 days from its receipt.

(3) If an access request is denied by the Commission, the right of appeal directly to the Secretary is preserved.

(4) If either the Secretary of Interior or the Secretary of Transportation (when applicable) fails to veto a proposal of the Commission within 120 days of its receipt, the proposal will be deemed accepted and the Commission will issue the necessary permits.

(c) Notwithstanding existing law, the factors to be taken into consideration by the Commission and both the Secretaries of Interior and Transportation when making access decisions as outlined in §401(b) are as follows:

- (1) State wide and regional transportation plans.
- (2) A need for access.
- (3) Alternative routes and modes of access.
- (4) Feasibility of including different transportation and/or utility functions of the same corridor.
- (5) Short and long term social, economic, environmental impact.

(6) Measures that should be instituted to negate any adverse impact.

(d) This section does not effect existing law regarding electric transmission lines for access across systems identified in § _____ (Parks, Refuges, and Rivers).

(e) Within three years of the date of enactment of this act, the Departments currently involved in planning and environmental assessment regarding access across federal lands, shall submit to the Congress, recommendations as to how each department will be responsible for their area of expertise in arriving at joint decisions on transportation matters. The recommendations of each Department in their area of expertise shall be conclusive.

(f) The Governor of Alaska shall have the same power of the respective secretaries outlined in Section 303(b)(4) on land described in §103 (State lands in joint ownership).

(g) Nothing in this section shall be construed to abrogate or otherwise adversely affect valid existing rights of access.

AMENDS ANDRUS PROPOSAL

December 7, 1977

For possible use if preferred
recommendations are not adopted
by the Subcommittee.

Brackets [] indicate deletions
Underlined _____ indicate additions

See Senator Stevens language
S. 1787

SEC. ____ (a) Except as otherwise provided by Federal law the State of Alaska is authorized to permit subsistence uses of fish[,] and wildlife[, and plant] resources within designated subsistence management zones by establishing within eighteen months of the enactment of this Act, a program:

(1) Defining "subsistence uses" to include the taking and use of customary or traditional wild foods [and other renewable biological resources] from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter [among] by qualified subsistence users for personal or family consumption, including customary barter to obtain a nominal cash supplement, and the sale of traditional native handicrafts made out of the non-edible by-products of resources taken for personal or family consumption pursuant to this subsection;

(2) prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number and type of fish[, and wildlife[, or plant] species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence [prior to December 18th, 1971] on the effective date of this act.

qualified for subsistence uses within subsistence management zones based upon the following factors which shall be weighted by the State to reflect their relative importance: customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and [cultural needs] the traditional lifestyle of the subsistence user;

(4) creating a system of regional and local [subsistence] advisors to assist in [determining who is qualified for subsistence uses within] carrying out the State's responsibilities under this section, including, to the maximum practicable extent, determining who is qualified for subsistence uses within subsistence management zones; and

(5) giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or [anticipated] projected population declines in a specific subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and well-being of the fish[,] and wildlife[, and plant] population affected.

(b) Within eighteen months of the enactment of this Act, [T]he Secretaries of Interior and Agriculture, after a rule making procedure implemented pursuant to the Administration Procedure Act (5 U.S.C. 551 et seq.), shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or [before] about the effective date of this Act and where continued subsistence uses would be consistent with the purposes for which the area was established and is being managed. The appropriate Secretary, after rule making pursuant to the Administrative Procedure Act, shall [is authorized to] periodically revise the boundaries of subsistence management zones in order to reflect changes in fish[,] and wildlife [or plant populations] migration patterns or [subsistence] the needs of qualified subsistence users.

(c)(1) After consultation with the State of Alaska, [T]he appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, [fish and wildlife management] protection and management of the lands and habitat which support living resources, administration, or public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a)(2) of this section [are inconsistent with, the purposes for which any area was established or] constitute a danger to the population of any species, he may close the area to subsistence uses, subject to the procedure described in the following subsection.

(c)(2) If the Secretary of the Interior determines that the State has failed to comply with the requirements specified in this section, he shall first give the State a reasonable period, but not less than one hundred twenty days, to rectify the alleged deficiency. If the State refuses to make such changes, the Secretary shall initiate a hearing pursuant to the Administrative Procedure Act in order to ascertain the validity of the State's claim. Upon a finding of noncompliance by the State with the requirements specified in this section, the Secretary or the Secretary of Agriculture, as appropriate, may close any affected subsistence management zone or portion thereof to subsistence uses; provided that upon his finding that an emergency exists, the appropriate Secretary may close a subsistence management zone or portion thereof pending a hearing, which shall be convened within one hundred twenty days of the closure.

(d)(1) Except for those subsistence uses authorized in titles ___, ___, and ___, and in this section, [a] all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but [may] shall be open to sport fishing in accordance with the applicable laws of the United States and the State of Alaska; provided, however, the Secretary shall permit fishing, trapping, and [non-commercial] sport hunting within areas established by this Act as "national preserves" and "national rivers" in accordance with the applicable laws of the United States and the State of Alaska; provided further, that nothing in this subsection shall be construed as limiting the authority of the State of Alaska to manage and regulate fish and resident wildlife within such preserves and national rivers.

(2) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may designate for all units of the National Park System, the National Wildlife Refuge System, the National Forest System, and the Wild and Scenic Rivers System in the State of Alaska areas where, and periods when, hunting, fishing, trapping or entry may be limited or prescribed for reasons of public safety, administration, protection and management of the lands and habitat which support living resources, [preservation of subsistence resources,] or public use and enjoyment. Except in an emergency, any regulation prescribing such restrictions relating to hunting, fishing, trapping or entry shall be put into effect only after consultation with the appropriate State agency having jurisdiction over such activities, and after a hearing pursuant to the Administrative Procedure Act at which the validity of the restrictions shall be considered. In the event that restrictions are imposed under the emergency authority granted herein, a hearing shall be held within one hundred twenty days of such imposition.

(e) Any person who violates or fails to comply with any regulation issued pursuant to subsections (c) or (d) of this section shall be fined not more than five hundred dollars or imprisoned for not to exceed six months, or both.

(f) The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report every two years to the President of the Senate and the Speaker of the House of Representatives

and ~~within~~ within designated subsistence management zones. The report shall include among other things, the status of fish and wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses, the status of subsistence in the native cultures and in the general resident population of Alaska, the scope, nature and effectiveness of the State subsistence program, whether the State is in compliance with the standards set forth in this Act on subsistence use, and whether there is a need for increased Federal funding and/or legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of this Act or other law, the Secretaries of Interior and Agriculture shall permit the subsistence related use of snowmobiles, motorboats, and other means of transportation traditionally used for subsistence purposes within areas open to subsistence uses, subject only to such reasonable regulations as are necessary to prevent damage to terrain, to protect the values of the public lands, and to fulfill the purposes for which affected conservation system units are established or expanded by this Act. [law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snowmachines for subsistence purposes.]

(j) The Secretaries of Interior and Agriculture shall take steps to ensure that subsistence users shall have access to subsistence management zones, including access by means of rights-of-way or easements across public lands. Such access shall be subject only to such reasonable restrictions as the appropriate Secretary may determine from time to time are necessary to protect the values of the public lands.

(j) Subject to the restrictions specified in this section, the Secretaries of Interior and Agriculture shall consider subsistence uses of plants in designating subsistence management zones, and said Secretaries shall seek to protect such subsistence resources in the development and implementation of management plans affecting particular subsistence management zones.

(k) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy or dispositions of public lands (except valid State and Native land selections and related conveyances) in any subsistence management zone, the Secretaries of Interior and Agriculture shall evaluate the subsistence needs of the persons affected, the availability of nonsubsistence lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the requirement for any taking of lands needed for subsistence uses. To the maximum extent practicable, said Secretaries shall take steps to ameliorate or eliminate adverse impacts resulting from such actions.

Federal law, the State of Alaska is authorized to manage and regulate the taking of fish and wildlife on Federal lands.

(m) If the State refuses to accept regulatory responsibility under this section, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall carry out the functions assigned to the State hereunder.

(n) Nothing in this Act shall be construed to grant a property right in fish, wildlife, plants, habitat, lands or waters to any subsistence user.

(o) In order to carry out the provisions of this section, the sum of _____ per annum is hereby authorized to be appropriated to the Secretary of the Interior for transfer to the State of Alaska; provided, however, that said sum is not authorized for any year in which the State has refused to accept regulatory jurisdiction under this section. In the event that the sum authorized in this subsection is not appropriated for a particular fiscal year, the requirements of this section shall no longer apply, and the State may manage and regulate fish and resident wildlife within subsistence management zones in accordance with other applicable Federal and State law.

(p) International waters, territorial waters, navigable waters, private lands, state lands and the resources in such lands and waters are exempt from the provisions of this section.

BIRMINGHAM ALA

ALABAMA SEA

1/25/78

BIRCH, HORTON, BITTNER & MONROE

ATTORNEYS AT LAW

ANCHORAGE, ALASKA

ATTN: JOSEPH M. CHOMSKI

PROPOSED MINERALS POLICY

.....

1. SECRETARY AUTHORIZED TO CONDUCT STUDIES OF ALL AREAS SO LONG AS STUDIES DO NOT SUBSTANTIALLY ALTER SURFACE FEATURES OF AREAS. RESULTS OF STUDIES TO BE TRANSMITTED TO CONGRESS EVERY FIVE YEARS WITH SPECIAL REFERENCE TO STRATEGIC AND CRITICAL MINERALS.
2. A. NATIONAL PARKS, WILD AND SCENIC RIVERS, MONUMENTS AND WILDERNESS AREAS ESTABLISHED CLOSED TO MINERAL ENTRY.
B. PRESERVES AND WILDLIFE REFUGES OPEN TO MINERAL ENTRY IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT. NATIONAL FOREST UNITS AND NATIONAL FOREST WILDERNESS UNITS ADDED UNDER THIS ACT ARE OPEN TO MINERAL ENTRY UNDER EXISTING LAW. IN THE CASE OF NATIONAL FOREST WILDERNESS UNITS, THE DATE FOR PERFECTION OF POTENT IS EXTENDED UNTIL 1998.

THIS ACT, APPLICANT WILL FILE APPLICATION FOR AN EXPLORATION AND EXTRACTION PERMIT WHICH SHOULD CONTAIN THE FOLLOWING INFORMATION:

- A.: NAME, POST OFFICE ADDRESS, AND TELEPHONE NUMBER, IF ANY, OF THE OPERATORS, AND THEIR LESSEES, ASSIGNS, OR DESIGNEES AND THEIR DULY APPOINTED FIELD REPRESENTATIVE;
- B.: NAME OF MINING DISTRICT OR MINERALIZED AREA, AS DEPICTED ON MAPS WHICH SHALL BE PUBLISHED BY THE UNITED STATES GEOLOGICAL SURVEY IN ORDER TO FACILITATE COMPLIANCE WITH THIS REQUIREMENT; AND NAME OF ENTRIES AND/OR PROPERTY(IES) ON WHICH OPERATION(S) WILL TAKE PLACE OR WILL BE BASED;
- C.: A LOCATION OF APPROPRIATE SCALE TO SHOW THE GENERAL AREA IN WHICH EXPLORATION OPERATIONS MIGHT TAKE PLACE AND PROPOSED ROUTES OF ACCESS;
- D.: A SURFACE DISTURBANCE MAP OF THE AREA WITHIN WHICH ON-SITE AND OFF-SITE SURFACE RESOURCE DISTURBING ACTIVITIES WILL OR COULD TAKE PLACE.: THE SCALE AND ACCURACY OF THE MAP MUST BE ADEQUATE TO PERMIT IDENTIFICATION OF THE SITE ON THE GROUND;
- E.: A DESCRIPTION OF THE TYPE AND MAGNITUDE OF THE PROPOSED OPERATIONS.: SUCH DESCRIPTION SHALL BE RELATED TO THE INFORMATION POSTED ON THE MAPS.: THE SECRETARY SHALL REQUIRE ONLY THE MINIMUM OF INFORMATION NEEDED BUT SHALL REQUIRE INFORMATION ON EARTHMOVING AND SITE CLEARANCE OPERATIONS;
- F.: THE MANNER IN WHICH COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS RELATING TO ENVIRONMENTAL PROTECTION AND RECLAMATION WILL BE EFFECTUATED; AND
- G.: AN IDENTIFICATION OF THE PROBABLE BEGINNING AND ENDING DATES WITHIN WHICH THE PROPOSED OPERATION WILL BE CONDUCTED AND, WHERE APPROPRIATE, A STATEMENT OF WHETHER THE OPERATION WILL

APPLICATION.

4.: THE SECRETARY OF INTERIOR SHALL ISSUE A WRITTEN DECISION TO GRANT OR DENY THE PERMIT WITHIN 90 DAYS OF APPLICATION.

THE SECRETARY SHALL GRANT THE PERMIT UNLESS HE FINDS:

- A.: BY CLEAR AND CONVINCING EVIDENCE ON THE ADMINISTRATIVE RECORD CONSIDERED AS A WHOLE THAT THE PLAN DOES NOT CONSTITUTE A METHOD BY WHICH THE MINERAL DEPOSIT CAN BE EXPLORED OR DEVELOPED BY A PERSON OPERATING IN A DILIGENT MANNER AND IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS; OR
- B.: THE EXPLORATION OR EXTRACTION OPERATIONS EITHER DONE IN COMBINATION WITH PRIOR LEASEHOLDERS WOULD SUBSTANTIALLY DIMINISH THE STATE'S ABILITY TO MANAGE THE FISH AND GAME RESOURCES OF THE AREA; OR
- C.: THAT EXPLORATION OR EXTRACTION OPERATIONS EITHER ALONE OR IN COMBINATION WITH PRIOR LEASEHOLDERS WOULD SUBSTANTIALLY INTERFERE WITH VISITOR ENJOYMENT OF THE AREA, CONSIDERING:
 - (I) THE PURPOSE FOR WHICH THE AREA WAS DESIGNATED, AND
 - (II) ACTUAL AND REASONABLE PROJECTIONS OF VISITOR USE OF THE AREA INVOLVED; AND
 - (III) THE AMENABILITY OF THE AREA TO RECLAMATION UPON COMPLETION OF OPERATIONS; OR
- D.: THAT THE PROPOSED PROJECT, IF DEVELOPED WOULD NOT CONTRIBUTE TO THE ALASKAN ECONOMY CONSIDERING:
 - (I) THE DEGREE TO WHICH THE PROPOSED PROJECT WOULD DECREASE ALASKAN UNEMPLOYMENT; AND
 - (II) THE DEGREE TO WHICH THE PROPOSED PROJECT WOULD CONTRIBUTE STATE REVENUES; OR
- E.: THAT THE AREA COULD NOT BE RECLAIMED UPON COMPLETION TO A CONDITION COMPATIBLE WITH THE ADJACENT AND SURROUNDING

ENTRY UNDER THIS ACT.:

A DECISION TO DENY A PERMIT SHALL BE ACCOMPANIED BY A DETAILED EXPLANATION OF THE REASONS THEREFOR, TOGETHER WITH A STATEMENT OF WHAT, IF ANYTHING, CAN BE DONE TO PERFECT THE APPLICATION. AN APPLICANT WHO IS DENIED A PERMIT SHALL HAVE AN IMMEDIATE RIGHT OF APPEAL TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT IN WHICH HE RESIDES OR IN WHICH THE LANDS ENCOMPASSED WITHIN HIS APPLICATION ARE LOCATED. THE SECRETARY'S DECISION SHALL BE SUSTAINED IF THE COURT FINDS SUCH DECISION TO BE SUPPORTED BY THE ADMINISTRATIVE RECORD. IF A DECISION IS NOT RENDERED WITHIN 90 DAYS, THE APPLICATION WILL BE DEEMED APPROVED.:

5.: THE PERMIT ISSUED BY THE SECRETARY SHALL:

- A.: GIVE EXCLUSIVE RIGHTS OF EXPLORATION AND EXTRACTION TO THE LESSEE FOR THE AREA INVOLVED.:
- B.: BE FOR AN INITIAL TERM OF 20 YEARS WITH A RIGHT OF RENEWAL.:
- C.: BE LIMITED TO 640 ACRES WITH EXCEPTIONS PERMITTED WHERE APPROPRIATE.:
- D.: BE CONTIGUOUS AND REASONABLE COMPACT.:
- E.: SPECIFY CONDITIONS UNDER WHICH EXPLORATION AND EXTRACTION WILL OCCUR.:
- F.: STATE WHETHER OR NOT A PERFORMANCE BOND IS REQUIRED FOR EXPLOARTION OR EXTRACTION.:

6.: PERMIT SHALL BECOME EFFECTIVE WITHIN 120 DAYS OF ISSUANCE UNLESS OVERRULED BY CONGRESS.:

7.: SURVEY OF LEASED AREA MUST TAKE PLACE PRIOR TO DEVELOPMENT.:

(SEE SECTION 209 OF KATZ P.:11)

8.: PRIOR TO COMMENCING EXTRACTION OPERATIONS BY METHODS WHICH WILL DISTURB THE SURFACE OF LANDS SUBJECT TO THIS ACT, APPLICANT WILL SUBMIT A FINAL PLAN OF OPERATIONS WHICH SHALL BE APPROVED UPON A FINDING THAT IT DOES NOT DEFEER SUBSTANTIALLY FROM THE

**ORIGINAL PLAN SUBMITTED TO CONGRESS.: THE FINAL PLAN OF
OPERATIONS SHALL CONTAIN THE FOLLOWING INFORMATION:**

- A.: THE KNOWN AND INFERRED BOUNDARIES OF THE MINERAL DEPOSIT,
THE QUANTITIES AND GRADES OF PROVEN AND PROBABLE MINERAL
RESERVES CONTAINED THEREIN, AND THE TEST RESULTS AND DATA
FROM WHICH SUCH INFORMATION IS DERIVED;**
 - B.: THE PLANNED LOCATION OF EXCAVATIONS, TUNNELS, SURFACE
FACILITIES, ROADS, AND OTHER PROPOSED USES OF THE SURFACE
AND SUBSURFACE OF THE LEASE AREA, AND LANDS NEEDED FOR
ACCESS;**
 - C.: A DESCRIPTION OF THE TYPES AND CAPACITIES OF THE EQUIPMENT
AND FACILITIES WHICH THE LESSEE ANTICIPATES USING TO MINE
AND TRANSPORT ORE AND WASTE FROM THE MINERAL DEPOSIT;**
 - D.: THE CONTEMPLATED TIME SCHEDULE OF EACH PHASE OF MINE
DEVELOPMENT, FACILITY, AND PLANT CONSTRUCTION, AND COMMENCE-
MENT OF MINERAL PRODUCTION.:**
 - E.: A DESIGNATION, BY SURVEY OR BY LEGAL SUBDIVISION DESCRIPTION,
OF THE CONTIGUOUS OR NONCONTIGUOUS TRACTS OF LAND OWNED
BY THE UNITED STATES OUTSIDE THE EXTERIOR BOUNDARIES OF THE
LEASE AREA WHICH THE LESSEE DESIRES TO LEASE UNDER SECTION
605 OR TO EXCHANGE UNDER SECTION 605, AND A DESCRIPTION OF
THE PLANNED USES WHICH WILL BE MADE OF EACH SUCH TRACT IN
CONNECTION WITH THE DEVELOPMENT, MINING, AND PROCESSING OF
RATIONS TO TAKE PLACE WITHIN THE LEASE AREA; AND**
 - F.: THE MANNER IN WHICH COMPLIANCE WITH FEDERAL, STATE, AND
LOCAL LAWS AND REGULATIONS RELATING TO ENVIRONMENTAL
PROTECTION AND RECLAMATION WILL BE EFFECTUATED.:**
- IF SECRETARY FAILS TO ISSUE PERMIT, IT MUST BE DOCUMENTED.:
APPLICANT CAN GO DIRECTLY TO THE DISTRICT COURT.:**

9. THE SECRETARY MAY SUSPEND OR CANCEL THE PERMIT UPON FINDING THAT:

- A.: LESSEE HAS VIOLATED THE TERMS AND CONDITIONS OF THE PERMIT.:
- B.: LESSEE IS BANKRUPT.:
- C.: THE SECRETARY WISHES A FINDING THAT OPERATIONS CANNOT BE CONTINUED IN A MANNER CONSISTENT WITH THE NEED FOR ENVIRONMENTAL PROTECTION OF THE AREA.:
- D.: EMERGENCY SITUATION
- E.: FAILURE OF LESSEE TO MORE REQUIRED SURVEY
- F.: FAILURE TO MAKE LEASE OR ROYALTY PAYMENTS.:
- G.: APPLICATION OF LESSEE

DECISION MUST BE DOCUMENTED.: LESSEE CAN GO DIRECTLY TO COURT.:

10.: ANNUAL RENTAL ON LEASES (SEE KATZ SECTION 211 PP 13-14)

11.: ROYALTIES (SEE KATZ P.:15)

12.: SURFACE MANAGEMENT (SEE SECTION 213 OF KATZ P.:17)

13.: ENVIRONMENTAL PROTECTION AND RECLAMATION (SEE SECTION 214 OF KATZ P.:17)

14.: RECLAMATION BONDS (SEE SECTION 215 OF KATZ P.:18)

15.: RECLAMATION FUND (SEE SECTION 216 KATZ P.:19)

JAMES F.:CLARK

ROBERTSON, MONAGLE, EASTAUGH, AND BRADLEY

JUNEAU, ALASKA

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

AMENDMENT

An amendment to HR 39 (Committee print # 1, 10/17/77) to establish a Yukon-Porcupine National Forest:

Page 40:

ADD a new section 401 (renumber subsequent sections accordingly), to read:

YUKON-PORCUPINE NATIONAL FOREST

Sec. 401. (a) The following area is hereby established as a unit of the National Forest System and shall, subject to valid existing rights, be administered by the Secretary of Agriculture pursuant to the provisions of law governing the administration of such units and under the provisions of this Act: Yukon-Porcupine National Forest, of approximately ten million three hundred thousand acres of public lands, as generally depicted on a map entitled "Yukon-Porcupine National Forest," dated , 1977, which shall be managed to maintain multiple values and for the following purposes: to provide opportunity for commercial harvest of timber; to provide opportunity for agricultural enterprise, including but not limited to cultivation and grazing; to assure continued viability of subsistence resources for continued subsistence uses; and to protect and perpetuate internationally significant waterfowl and other migratory bird resources that utilize the lands and waters of the Yukon Flats.

DELETE: pp. 33,34 -- Sec. 301(10)

pp. 65,66 -- Sec. 602(17)

REP. STEVE COWPER
CHAIRMAN
REP. ALVIN OSTERBACK
REP. JOE L. HAYES
SEN. CHANCY CROFT
SEN. MIKE COLLETTA
SEN. JOE ORSINI
WALTER PARKER
COMM. ROBERT LERESCHE
JAMES HOFFMAN
C. G. HAWLEY
DAVE CLINE



1016 WEST 6TH AVENUE, SUITE B
ANCHORAGE, ALASKA 99501
(907) 277-2415/16
[POUCH V. JUNEAU, ALASKA 99811]

MEMORANDUM

TO: All Council Members
FR: Sharon Long *SS.*
DT: December 22, 1977

There are four enclosures in your packet:

Enclosure #1 is the proposed language on access and minerals; we will be polling all members on Tuesday and Wednesday by telephone for your comments. If you have any questions on this language, call Mike Spaan, Birch, Horton, Bittner & Monroe, at 279-9403

Enclosure #2 is copies of the final state language that the council adopted at the November 22 meeting.

Enclosure #3 is Representative Seiberling's amendment on access. (amending committee print #2)

Enclosure #4 is the proposed agenda for the January 10th meeting in Juneau, and a copy of the maximum activity budget for 1978.

**ACCESS FOR TRANSPORTATION
AND UTILITY PURPOSES AMENDMENT**

It is the position of the D-2 Steering Council that the access provision of HR-39 is unsatisfactory because it is too restrictive and unresponsive to the needs of the nation and of Alaska. The council proposes that the access system be revised as follows:

1. FORESTS: The access provisions of the national forests would be left as it is with the existing laws controlling.

2. OTHER SYSTEMS: Pursuant to a request (within 120 days from the date of such request) or on its own initiative the Commission will study (using criteria in 2(d)) and may recommend a transportation or utility access route to the Secretary of Interior and the Secretary of Transportation (where applicable under existing law).

a. If an access request of the state, company or individual is denied by the Commission, the right to appeal directly to the Secretary shall be preserved.

b. If the Secretary of Interior or the Secretary of Transportation (where applicable) fails to veto the proposal within 120 days from its receipt, the Commissioner will issue the permits necessary for the proposed access.

c. If no action is taken within 120 days by the Secretary of Interior, a permit for the transportation or utility access would be issued.

d. The Council recommends that Federal aid to Highways Act (§23 U.S.C. 101 eq. seq.) be amended so that the factors taken into consideration by both the Secretary of Interior and the Secretary of Transportation for highway decisions and the factors used for other non-highway transportation decisions are:

- (1) State wide and regional transportation plans.
- (2) A need for access.
- (3) Alternative routes and modes of access.
- (4) Feasibility of including different transportation and/or utility functions of the same corridor.
- (5) Short and long term social, economic, environmental impact.
- (6) Measures that should be instituted to negate any adverse impact.

3. ELECTRIC TRANSMISSION LINES: The council recommends these be excluded on any amendment as they are fairly easily issued now, even in parks and other restrictive systems.

4. LANDOWNER VETO: In the language above, the Secretary of Interior is given the opportunity to say no and the same would apply to a Governor of Alaska on state land.

5. FORCED CO-OPERATION - It is also the council's position to introduce amendments that would necessitate joint planning and Environmental Impact Statement's of different agencies. For instance a request for pipeline through a national park would be reviewed by the Secretary of Transportation as far as access requirements and the Secretary of Interior on the environmental impact. The same 120 day time limit would apply as the review would be made simultaneously.

I. NATIONAL PARKS AND MONUMENTS

A. There would be no mining in National Parks except on valid existing claims.

B. However, National Parks should not include mineral potential land unless its mineral value is clearly outweighed by scenic or habitat values.

1. Mineral Potential Land - land identified by industry, U.S.G.S. or Bureau of Mines, on basis of present knowledge, as having potential for occurrence of commercially viable metallic or non-metallic deposits or deposits of mineral fuels.

C. National Park Preserves - oil and gas leasing, hard rock mineral exploration and development permitted subject to reasonable regulation which must be promulgated within 180 days from date act takes effect. Areas may be closed if the Secretary makes a specific finding of harm to scenic or habitat values.

II. WILDLIFE REFUGES

A. Open for mining and mineral leasing subject to regulation unless habitat considerations specified by Secretary of Interior warrants a closing.

1. Mineral leasing laws to apply and hard rock exploration and development permitted under system akin to H.R. 5931.

2. Secretary must issue regulations within 180 days from date Act becomes law.

III. NATIONAL FOREST SYSTEM

A. No Change.

IV. JOINT MANAGED AREAS/HOLDING PATTERN LANDS

A. Open for mining under reasonable regulation unless specifically closed by Commission.

B. Requirement and regulations should be similar to those promulgated under 43 U.S.C. 1701, et.seq. (BLM Organic Act).

1. Hard rock exploration and development permitted under H.R. 5931 system.

2. Mineral leasing law to apply.

V. IN HOLDINGS

A. Valid existing rights to be protected.

B. Access - mandate for positive approach to guarantee reasonable access.

1. If route allowed is more expensive but also more environmentally sound, the in holder would be

compensated for any excess costs of the route granted over the proposed access of in holder provided the original route was applied for in good faith and was feasible.

C. Clean Air/Clean Water and other environmental restrictions.

1. Secretary would be directed to administer above mentioned laws in a way that would be designed to help development of claims where not inconsistent with sound environmental policy.

D. Purchase of In Holdings.

1. If development of a valid existing claim is stopped either by denial of access (no access would be environmentally acceptable) or other restrictions the buy out for the prospect would be on the basis of net profit to be realized on deposit defined at the time the buy out occurred.

BIRCH, HORTON, BITTNER AND MONROE
ATTORNEYS AT LAW
733 WEST FOURTH AVENUE, SUITE 206
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 279-9403

AMENDS ANDRUS PROPOSAL

December 7, 1977

For possible use if preferred
recommendations are not adopted
by the Subcommittee.

Brackets [] indicate deletions
Underlined _____ indicate additions

SEC. _____. (a) Except as otherwise provided by Federal law the State of Alaska is authorized to permit subsistence uses of fish[,] and wildlife[, and plant] resources within designated subsistence management zones by establishing within eighteen months of the enactment of this Act, a program:

(1) Defining "subsistence uses" to include the taking and use of customary or traditional wild foods [and other renewable biological resources] from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter [among] by qualified subsistence users for personal or family consumption, including customary barter to obtain a nominal cash supplement, and the sale of traditional native handicrafts made out of the non-edible by-products of resources taken for personal or family consumption pursuant to this subsection;

(2) prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number and type of fish[,] and wildlife[, or plant] species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence [prior to December 18th, 1971] on the effective date of this act.

(l) Except as otherwise provided by this section and any other Federal law, the State of Alaska is authorized to manage and regulate the taking of fish and wildlife on Federal lands.

(m) If the State refuses to accept regulatory responsibility under this section, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall carry out the functions assigned to the State hereunder.

(n) Nothing in this Act shall be construed to grant a property right in fish, wildlife, plants, habitat, lands or waters to any subsistence user.

(o) In order to carry out the provisions of this section, the sum of _____ per annum is hereby authorized to be appropriated to the Secretary of the Interior for transfer to the State of Alaska; provided, however, that said sum is not authorized for any year in which the State has refused to accept regulatory jurisdiction under this section. In the event that the sum authorized in this subsection is not appropriated for a particular fiscal year, the requirements of this section shall no longer apply, and the State may manage and regulate fish and resident wildlife within subsistence management zones in accordance with other applicable Federal and State law.

(p) International waters, territorial waters, navigable waters, private lands, state lands and the resources in such lands and waters are exempt from the provisions of this section.

(i) The Secretaries of Interior and Agriculture shall take steps to ensure that subsistence users shall have access to subsistence management zones, including access by means of rights-of-way or easements across public lands. Such access shall be subject only to such reasonable restrictions as the appropriate Secretary may determine from time to time are necessary to protect the values of the public lands.

(j) Subject to the restrictions specified in this section, the Secretaries of Interior and Agriculture shall consider subsistence uses of plants in designating subsistence management zones, and said Secretaries shall seek to protect such subsistence resources in the development and implementation of management plans affecting particular subsistence management zones.

(k) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy or dispositions of public lands (except valid State and Native land selections and related conveyances) in any subsistence management zone, the Secretaries of Interior and Agriculture shall evaluate the subsistence needs of the persons affected, the availability of nonsubsistence lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the requirement for any taking of lands needed for subsistence uses. To the maximum extent practicable, said Secretaries shall take steps to ameliorate or eliminate adverse impacts resulting from such actions.

on subsistence uses within designated subsistence management zones. The report shall include among other things, the status of fish and wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses, the status of subsistence in the native cultures and in the general resident population of Alaska, the scope, nature and effectiveness of the State subsistence program, whether the State is in compliance with the standards set forth in this Act on subsistence use, and whether there is a need for increased Federal funding and/or legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of this Act or other law, the Secretaries of Interior and Agriculture shall permit the subsistence related use of snowmobiles, motorboats, and other means of transportation traditionally used for subsistence purposes within areas open to subsistence uses, subject only to such reasonable regulations as are necessary to prevent damage to terrain, to protect the values of the public lands, and to fulfill the purposes for which affected conservation system units are established or expanded by this Act. [law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snowmachines for subsistence purposes.]

(2) The Secretary of the Interior or the Secretary of Agriculture,
as appropriate, may designate for all units of the National Park
System, the National Wildlife Refuge System, the National Forest System,
and the Wild and Scenic Rivers System in the State of Alaska areas
where, and periods when, hunting, fishing, trapping or entry may be
limited or prescribed for reasons of public safety, administration,
protection and management of the lands and habitat which support
living resources, [preservation of subsistence resources,] or
public use and enjoyment. Except in an emergency, any regulation
prescribing such restrictions relating to hunting, fishing, trapping
or entry shall be put into effect only after consultation with the
appropriate State agency having jurisdiction over such activities,
and after a hearing pursuant to the Administrative Procedure Act
at which the validity of the restrictions shall be considered.
In the event that restrictions are imposed under the emergency
authority granted herein, a hearing shall be held within one
hundred twenty days of such imposition.

(e) Any person who violates or fails to comply with any regulation
issued pursuant to subsections (c) or (d) of this section shall be fined
not more than five hundred dollars or imprisoned for not to exceed six
months, or both.

(f) The Secretary of the Interior, in consultation with the Secretary
of Agriculture, shall prepare and submit a report every two years to the
President of the Senate and the Speaker of the House of Representatives

(c)(2) If the Secretary of the Interior determines that the State has failed to comply with the requirements specified in this section, he shall first give the State a reasonable period, but not less than one hundred twenty days, to rectify the alleged deficiency. If the State refuses to make such changes, the Secretary shall initiate a hearing pursuant to the Administrative Procedure Act in order to ascertain the validity of the State's claim. Upon a finding of noncompliance by the State with the requirements specified in this section, the Secretary or the Secretary of Agriculture, as appropriate, may close any affected subsistence management zone or portion thereof to subsistence uses; provided that upon his finding that an emergency exists, the appropriate Secretary may close a subsistence management zone or portion thereof pending a hearing, which shall be convened within one hundred twenty days of the closure.

(d)(1) Except for those subsistence uses authorized in titles ____, ____, and ____, and in this section, [a] all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but [may] shall be open to sport fishing in accordance with the applicable laws of the United States and the State of Alaska; provided, however, the Secretary shall permit fishing, trapping, and [non-commercial] sport hunting within areas established by this Act as "national preserves" and "national rivers" in accordance with the applicable laws of the United States and the State of Alaska; provided further, that nothing in this subsection shall be construed as limiting the authority of the State of Alaska to manage and regulate fish and resident wildlife within such preserves and national rivers.

(b) Within eighteen months of the enactment of this Act, t[T]he Secretaries of Interior and Agriculture, after a rule making procedure implemented pursuant to the Administration Procedure Act (5 U.S.C. 551 et seq.), shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or [before] about the effective date of this Act and where continued subsistence uses would be consistent with the purposes for which the area was established and is being managed. The appropriate Secretary, after rule making pursuant to the Administrative Procedure Act, shall [is authorized to] periodically revise the boundaries of subsistence management zones in order to reflect changes in fish[,] and wildlife [or plant populations] migration patterns or [subsistence] the needs of qualified subsistence users.

(c)(1) After consultation with the State of Alaska, [T]the appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, [fish and wildlife management] protection and management of the lands and habitat which support living resources, administration, or public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a)(2) of this section [are inconsistent with, the purposes for which any area was established or] constitute a danger to the population of any species, he may close the area to subsistence uses, subject to the procedure described in the following subsection .

(3) determining, without regard to race or ethnic origins, who is qualified for subsistence uses within subsistence management zones based upon the following factors which shall be weighted by the State to reflect their relative importance: customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and [cultural needs] the traditional lifestyle of the subsistence user;

(4) creating a system of regional and local [subsistence] advisors to assist in [determining who is qualified for subsistence uses within] carrying out the State's responsibilities under this section, including, to the maximum practicable extent, determining who is qualified for subsistence uses within subsistence management zones; and

(5) giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or [anticipated] projected population declines in a specific subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and well-being of the fish[,] and wildlife[, and plant] population affected.

Move that: The D-2 Steering Council hold that HR-39 as represented in the Committee Print of October 28 and as slated for mark-up by the subcommittee has areas which are not in the best interests of Alaska and that we urge the subcommittee to generally amend the mark-up vehicle by substituting elements which will be closer in philosophy to that developed in §1787 and the Land Use Planning Commission proposal.

Y.
DHEN HOME AND

DHEN VSH
ATTN SFAAN
FROM DROCKS
DATE DECEMBER 16, 1977

THE FOLLOWING SHOULD BE GIVEN TO CONFER AND COLLETTA AND COPY
TO RON WHEN HE ARRIVES ON TUESDAY.

AMENDMENT TO HR 39

PAGE 146, STRIKE LINES 14, 15, AND 16 IN THEIR ENTIRETY, AND ON
PAGE 147, AFTER LINE 10 ADD NEW SUBSECTIONS AS FOLLOWS:

"(C) IN ANY CASE WHERE STATE-OWNED OR PRIVATELY OWNED LAND
(INCLUDING NATIVE LAND) OR A VALID MINING CLAIM OR OTHER VALID
OCCUPANCY IS SURROUNDED BY PUBLIC LANDS WITHIN ONE OR MORE
CONSERVATION SYSTEMS UNITS, THE STATE OR PRIVATE OWNER OR OCCUPIER
SHALL BE GIVEN SUCH EASEMENTS OR OTHER RIGHTS AS MAY BE NECESSARY
TO ASSURE ADEQUATE ACCESS TO SUCH SURROUNDED LAND OR OCCUPANCY
BY SUCH STATE OR PRIVATE OWNER OR OCCUPIER AND HIS SUCCESSORS IN
INTEREST, UNDER REASONABLE REGULATIONS TO PROTECT THE VALUES OF
THE UNIT OR UNITS."

PROPOSED LANGUAGE ON AQUACULTURE IN HR-39

SEC. 607. (d)

In accord with principles of sound fisheries management, the Secretary of Agriculture is authorized to permit fisheries rehabilitation and enhancement activities within National Forest Wilderness Areas designated by this Act, as he determines to be necessary and desirable to restore, augment or sustain native fish populations. Such activities may include the following:

1. Stream clearance (removal of spawning ground blockages).
2. Stream improvement (cleaning or replenishing of spawning gravel).
3. Fish ladders.
- 4. Stream and lake enrichment with artificial or natural fertilizers.
5. Spawning and lake stocking with spawners, eggs or fry.
6. Spawning or egg incubation channels.
7. Saltwater rearing pens.
8. Portable streamside incubators.
- 9. Temporary housing for personnel or equipment.

Personnel, equipment and facilities shall be minimal essential to such operations, and structures will be constructed at such locations and in such manner as to blend with the natural character of the area.

Aquaculture hatchery sites where permanent development appears imminent and desirable will be excluded from wilderness and designated "potential wilderness inclusions". Such exclusions will involve the minimal acres deemed essential to accommodate the proposed hatchery development. If after a period not to exceed 10 years from the date of this Act the sites are not developed, they will automatically be included in the adjacent wilderness.

(List of hatchery sites is to be provided by the three Alaska regional aquaculture associations).

There are hereby authorized to be appropriated such sums necessary to initiate a matching grant program involving federal, state and local participation in a "wilderness aquaculture research program" to develop aquaculture technology dedicated to the preservation, restoration and improvement of common property fisheries, and compatible with the protection and public use and enjoyment of wilderness.

John F. R. [unclear]

DRAFT 11/21/77

Sec. _____. State of Alaska Land Selections and Conveyances. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain federal lands in Alaska for community development and expansion purposes, Section 6(a) of the Act of July 7, 1958, 72 Stat. 339, hereinafter referred to as the Alaska Statehood Act, is amended in part by addition of the following provision: The State is hereby authorized a ten-year extension of the time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain federal public lands in Alaska, Section 6(b) of the Alaska Statehood Act is amended in part by addition of the following provision:

(1). The State is hereby authorized a ten-year extension of the time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(2). The proviso regarding Presidential approval of land selections heretofore or hereafter made north and west of that line described in Section 10 of the Alaska Statehood Act is hereby repealed.

(c) The State of Alaska is hereby granted and shall be entitled to select on or before January 3, 1994 from surveyed or unsurveyed federal lands which are vacant, unappropriated and unreserved at the time of their selection, those school indemnity lands reserved to the Territory of Alaska under Section 1 of the Act of March 4, 1915, as amended by the Act of March 5, 1952 and the Act of August 27, 1958. Patent to the State of Alaska of indemnity land selections granted by this subsection is authorized pursuant to the provisions of 43 USC Sec. 852.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, and to conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971).

(e) All State of Alaska land selections made pursuant to the Alaska Statehood Act are hereby confirmed as effective and valid selections, subject only to valid existing rights as of the date of their selection, conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), and tentative approval and patent pursuant to Section 6(g) of the Alaska Statehood Act

(f) All applications for selection by the State of Alaska of Federal lands which were not, or are not, on the date of such application vacant, unappropriated, unreserved Federal lands within the meaning of Section 6 of the Alaska Statehood Act

are hereby confirmed and shall be hereafter treated as valid state selections upon the subsequent revocation of other termination of any such Federal withdrawal or reservation.

(g) To insure that the State of Alaska fulfills its entitlement to Federal lands granted or confirmed by Section 6 of the Alaska Statehood Act, the State may file and maintain selection applications for lands exceeding by one hundred and twenty-five per cent in total area the amount of remaining State entitlement under each such grant. The State shall list such selections in desired priority order of conveyance. Such excess selections shall become void upon fulfillment of each such grant unless transferred by the State to any remaining unfulfilled grant, if such lands are otherwise eligible for conveyance under such remaining entitlement.

(1). The State of Alaska may, by written notification to the Secretary, relinquish any previously-filed selections of land or applications for selection prior to receipt by the State of tentative approval.

(2). Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision: All selections made by the State after January 1, 1977 shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least one thousand two hundred and eighty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundred and sixty acres.

(3). Land selection applications heretofore or hereafter filed by the State which select all available lands within the descriptions set forth in the selection applications shall be effective selections of all uplands and non-navigable shore and submerged lands which are in fact available at the time of selection, or which later become available prior to fulfillment of the land grants made by the Alaska Statehood Act and this Act.

(4). A charge against the State's appropriate acreage entitlement under Section 6 of the Alaska Statehood Act shall be made by the Secretary only upon issuance of patent.

(h) The United States hereby recognizes valid State of Alaska land selections of the following described Federal lands, and such lands shall be segregated from any other reservation, withdrawal or disposal under the laws of the United States:

DESCRIPTION

(i) Lands identified in subsection (h) shall be tentatively approved to the State, subject to valid rights existing as of the date of enactment of this Act. Existing federal withdrawals or reservations for public purposes, excepting the smallest practicable tract, as determined by the Secretary of the Interior within three years after adoption of this Act, enclosing land actually used in connection with the administration of any Federal

installation, shall be subject to selection to the extent that such lands lie within those areas described in subsection (h) of this section. Equitable title to the lands described in said subsection shall vest in the State of Alaska upon tentative approval of such selections, with legal title to vest upon issuance of patent to the State. Patent may be issued pending survey, or subject to competing claims of right to or interest in such lands, with the consent of the State.

State Selections

DRAFT 11/15/77

Surgeon
11/21/77

Sec. ____ . State of Alaska Land Selections and

Conveyances. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain federal lands from the National Forests in Alaska, Section 6(a) of the Act of July 7, 1958, 72 Stat. 39, 340, hereinafter referred to as the Alaska Statehood Act, is amended in part as follows: The State is hereby authorized an additional period of 10 years from January 3, 1984, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain federal public lands in Alaska, Section 6(b) of the Alaska Statehood Act is amended in part as follows:

(1). The State is hereby authorized an additional period of 10 years from January 3, 1984, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(2). The proviso regarding Presidential approval of land selections heretofore or hereafter made north and west of that line described in Section 10 of the Alaska Statehood Act is hereby repealed.

(c) The State of Alaska is hereby granted and shall be entitled to select on or before January 3, 1993 from Federal lands which are vacant, unappropriated and unreserved at

the time of their selection, indemnity lands sufficient in quantity to fulfill those school and university land grants to the territory of Alaska made by section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U.S.C. §353), as amended.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, and to conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971).

(e) All approvals of land selections made by the Territory or the State of Alaska pursuant to the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956) are hereby ratified and confirmed, subject only to valid existing rights as of the date of such selections.

(f) All applications for selection by the State of Alaska of Federal lands which were not on the date of such application vacant, unappropriated, unreserved Federal land within the meaning of Section 6 of the Alaska Statehood Act are hereby confirmed and shall be hereafter treated as valid state selections upon the revocation or other termination of any such Federal withdrawal or reservation.

(g) To insure that the State of Alaska fulfills its entitlement to Federal lands granted or confirmed by Section 6 of the Alaska Statehood Act, the State may file and maintain selection applications for lands exceeding in total area the amounts

to which the State is entitled under each such grant. The excess selections, prioritized by date of filing or by other method communicated by the State to the Secretary ^ashall become void upon fulfillment of each such grant unless transferred by the State to any remaining unfulfilled grant, if such lands are otherwise eligible for conveyance under such remaining entitlement.

(1). The State of Alaska may, by written notification to the Secretary, relinquish any previously-filed selections of land or applications for selection prior to receipt by the State of tentative approval. A charge against the appropriate acreage entitlement under Section 6 of the Alaska Statehood Act shall be made by the Secretary when patent is issued.

(2). Section 6(g) of the Alaska Statehood Act is amended in part as follows: All selections made by the State after January 1, 1977 shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least one thousand two hundred and eighty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundred and sixty acres.

(3). Land selection applications heretofore or hereafter filed by the State which select all available lands within the descriptions set forth in the selection applications shall be effective selections of all

such lands which are in fact available pursuant to the criteria set forth in this Act and Section 6 of the Alaska Statehood Act, as amended, on the date of filing of such applications.

(h) The United States hereby recognizes valid State of Alaska land selections of the following described Federal lands, and such lands shall be segregated from any other reservation, withdrawal or disposal under the laws of the United States:

DESCRIPTION

{ THE SPECIFIC TOWNSHIPS
WOULD BE LISTED HERE

(i) Lands identified in subsection (h) shall be tentatively approved to the State, subject to valid rights existing as of the date of enactment of this Act. Existing federal withdrawals or reservations for public purposes, excepting the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installations, shall be subject to selection to the extent that such lands lie within those areas described in subsection (h) of this section. Equitable title to the lands described in said subsection shall vest in the State of Alaska upon tentative approval of such selections, with legal title to vesting upon issuance of patent to the State. Tentative approval and patent shall be issued subject to competing claims of right to or interest in such lands.

November 11, 1977

List of Products: 60 Million Project

1. Document explaining the 60 Million Project
 - a.) The d-2 connection with State land selections;
 - b.) Why 60 million?
 - c.) Process
 - d.) Results
 - e.) Future
2. Legal description of 60 million acres.
3. E-scale map of 60 million acres.
4. Prioritized 60 million acres.
5.
 - a.) Written rationale for identifying general areas.
 - b.) Township dump of computerized information with written annotations.
6. Press release describing action and invitation for public comment.
7. Preparation of a briefing spiel on action.
8. Criteria document: background on rationale for identifying certain kinds of lands over others.

WILDLIFE MANAGEMENT

1
2 SEC. 4304. The taking of fish and game on all lands
3 subject to this Act shall be regulated by the State of Alaska
4 in accordance with applicable State law, including, but not
5 limited to, the regulation of seasons, bag limits, means and
6 methods, the administrative structure for wildlife manage-
7 ment and regulations, the determination of resource deple-
8 tion, and the definition of subsistence use and local residency.
9 Where there is a conflict caused by depletion, the taking of
10 fish and game for subsistence purposes shall be given prefer-
11 ence over the taking of fish and game for other purposes.
12 Such preference shall be granted to the local residents of the
13 area affected by a conflict between consumptive uses. *where*
14 Nothing in this section shall be construed to require that
15 hunting or fishing be permitted where depletion of the re-
16 source would dictate a complete prohibition of such activities.

Subject To Change

Amends Andrus Proposal

#2 act
A #1
For possible use if preferred
recommendations are not adopted
by the Subcommittee.

SEC. 701. (a) Except as otherwise provided by Federal law the State of Alaska is authorized to permit subsistence uses of fish[,]
and wildlife[, and plant] resources within designated subsistence management zones by establishing within eighteen months of the enactment of this Act, a program:

(1) Defining "subsistence uses" to include the taking and use of customary or traditional wild foods [and other renewable biological resources] from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter [among] by qualified subsistence users for personal or family consumption, including customary barter to obtain a nominal cash supplement, and the sale of traditional native handicrafts made out of the non-edible by-products of resources taken for personal or family consumption pursuant to this subsection;

(2) prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number and type of fish[,], and wildlife[, or plant] species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence [prior to December 18th, 1971] on the effective date of this act.

(3) determining, without regard to race or ethnic origins, who is qualified for subsistence uses within subsistence management zones based upon the following factors which shall be weighted by the State to reflect their relative importance: customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and [cultural needs] the traditional lifestyle of the subsistence user;

(4) creating a system of regional and local advisors to assist in [determining who is qualified for subsistence uses within] carrying out the State's responsibilities under this section, including, to the maximum practicable extent, determining who is qualified for subsistence uses within subsistence management zones; and

(5) giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or [anticipated] projected population declines in a specific

subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and well-being of the fish[,] and wildlife[, and plant] population affected.

(b) Within eighteen months of the enactment of this Act, t[T]he Secretaries of Interior and Agriculture, after a rule making procedure implemented pursuant to the Administration Procedure Act (5 U.S.C. 551 et seq.), shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or [before] about the effective date of this Act and where continued subsistence uses would be consistent with the purposes for which the area was established and is being managed. The appropriate Secretary, after rule making pursuant to the Administrative Procedure Act, shall [is authorized to] periodically revise the boundaries of subsistence management zones in order to reflect changes in fish[,] and wildlife [or plant populations] migration patterns or [subsistence] the needs of qualified subsistence users.

(c) (1) After consultation with the State of Alaska, [T]he appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, protection and management of the lands and habitat which support living resources, administration, or

public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a) (2) of this section [are inconsistent with the purposes for which any area was established or] constitute a danger to the population of any species, he may close the area to subsistence uses, subject to the procedure described in the following subsection.

(c) (2) If the Secretary of Interior determines that the State has failed to comply with the requirements specified in this section, he shall first give the State a reasonable period, but not less than one hundred twenty days, to rectify the alleged deficiency. If the State refuses to make such changes, the Secretary shall initiate a hearing pursuant to the Administrative Procedure Act in order to ascertain the validity of the State's claim. Upon a finding of noncompliance by the State with the requirements specified in this section, the Secretary or the Secretary of Agriculture, as appropriate, may close any affected subsistence management zone or portion thereof to subsistence uses; provided that upon his finding that an emergency exists, the appropriate Secretary may close a subsistence management zone or portion thereof pending a hearing, which shall be convened within one hundred twenty days of the closure.

(d) (1) Except for those subsistence uses authorized in titles ____, ____, and ____ in this section, [a] all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but [may] shall be open to sport fishing in accordance with the

provided, however, the Secretary shall permit fishing, trapping, and [non-commercial] sport hunting within areas established by this Act as "national preserves" and "national rivers" in accordance with the applicable laws of the United States and the State of Alaska; provided further, that nothing in this subsection shall be construed as limiting the authority of the State of Alaska to manage and regulate fish and resident wildlife within such preserves and national rivers.

(2) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may designate for all units of the National Park System, the National Wildlife Refuge System, the National Forest System, and the Wild and Scenic Rivers System in the State of Alaska areas where, and periods when, hunting, fishing, trapping or entry may be limited or prescribed for reasons of public safety, administration, protection and management of the lands and habitat which support living resources, [preservation of subsistence resources,] or public use and enjoyment. Except in emergencies, any regulation prescribing such restrictions relating to hunting, fishing, trapping or entry shall be put into effect only after consultation with the appropriate State agency having jurisdiction over such activities, and after a hearing pursuant to the Administrative Procedure Act at which the validity of the restrictions shall be considered. In the event that restrictions are imposed under the emergency authority granted herein, a hearing shall be held within one hundred twenty days of such imposition.

(e) Any person who violates or fails to comply with any regulation issued pursuant to subsections (c) or (d) of this section shall be fined not more than five hundred dollars or imprisoned for not to exceed six months, or both.

(f) The Secretary of Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report every two years to the President of the Senate and the Speaker of the House of Representatives on subsistence uses within designated subsistence management zones. The report shall include among other things, the status of fish and wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses, the status of subsistence in the native cultures and in the general resident population of Alaska, the scope, nature and effectiveness of the State subsistence program, whether the State is in compliance with the standards set forth in this Act on subsistence use, and whether there is a need for increased Federal funding or legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of this Act or other law, the Secretaries of Interior and Agriculture shall permit the use of

snowmobiles, motorboats, and other means of transportation traditionally used for subsistence purposes within areas open to subsistence uses, subject only to such reasonable regulations as are necessary to prevent damage to terrain, to protect the values of the public lands, and to fulfill the purposes for which affected conservation system units are established or expanded by this Act. [law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snowmachines for subsistence purposes.]

(i) The Secretaries of Interior and Agriculture shall take steps to ensure that subsistence users shall have access to subsistence management zones, including access by means of easements across public lands. Such access shall be subject only to such reasonable restrictions as the appropriate Secretary may determine from time to time are necessary to to protect the values of the public lands.

(j) Subject to the restrictions specified in this section, the Secretaries of Interior and Agriculture shall consider subsistence uses of plants in designating subsistence management zones, and said Secretaries shall seek to protect such subsistence resources in the development and implementation of management plans affecting particular subsistence management zones.

(k) (Possible addition)

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or dispositions (other than valid State and Native selections) of public lands in any sub-

sistence management zones, the Secretaries of Interior and Agriculture shall evaluate the subsistence needs of the persons affected, the availability of nonsubsistence lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the requirement for any taking of lands needed for subsistence uses. To the maximum extent practicable, said Secretaries shall take steps to ameliorate or eliminate adverse impacts resulting from such actions.

(l) Except as otherwise provided by this section and any other Federal law, the State of Alaska is authorized to manage and regulate the taking of fish and wildlife on Federal lands.

(m) If the State refuses to accept regulatory responsibility under this section, the Secretary of Interior or the Secretary of Agriculture, as appropriate, shall carry out the functions assigned to the State hereunder.

(n) Nothing in this Act shall be construed to grant a property right in fish, wildlife, or plants to any subsistence user.

(o) In order to carry out the provisions of this section, the sum of _____ per annum is hereby authorized to be appropriated to the Secretary of the Interior for transfer to the State of Alaska; provided, however, that said sum is not authorized for any year in which the State has refused to accept regulatory jurisdiction under this section. In the event that the sum authorized in this subsection is not appropriated

for a particular fiscal year, the requirements of this act shall no longer apply, and the State may manage and regulate fish and resident wildlife within subsistence management zones in accordance with other applicable Federal and State law.

(p) International waters, territorial waters, navigable waters, private lands, state lands and the resources therein are exempt from the subsistence provisions of this act.

Draft 13: Summary 11/2/77

(d) In accord with principles of sound fisheries management, the appropriate Secretary is authorized to permit fish stocking, enhancement and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall involve no permanent housing for personnel or equipment and only minimal facilities essential to the aquacultural operations and shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures no alteration to the natural contours of the terrain shall be permitted.

I rewrote this section
of Committee Print.

Comments Appreciated

NATIVE AND STATE SELECTION

It is of highest priority to the D2 Steering Counsel that native and state land selections be perfected as part of D2 legislation enacted by Congress. The attached amendments (Sharon, the amendments I refer to are the ones I wrote and gave you regarding state and native selections) should be added to final D2 legislation so that state and native selections are assured.

It is the position of the Steering Counsel that the land grant made to the State of Alaska in its Statehood Act, as modified by the Native Claims Settlement Act, provides the State first rights to choose lands from the overselected native selections and from federal lands once the federal government has withdrawn eighty million acres. Therefore, if federal D2 legislation includes a federal withdrawal of more than eighty million acres into conservation system units, said legislation must prioritize the federal withdrawal so that the federal withdrawal is clearly divided between top priority areas (up to eighty million acres) and second priority areas -- from which the state may still select.

The Steering Counsel also supports a provision in the D2 legislation that requires good faith on the part of the federal government in making its priority selections. Specifically, such a provision would be aimed at insuring that second priority federal withdrawals are not always surrounded by first priority areas, are thusly of low value

to the state, and will likely not be selected by the state. Such an approach would defeat the priority system and the intent of the Statehood Act and the Native Claims Settlement Act.

DISPUTED LANDS - 10-YEAR STUDY PROGRAM

Handwritten:
S. 100
Subcommittee
June 2,

It is clear from the disparate use expressed in D2 hearings nationwide, in the HR39 briefings held by the Alaska Lands Subcommittee, and by the vastly dissimilar acreage withdrawals encompassed in legislation now before the House of Representatives were suggested by the Federal-State Land Use Planning Commission, that there is much land in Alaska for which the highest use potential is disputed. The Steering Counsel proposes that said disputed lands, as specified in D2 legislation enacted by Congress, be placed in a "holding pattern" status for ten years. During that ten year period, an extensive study of this disputed land shall be made by a commission constituted of an equal number of appointees made by the U.S. Department of the Interior and the Governor of Alaska. In determining the highest use potential for this land, the study commission shall consider the national interest, the state interest, native interest, conservation and wildlife values, economic and mineral values, and other pertinent values to the nation. Wherever possible other federal and state agencies conducting ongoing examinations of said lands shall coordinate their efforts with those of the Study Commission so that the Commission has the maximum data possible to arrive at its recommendation.

Ten years from the date of enactment of this statute, the Study Commission shall report its findings to Congress and the President and shall make recommendations as to the highest use potential for the lands under its auspices. If after 180 days from receipt by Congress of said recommendations,

no action is taken with regard to all or part of the study lands, said lands shall return to the classifications under which they were held prior to enactment of the D2 Act and shall be managed by the Secretary of Interior in accordance with the provisions of the law applicable to such land classification systems.

During the ten year study period and for the 180 day period subsequent to it, the Alaska lands under study shall be managed by the Secretary of Interior in a similar manner to the management practices employed for adjacent areas, unless such practices are determined to be environmentally and ecologically unsound for the study area in question. In such event, the Secretary may, in his discretion, employ management practices that preserve and protect the area in question so that no injury to future use potential is incurred.

NOTE: Sharon -- I think the Steering Counsel should make specific recommendations as to which Alaskan Lands should be placed in the study area. As guidance, the SSLUPC and Stevens/Young bills should be contrasted with Seiberling's, and recommendations of substantial acreage should come out of the Counsel. The areas that come to mind immediately are: Williamna, much or all of the Lake Clark area, the Molybdenum deposit area near Ketchikan, the uranium find area near Fairbanks (this may already be outside the D2 area), Admiralty Island, Yakovi Island, the Kenai Wildlife Refuge, and the Kenai Fjords area, the area around the U.S. Borax deposit that Seiberling has surrounded with D2 lands and therefore

may have made development impossible (let's check into this),
the Susitna National Wild River Withdrawal, and perhaps a
couple of other areas in southeast.

MORATORIUM ON LAND RECLASSIFICATIONS

The D2 legislation that is enacted will be the single largest reclassification of federal land in history. It has taken ^{an} a prodigious amount of research, study, review and assessment to reach the decisions made in this act. The D2 legislation should include a separate section creating a moratorium on future reclassifications of federal land in Alaska that would further restrict use of and access to such lands. This moratorium should be for a said period of time, preferably ten or twenty years. It would, of course, not interfere with study area provisions (either the "holding pattern" areas or the wilderness study areas, if any). Such a section in the D2 legislation could read thusly:

With the exception of study areas enumerated in sections and ____ and ____ of this action, there shall be a moratorium of X years during which time reclassifications of federal Alaska lands to more restrictive classifications shall be prohibited. Furthermore, there shall be no federally funded studies commenced during the period of the moratorium geared to more restrictively classifying said areas.

MINERALS

Title 9 of HR39 covers minerals. The minerals section has been substantially revised between committee print number 1 and committee print number 2 of HR 39 and is still subject to a great deal of dispute. Because the section is so fluid and so faulty, it is senseless for the Steering Counsel to attempt to amend it. Rather, a completely new approach to the minerals question is appropriate. The following twelve policy positions reflect the views of the Steering Counsel and should be encompassed in the minerals title of the D2 lands legislation:

1. That the minerals title in HR39 is wholly unacceptable because it is too restrictive, because its unlock provision is too limited in jurisdiction and is unworkable, and because it does not adequately consider the current and future critical and strategic needs of our nation.
2. Any minerals provision must preserve the right of the minerals prospector to continue to explore for and extract minerals as he has done throughout our nation's history. The right of prospectors carrying hand tools to explore in Alaska should be preserved in all federal areas in Alaska, or, at the very least, in all Alaska lands other than national parks.
3. An Alaska-oriented location/lease or permit/lease system must be adopted so that the miner has a reasonable expectation that he will be allowed to extract minerals if they are discovered, assuming that extraction is

conducted in an environmentally sensitive manner.

4. The permit and lease rights granted to miners in Alaska shall not be cancelable by virtue of the discovery of similar deposits in other parts of the United States.
5. There shall be no congressional review of an administrative decision to lease Alaskan lands for mineral extraction purposes. (In the alternative, there should be a bottom limit, such as 100,000 acres below which there shall be no congressional review).
6. That it is the policy of the Steering Counsel that strip mining in Alaska be conducted only if no alternatives are available, and that even under said circumstances, strip mining shall be prohibited unless mining and reclamation practices meet the strictest federal requirements and are approved by the Secretary of the Interior.

*Left Out #7
87.*

The Steering Counsel endorses the policy adopted in Committee Print number 2 which imposes a threshold figure of 1,000,000 acres before which there is no transfer of equivalent lands to conservation system units from which leased lands have been taken. The Steering Counsel also endorses the revision that allows private parties to initiate the unlock process.

9. The miners whose requests for permits or leases have been denied shall not have their rights for administrative or judicial review abridged by D2 legislation.

10. That the United States Geological Service shall continue, and, wherever possible, expedite its Level III quadrangle surveys of Alaskan lands.

11. That the United States must continue to have access to strategic and critical mineral deposits within the state of Alaska.

12. That the unlock provisions of D2 legislation should apply to all, or almost all, federal lands within the state of Alaska, and that U.S.G.S. surveys should not be prohibited anywhere in Alaska.

In order to implement the policies enumerated above, the Steering Counsel should consider a "dual unlock", or even perhaps a "triple unlock" mechanism within the act. The dual unlock provision would permit exploration and extraction in all areas of Alaska, but would make the requirements for doing so significantly tougher in Park and Wilderness areas. A triple unlock would preclude any exploration or extraction in highest conservation value areas, such as parks, provide tough unlock standards in remaining Parks and Wilderness areas, and easier unlock standards for all other D2 and federal lands in the state. By virtue of such a system, little or no mineral values would be absolutely denied to the rest of the nation.

In order for an unlock mechanism to be meaningful, there must be a coordinated access corridor provision in the D2 legislation. Therefore, the access title of the legislation must be written so that when a miner applies for a permit or a lease, he also is given some assessment regarding his prospects for acquiring access over other federal lands so that any minerals he extracts can be transported from the extraction area. Just as a miner is given a reasonable expectation to believe that a permit can be converted to a lease, he must be given a similar expectation that some reasonable access, based on environmental safeguards, will be given him so that his production can reach market.

The Steering Counsel should consider supporting some form of location/lease or permit/lease system geared to Alaskan lands. Federal mining law is in a state of flux, with several mining law reform proposals under serious consideration in Congress. As a result, it may be appropriate to empower the Secretary of Interior to establish an Alaska mining law system within guidelines provided in the D2 legislation. The Steering Counsel should consider the legislation put together by the SSLUPC as its model for mining law covering Alaskan lands.

Finally, if the Steering Counsel proposes a "holding pattern" study area covering disputed Alaskan lands, it should require that the Study Commission approve of any exploration or development for mineral purposes on study area lands before such exploration can commence.

ACCESS: TRANSPORTATION/UTILITY/MINERALS

As with the minerals title, the Steering Counsel finds the access title of HR39 to be unsatisfactory because it is too restrictive and unresponsive to the needs of the nation and of Alaska. It is impossible to amend and therefore a de nova re-draft is necessary.

The Counsel adopts the following policy positions regarding access:

1. That it is impossible at present to delineate the access corridors that will be needed in Alaska, and therefore D2 legislation must prescribe a mechanism and procedures that can be used in the future to provide access for proper purposes while safeguarding environmental, conservation, and aesthetic values.
2. That access decisions, unless "major" in scope, shall not be reviewed by Congress.
3. That access provisions shall not be used to thwart state and native development that satisfies the requirements prescribed by existing law and other sections of this act.
4. That the access permittee, who has already satisfied the Secretary of Interior that no significant adverse effects on the conservation system unit will result from the access grant, not be required to pay a fee for right-of-way use.
5. That the right-of-way permit granting procedures be coordinated with mineral exploration permit and leasing actions so that permit and lease holders are given some

forecast as to whether access to and from their exploration site will be obtainable.

The Steering Counsel supports D2 legislation that provides for the Department of the Interior to administer a permit program for granting across federal lands in Alaska. Access should be granted unless it can be demonstrated that significant adverse effects on the conservation system unit incompatible with the purposes for which the unit is established would result. Absence such as showing, permits should be issued. The Secretary should be limited to a specific time period, such as 180 days, in which to act and, if no action is forthcoming, the permit would be granted automatically. Permits should be limited to a set number of years (e.g. 5, 10), with a review at the end of that period. If no adverse impact can be shown at the end of the period, then the permit would automatically be renewed. The Act should establish that reasonable expansion of right-of-way use will be contemplated, so long as no adverse environmental impact occurs. This latter provision will allow for growth, and future economic development in the areas impacted by the access grant.

STEERING COUNSEL POLICY POSITION - CONGRESSIONAL REVIEW

As presently constituted, HR39 over-emphasizes the use of Congress as a final arbiter in Alaska land use decisions and under-emphasizes the administrative process. Clearly, it is sometimes appropriate to have Congress oversee major federal administrative actions. It is not, however, appropriate for Congress to review and approve each and every land use decision covering federal lands in Alaska.

Overuse of congressional review will always pose a threat to the private citizen or small businessman who does not have an established lobbying capability in Washington. For example, under the current version of HR39, an Alaskan miner can satisfy all of the requirements imposed by the President and the Department of the Interior to unlock a claim for exploration and extraction, but may be defeated in Congress if either the larger unit of the mining industry or the environmental community oppose the withdrawal.

The Steering Counsel therefore adopts the policy that congressional review of Alaska land decisions made via the administrative process as described in the D2 Act and the Administrative Procedures Act, be excluded or at least limited to "major" administrative decisions and that "major" be defined in a restricted manner.

*advised
July*

STEERING COUNSEL POLICY POSITION
SUBJECT USGS AND BUREAU OF MINES MINERAL
POTENTIAL MAPS AND DATA

The U.S. Geological Survey is scheduled to release its most current Alaska mineral potential maps -- known as its "Level II" survey -- in January. The United States Bureau of Mines has recently completed its information-gathering and drafting of its most current mineral potential data covering Alaska. (Currently the Bureau of Mines cannot release this data due to an alleged shortage of funds ^{*delete*} necessary to transcribe the information onto maps and map overlays.)

It is imperative that the Alaska Lands Subcommittee of the House Interior Committee have before it this most current data before making decisions on acreage withdrawals and mineral exploration, extraction, and access. Therefore, the Steering Counsel implores the Subcommittee to consider the USGS Level II maps before making decisions in mark-up regarding withdrawals, minerals, and access. Furthermore, the Steering Counsel requests that the Subcommittee take all steps necessary to acquire and consider Alaska mineral potential data currently in the possession of the U.S. Bureau of Mines before marking-up the D2 proposals before it.

The Steering Counsel believes the decision effecting exploration and extraction of critical and strategic Alaskan minerals are of great national importance. Any conclusive actions taken without the benefit of current and readily available data must be considered hasty, ill-conceived and not in the best interest of our nation.