

HOUSE
COMMITTEE REPORT

(11)

Date referred: 3/19/86

FURTHER REFERRALS:

DATE: 4-2-86

The FINANCE Committee has considered HB 542

"An Act relating to corrective management of threatened stocks of game."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 542 (Res) same title
- new title

and recommends Individual Recommendations

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note 3/13/86 - (same)

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] - DO NOT PASS

[Signature] "

[Signature] - No Rec.

[Signature] No Rec

[Signature] - DO NOT PASS

[Signature] no rec

[Signature]
Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 542 (Resources)
 Title : An Act relating to corrective management of threatened stocks of game.
 Sponsor : Shultz
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : ADF&G
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		0	0	0	0	0
CONTRACTUAL		0	0	0	0	0
SUPPLIES		0	0	0	0	0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : House Resources Committee/Rep. Dick Shultz Phone : 465-3715
 Division : _____ Date : _____

Approved by Commissioner : *Dick Shultz* Date : 3-13-85
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE PREPARATION

CSHB 542 MANAGEMENT OF THREATENED STOCKS OF GAME

THE COMMITTEE SUBSTITUTE RELIEVES THE BOARD FROM HAVING TO ARRANGE FOR EXTRA MEETINGS. ALL ACTION REQUIRED UNDER THIS BILL WILL BE TAKEN UP AT REGULARLY SCHEDULED MEETINGS OF THE BOARD OF GAME.

SINCE THE BILL DOES NOT REQUIRE UNCUSTOMARY ACTION, BUT RATHER A MORE DIRECT ACTION ON THE PART OF THE GAME BOARD, NO NEW POSITIONS WILL BE NECESSARY WITHIN EITHER THE DEPARTMENT OR THE BOARDS TO IMPLEMENT THIS LEGISLATION.

TO ARGUE EXTRA COST FOR THIS LEGISLATION WOULD BE TO ARGUE THAT THE PRESENT BOARD OF GAME IS NOT EQUIPPED TO DEAL WITH THREATENED STOCKS OF GAME. TO THE CONTRARY THIS LEGISLATION IS BASED ON THE PREMISE THAT THE BOARD IS IN FACT WELL EQUIPPED TO DEAL WITH THREATENED STOCKS BUT HAS NOT DONE SO IN AN EXPEDITIOUS MANNER.

Offered: 3/19/86
Referred: Finance

Original sponsor: Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR HOUSE BILL NO. 542 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to corrective management of threat-
7 ened stocks of game."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.265. MANAGEMENT OF THREATENED STOCKS OF GAME. (a)
11 The Board of Game shall adopt a corrective stock management plan at
12 its next regularly scheduled meeting when the board receives scien-
13 tific data compiled by the department that a stock is threatened and a
14 majority of the advisory committees in the game management unit where
15 the stock is located, after consultation with the coordinator for the
16 appropriate regional council, pass resolutions requesting the board
17 to adopt a corrective stock management plan.

18 (b) The Board of Game

19 (1) shall include in the corrective stock management plan
20 regulations for intensive management of the threatened stock and for
21 effective and expeditious corrective management of prey and natural
22 predator species of the threatened stock; and

23 (2) may include in the corrective stock management plan
24 guidelines or regulations for human utilization of the threatened
25 stock, for research on the population status and the ecology of the
26 threatened stock, for restoration of habitat, for public education
27 programs, for law enforcement programs, for designation of reserves,
28 ranges, and preserves, and for artificial rearing of the threatened
29 stock.

1 (c) The Board of Game shall review annually each corrective
2 stock management plan and shall

3 (1) receive scientific data compiled by the department on
4 the status of the threatened stock;

5 (2) evaluate the success of the corrective stock management
6 plan;

7 (3) continue, amend, or rescind the corrective stock man-
8 agement plan; and

9 (4) adopt regulations in accordance with the Administrative
10 Procedure Act (AS 44.62) necessary to achieve the corrective goals of
11 the corrective stock management plan.

12 (d) The commissioner shall implement corrective stock management
13 plans subject to priorities among plans and to the availability of
14 resources to the department.

15 (e) In this section

16 (1) "corrective stock management plan" means a document
17 that compiles information for the purpose of restoring a stock to
18 sustained-yield population levels, as determined by the department,
19 and the regulations adopted to implement the plan;

20 (2) "stock" means a population of a game species identi-
21 fied with a specific geographic area;

22 (3) "threatened" means the prospect for the continued human
23 utilization of the stock is jeopardized due to either

24 (A) reduction of the stock below sustained-yield
25 levels by disease, pollution, predation, or overutilization;

26 (B) overabundance of a game species leading to the
27 imminent

28 (i) depletion of the stock; or

29 (ii) destruction of habitat of the stock;

1 (C) destruction, modification, or reduction of habi-
2 tat; or
3 (D) other natural or man-made factors seriously af-
4 fecting the prospect of continued human utilization of the stock.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 3, 1986

SUBJECT: Effect of CSHB 542(Res) relating to
management of threatened stocks of game

TO: Representative Richard Shultz

FROM: George Utermohle *GU*
Legislative Counsel

CSHB 542(Res) relating to management of threatened stocks of game, establishes a process which the Board of Game must follow when continued human utilization of a stock is jeopardized and local fish and game advisory committees request the board to take corrective action. CSHB 542(Res) does not alter the powers or duties of the board. The board already has the duty to manage game stocks on a sustained-yield basis.

If the board receives information from the Department of Fish and Game that a stock is threatened but does not take corrective action, a majority of advisory committees in the area of the threatened stock can compel the board to act. The board must then adopt a plan at its next regularly scheduled meeting to restore the stock to sustained-yield levels.

CSHB 542(Res) gives the fish and game advisory committees a significant role in determining whether a management plan is adopted. Under current procedures an advisory committee can petition the board to consider an issue but cannot compel the board to accept its proposed action. CSHB 542(Res) gives a group of advisory committees the opportunity to compel the Board of Game to take action and to adopt a stock management plan. The board retains discretion as to the content of the stock management plan even though the board has no discretion as to whether a plan is prepared.

In summary, CSHB 542(Res) establishes procedures which the Board of Game must follow where threatened stocks are involved but does not add to or detract from the substantive responsibility of the board to manage game resources according to sustained-yield principles.

GU:mkr
m3/108

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 11, 1986

SUBJECT: Section by section analysis of CSHB 542(Res), relating to management of threatened stocks of game.

TO: Representative Richard Shultz

FROM: George Utermohle *guk*
Legislative Counsel

Sec. 16.05.265(a). This subsection places a duty on the Board of Game to adopt a corrective stock management plan when the board receives scientific data prepared by the Department of Fish and Game that the continued human utilization of a game stock is jeopardized and a majority of the local fish and game advisory committees in the area where the stock lives requests the board to adopt a plan. Before taking action an advisory committee must notify the coordinator for the regional council where the advisory committee is located that it is requesting the Board of Game to adopt a corrective stock management plan.

When this situation occurs the board must prepare a corrective stock management plan at the next regularly scheduled meeting. The board has no discretion as to whether it will prepare the plan. However, the content of the plan, with two major exceptions, is left to the board's discretion. The authority and discretion of the board to adopt management plans in other situations are not affected.

Sec. 16.05.265(b). This subsection lists the mandatory and discretionary elements of a stock management plan. At the minimum a plan must address intensive management of the threatened stock and effective and expeditious management of prey species and natural predator species.

Additional issues or factors affecting the survival of the threatened stock may be considered at the board's discretion. Among the discretionary factors which the bill suggests are regulation of human utilization, biological research, protection of habitat, artificial rearing, public education programs, and law enforcement. Though the bill speaks of these factors in discretionary terms, the board must address any factor which is critical to the survival of the stock. If the board does not address a critical factor

which is in its control or influence, the board is not fulfilling its constitutional mandate to manage according to sustained yield principles.

Sec. 16.05.265(c). This subsection requires the board to review annually each corrective stock management plan in effect. After receiving any additional scientific data from the Department and evaluating the success of the plan the board must take appropriate action to maintain, amend, or rescind the plan and the regulations.

This review of the corrective stock management plan will be done according to the Administrative Procedure Act and board policies. Public comment and participation in this review is thus assured.

Sec. 16.05.265(d). This subsection places responsibility on the Commissioner of Fish and Game to implement corrective stock management plans. When the Department lacks the resources to implement all aspects of one or more corrective management plans, the Commissioner shall establish priorities among plans to achieve as much as possible with the resources available.

Sec. 16.05.265(e). This section defines key terms in the bill: "stock", "corrective stock management plan", and "threatened".

A "stock" is an identifiable and manageable game population defined in terms of the location where it lives. "Game" is defined in AS 16.05 to include natural and introduced species of mammals and birds.

"Corrective stock management plan" is the plan and its implementing regulations adopted by the board. The purpose of the plan is to restore a threatened species to sustained yield levels. The plan must include information that is useful in rebuilding the stock; the plan is not restricted to biological or scientific information.

"Threatened" means that the population cannot support continued human utilization because the population is too small, the population is endangered by another overabundant species, the population's habitat has been damaged, or the population is endangered by some other natural or man-made factor.

RUBY ADVISORY COMMITTEE

POB 8

RUBY, ALASKA 99768

February 28, 1985

Board of Game Members
Alaska Department of Fish & Game
Box 3-2000
Juneau, Alaska 99802

Dear Boardmembers:

At our recent Fish and Game Advisory Committee, February 7, 1985, attended not only by concerned Ruby Residents, but also by representatives of Tanana Chiefs, State of Alaska Fish and Game and U. S. Nowitna Refuge representatives, it was agreed by all concerned that a wolf predation problem exists.

Many suggestions were advanced such as increasing the value of the wolf pelt so as to make trapping more attractive. Another suggestion was to allow aerial hunting by local pilots during March, limiting the wolf kill to 25 per unit.

Asking for a State trapper to spend time in the area to trap wolves was another suggestion.

A return to the free enterprise system was advocated so that money would flow back to the village was advanced.

Whatever the suggestions, it was agreed by those present that a serious problem now exists and a subsistence resource is now threatened.

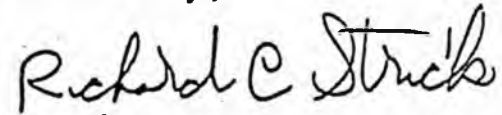
Because of this danger to the moose resource, action must be taken immediately by both the State and Federal entities. It appears that each of these agencies would rather let the other agency take action. Meanwhile, the wolves take 160 moose according to a State of Alaska Game Biologist's records while Ruby residents account for 60 bull moose while the wolves are not so eclectic.

This letter is written in frustration because no concrete response to date has been taken by any agency to "manage" the wolf population.

Page two

as time is of the essence, we respectfully request
that you act upon our resolution 85-2.

Yours truly,

A handwritten signature in cursive script that reads "Richard C. Strick". The signature is written in dark ink and is positioned above the typed name.

Richard C. Strick, Chairman

RCS:sgs

RUBY FISH & GAME ADVISORY COMMITTEE

RESOLUTION 85-2

- Whereas, it has been reported by both users and game people that moose kills by wolves in the Novi area are numerous; and
- Whereas, trappers are sighting more wolves than ever before; and
- Whereas, pilots are reporting large packs of wolves and moose kills sighted; and
- Whereas, we are concerned about our future subsistence food source; and
- Whereas, our correspondence telling of our concerns has not been answered; and
- Whereas, our fears have been increased because positive wolf control measures are not in effect;

Be it resolved, that the Ruby Advisory Committee requests and petitions the Board of Game not only to direct the proper authorities to provide us with current data of wolf predation and statistics in our Unit 21(B) so as to verify the present crisis but to immediately take corrective action to protect our moose population so that our subsistence needs will be assured; and

Be it further resolved, that said committee requests and petitions said Board to direct the proper agency/authority to conduct studies this year to build data for future actions.

Richard C. Strick
Richard C. Strick, Chrm.

2/28/85
Date

RUBY ADVISORY COMMITTEE

POB 8

RUBY, ALASKA 99768

January 21, 1985

Board of Game Members
Alaska Department of Fish and Game
Box 3-2000
Juneau, Alaska 99802

Dear Boardmembers:

At our recent advisory committee meeting I was directed by the membership to bring to your attention the threat to the moose population caused by an obvious increase of wolf predation this year.

According to many of your trappers, more wolves have been sighted this year than in years past. Pilots are also reporting large packs of wolves sighted. These reports are disconcerting as we rely on moose for subsistence-use and our food supply.

Emergency assistance is needed immediately so as to protect this very important subsistence resource. Therefore, we ask the following steps be taken by your department to protect the moose population.

1. Tim Osborne, Area Biologist, Galena, to provide us with current data of wolf predation and numbers in our Unit so as to verify the present crisis.
2. Tim Osborne to conduct studies this year to build data for future actions by your department.
3. Reinstate a wolf bounty and provide loaner traps to trappers.
4. Allow Fish and Game to issue permits to fly and shoot wolves.

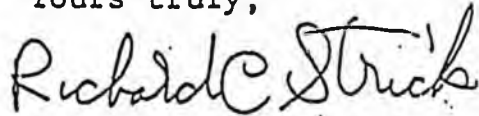
We fully realize the emotionalism of the campaign by misguided individuals to "save the wolves", however the moose is our "commissary on the hoof" and every effort should be made to protect this resource as is now under attack. We urge you to make every effort to maintain the balance between human needs and conservation needs. As in the human arena the victim

Page Two

(moose) needs to be protected as well as the criminal,
(wolf).

Thank you for your attention to this matter.

Yours truly,



Richard C. Strick, Chairman
Ruby Advisory Committee

RCS:sgs

cc: John C. Sackett, Senator, State of Alaska
Kay Wallis, Representative, State of Alaska
Don W. Collinsworth, Commissioner of Fish & Game
W. Lewis Pamplin, Jr., Director of Game
Sidney Huntington, Boardmember
Terry Haynes, Regional Supervisor, Subsistence Div.
U.S. Fish and Wildlife Service
Jim Fisher, Refuse Manager, Nowitna National
Wildlife Refuge, U.S. Fish & Wildlife Service
Jim Kowalsky, Director, Wildlife and Parks, TCC
Dana Notti, Yukon-Koyukuk Subregion, TCC, Galena
Karen Thompson, Department of Fish and Game
Beth Stewart, Director, Division of Boards
Jim Marcotte, ADF&G, Division of Subsistence
Mitch Demientieff, Coordinator, Interior Regional
Council
Royce Purinton, Chairman, Interior Regional Council
Tim Osborne, Area Game Biologist
Ruby Advisory Committee Members *FILE*

RUBY ADVISORY COMMITTEE

POB 8

RUBY, ALASKA 99768

February 5, 1985

Jim Marcotte
Alaska Department of Fish and Game
Division of Subsistence
POB 256
Galena, Alaska 99741

Dear Jim:

As discussed in our recent advisory board's meetings, we feel that wolf predation presents a danger to our subsistence life style which relies heavily on healthy moose populations.

Because much of our subsistence hunting occurs in the Nowitna refuse, we request that you conduct a wolf population inventory to determine if there is or isn't a wolf problem. Perhaps you could radio collar the wolves to help you determine the pack sizes.

We are not requesting a study of the Nowitna Refuge in it's entirety but rather along the Yukon River from Ruby to the Nowitna, thence 60 miles upstream on both banks. Please see shaded area of Map. We are not interested in the "hinterland" as such.

If wolf predation or wolf numbers prove to be at a dangerous level then we ask you to take concrete steps to save the valuable moose resource.

Thank you for your immediate attention to this request.

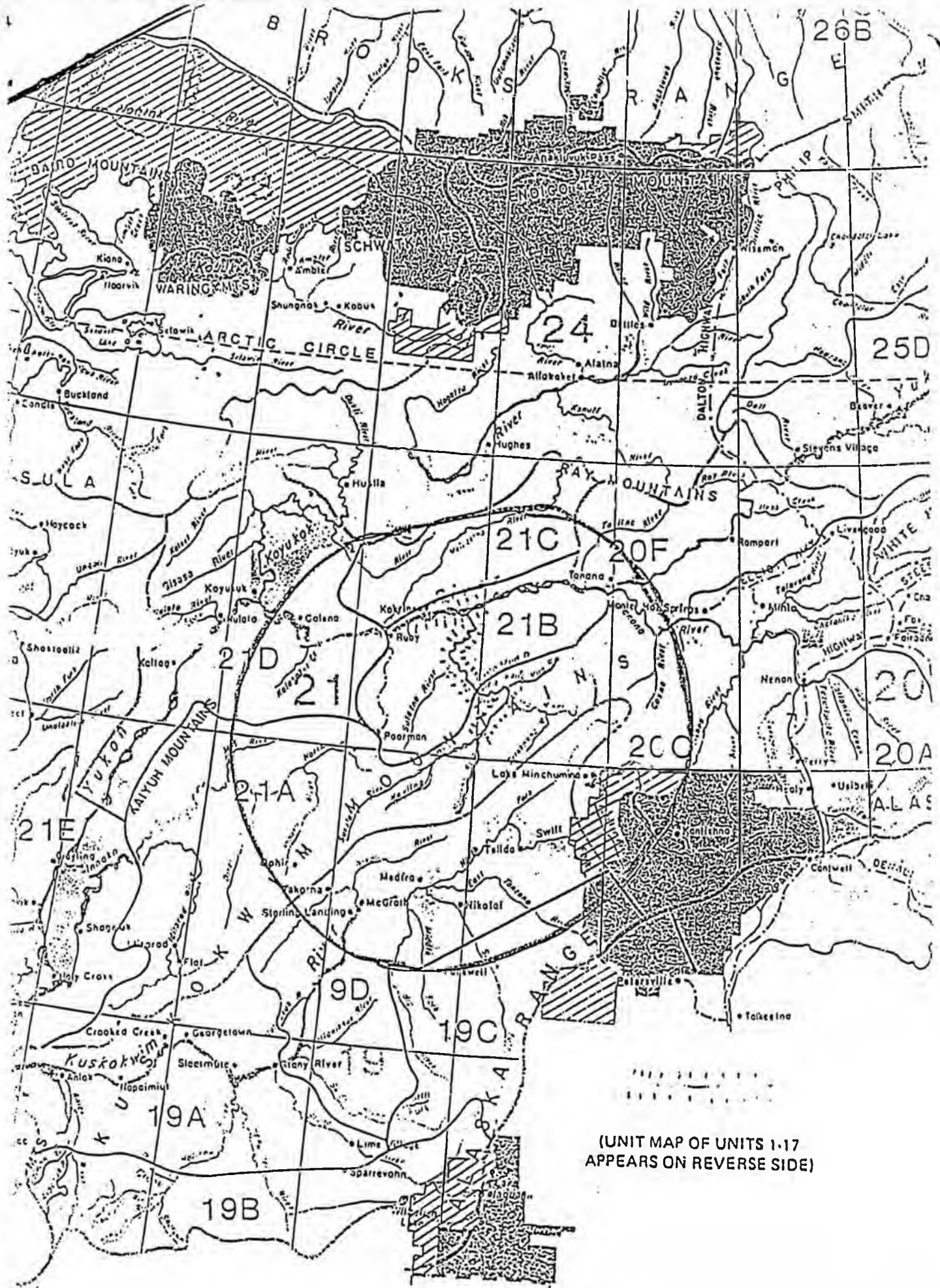
Sincerely,



Richard C. Strick, Chairman
Ruby Advisory Committee

RCS:sgs

cc: Terry Haynes, Regional Supervisor, Div. of Subsistence
James R. Fisher, Refuse Mgr., Nowitna NWR, F & W Service
Mitch Demientieff, Dir. Interior Regional Council
Jim Kowalsky, TCC, Inc.
Tim Osborne, Game Biologist, Galena



(UNIT MAP OF UNITS 1-17
APPEARS ON REVERSE SIDE)

A. Subunit 22(A)—This portion of Unit 22 drain-

ALASKA CONSTITUTION

Enforcement

SECTION 11. Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause shall be reviewed by the supreme court upon the law and the facts.

Public Health
Public Welfare

ARTICLE VII

HEALTH, EDUCATION, AND WELFARE

Public Education

SECTION 1. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

Statement of Policy

General Authority

Common Use

Sustained Yield

State University

SECTION 2. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

Facilities and Improvements

Board of Regents

SECTION 3. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance

State Public Domain

with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

SECTION 4. The legislature shall provide for the promotion and protection of public health.

SECTION 5. The legislature shall provide for public welfare.

ARTICLE VIII

NATURAL RESOURCES

SECTION 1. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

SECTION 2. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

SECTION 3. Wherever occurring in the natural state, fish, wildlife, and waters are reserved to the people for common use.

SECTION 4. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

SECTION 5. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

SECTION 6. Lands and interests therein, including submerged and tidal lands, possessed or

Sec. 805. (a) Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary in consultation with the State shall establish —

- (1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;
- (2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and
- (3) a regional advisory council in each subsistence resource region.

Regional advisory council, authority.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

- (A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;
- (B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;
- (C) the encouragement of local and regional participation pursuant to the provisions of this title in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;
- (D) the preparation of an annual report to the Secretary which shall contain —

Annual report to Secretary.

- (i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;
- (ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;
- (iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and
- (iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported

wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

(e)(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of \$5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 804.

FEDERAL MONITORING

Sec. 806. The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as

Implement

Reimburse to States

Report to Congress

Report to Presidential committees 16 USC 310

ANILCA

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y STATE CAPITOL
BUREAU ALASKA 99511
707-465-3300

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 20, 1986

SUBJECT: Sustained yield of fish and game resources
(Work Order 14-1742)

TO: Representative Richard Shultz
Attn: Dave Stancliff

FROM: George Utermohle *GU*
Legislative Counsel

As per your request, the following is a review of what the framers of the Alaska Constitution meant when they drafted Article VIII, Section 4 relating to sustained yield of fish and wildlife.

The provisions of Article VIII of the Alaska Constitution were drafted by the Resources Committee of the Constitutional Convention. Committee Proposal 8/a prepared by the Resources Committee was introduced on January 16, 1956.

Forest, fish, wildlife, grasslands and other replenishable resources belonging to the State shall be administered, utilized and maintained on the sustained yield principle /1

The Committee Commentary on the sustained yield section described the Committee's understanding of the concept that it was proposing:

Sustained yield is recognized as a principle applicable to the administration of plant and animal life subject to the immediate authority of the State. This provision applies generally to wildlife and fisheries anywhere in the State and to the forests and other replenishable resources including grass which occurs on lands in the State public domain. This principle is qualified in terms of "the highest beneficial public use" in recognition of its not being in the public interest to preserve certain parasitic or predatory

organisms destructive of more beneficial plant and animal life. . . /2

The Resources Committee assumed that the meaning of sustained yield is understood by everyone and that it was not necessary to further define the term.

Burke Riley, as spokesman for the Resources Committee, summarized the Commentary on the Committee Proposal 8/a and elaborated somewhat as to how the Committee envisioned the sustained yield requirement would be implemented:

Section 3 states that replenishable resources shall be administered on the sustained yield principle. I won't go into that in detail here, beyond saying that, in our reference to sustained yield, we have in mind no narrow definition of "sustained yield," as is used, for example, in forestry, but the broad premise that insofar as possible a principle of sustained yield shall be used with respect to administration of those resources which are susceptible of sustained yield, and where it is desirable. For example, predators would not be maintained on a sustained yield basis. /3

The Committee's concept of sustained yield generated a question from a member as to how it would apply to fishery resources when exact information necessary for precise sustained yield management is not available.

PERATROVICH: I asked the question before, but before we took a recess, and I'm a little bit concerned on this sustained yield program as far as fisheries are concerned. Did the Committee go into detail on it as to how that would apply?

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, yes, the Committee discussed that very thoroughly, and as Mr. Riley pointed out, this term "sustained yield principle" was not intended to apply in the strict sense in which it does apply in the management of forestry land. The Committee realized full well that it would be impossible to determine the exact sustained yield in the fisheries; but the Committee felt that there was a definite indication that would be of value that, insofar as

possible, the fisheries should be maintained on the sustained yield principle.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, then it is the opinion of your Committee, sustained yield basic program will be left, as far as fisheries are concerned, to the state legislature? Am I correct in that?

RILEY: I would say yes, Mr. Peratrovich, and probably by the legislature delegated to the fisheries agency. In the course of our work on this article, we felt obliged to assemble a glossary insofar as possible; and, I might read what we have agreed on amongst ourselves as the meaning of the term employed in the article. "As to forests, timber volumes, rate of growth, and acreage of timber type can be determined with some degree of accuracy. For fish, for wildlife, and for some other replenishable resources, such as huckleberries, as an example, it is difficult or even impossible to measure accurately the factors by which a calculated sustained yield will be determined. Yet, the term 'sustained yield principle' is used in connection with the management of such resources. When so used in this article, it denotes conscious application insofar as practicable, of principles of management intended to sustain the yield of the resource being managed."

PERATROVICH: Well, that answers my question. . . . /4

The Resources Committee recognized the difficulty of defining "yield" and then managing the resource so that the yield is sustained. Forest management was used as an example of resource susceptible to exact management, while fish and wildlife were considered resources where exact calculations were almost impossible. The Resources Committee did not intend sustained yield to be a rigid concept requiring rigorous management of resources but only that replenishable resources be consciously managed with the intent that a yield be sustained.

The exchange between Frank Peratrovich and Mr. Riley clearly shows that Article VIII intended that the general concept of sustained yield management of replenishable resources be

included in the Constitution and that sustained yield management be implemented more fully by the legislature.

The concept of sustained yield management is generally applicable to replenishable resources, including fish and wildlife, but exceptions to sustained yield management were foreseen by the Constitutional drafters. Though the sustained yield section of Committee Proposal 8/a did not expressly mention that exceptions to sustained yield management were allowed, the Committee Commentary which accompanied the proposal allowed an implied exception for destruction of "parasitic or predatory organisms destructive of more beneficial plant and animal life" when it was in the public interest. /5

After the Resources Committee had an opportunity to reconsider the language of the sustained yield section, the Committee found that there was a need to expressly allow exceptions to sustained yield management. The Resources Committee requested on the floor of the Constitutional Convention that the sustained yield section be amended by adding at the end of the section, "subject to preferences among beneficial uses". Speaking for the Resources Committee, Mr. Riley explained the purpose of the amendment:

Originally, in one of our earlier editions of this article, that language, or language substantially resembling it, was included. The Committee itself had stricken the language thinking that it appeared elsewhere in enough places to cover our purpose. However, it has been brought to our attention by more than one specialist in the field that it has particular application to the sustained yield principle, and that without the language we have just suggested, that the sustained yield principle mentioned becomes somewhat meaningless and ineffective. /6

The amendment was adopted.

In summary, the framers of the Constitution intended that all replenishable resources belonging to the state including fish and wildlife be managed according the principles of sustained yield as the term is generally understood. The legislature is responsible for implementing sustained yield management and for further clarifying the term, as necessary. Exceptions to sustained yield management of fish

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and wildlife resources are permitted when the exception is
in the public interest.

GU:mkr
M3:052

FOOTNOTES

- /1 Committee Proposal 8/a, January 16, 1956, p. 2.
- /2 Commentary on Article on State Lands and Natural Resources, January 16, 1956, p. 1.
- /3 Proceedings of the Constitutional Convention, January 17, 1956, p. 2451.
- /4 Proceedings of the Constitutional Convention, January 17, 1956, p. 2456-57.
- /5 see footnote 2.
- /6 Proceedings of the Constitutional Convention, January 25, 1956, p. 3054.

Offered: 3/19/86
Referred: Finance

Original sponsor: Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR HOUSE BILL NO. 542 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to corrective management of threat-
7 ened stocks of game."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. 'AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.265. MANAGEMENT OF THREATENED STOCKS OF GAME. (a)

11 The Board of Game shall adopt a corrective stock management plan at
12 its next regularly scheduled meeting when the board receives scien-
13 tific data compiled by the department that a stock is threatened and a
14 majority of the advisory committees in the game management unit where
15 the stock is located, after consultation with the coordinator for the
16 appropriate regional council, pass resolutions requesting the board
17 to adopt a corrective stock management plan.

18 (b) The Board of Game

19 (1) shall include in the corrective stock management plan
20 regulations for intensive management of the threatened stock and for
21 effective and expeditious corrective management of prey and natural
22 predator species of the threatened stock; and

23 (2) may include in the corrective stock management plan
24 guidelines or regulations for human utilization of the threatened
25 stock, for research on the population status and the ecology of the
26 threatened stock, for restoration of habitat, for public education
27 programs, for law enforcement programs, for designation of reserves,
28 ranges, and preserves, and for artificial rearing of the threatened
29 stock.

1 (c) The Board of Game shall review annually each corrective
2 stock management plan and shall

3 (1) receive scientific data compiled by the department on
4 the status of the threatened stock;

5 (2) evaluate the success of the corrective stock management
6 plan;

7 (3) continue, amend, or rescind the corrective stock man-
8 agement plan; and

9 (4) adopt regulations in accordance with the Administrative
10 Procedure Act (AS 44.62) necessary to achieve the corrective goals of
11 the corrective stock management plan.

12 (d) The commissioner shall implement corrective stock management
13 plans subject to priorities among plans and to the availability of
14 resources to the department.

15 (e) In this section

16 (1) "corrective stock management plan" means a document
17 that compiles information for the purpose of restoring a stock to
18 sustained-yield population levels, as determined by the department,
19 and the regulations adopted to implement the plan;

20 (2) "stock" means a population of a game species identi-
21 fied with a specific geographic area;

22 (3) "threatened" means the prospect for the continued human
23 utilization of the stock is jeopardized due to either

24 (A) reduction of the stock below sustained-yield
25 levels by disease, pollution, predation, or overutilization;

26 (B) overabundance of a game species leading to the
27 imminent

28 (i) depletion of the stock; or

29 (ii) destruction of habitat of the stock;

1 (C) destruction, modification, or reduction of habi-
2 tat; or

3 (D) other natural or man-made factors seriously af-
4 fecting the prospect of continued human utilization of the stock.

Introduced: 2/6/86
Referred: Resources and
Finance

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 542

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to corrective management of threat-
7 ened stocks of game."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.265. MANAGEMENT OF THREATENED STOCKS OF GAME. (a)

11 The Board of Game shall adopt an interim corrective stock management
12 plan by emergency regulation under AS 44.62.250 and 44.62.260 when the
13 board receives scientific data compiled by the department that a stock
14 is threatened and a majority of the advisory committees in or adjacent
15 to the game management unit where the stock is located petitions the
16 board to adopt an interim corrective stock management plan.

17 (b) An interim corrective stock management plan expires after
18 120 days or when the Board of Game adopts a corrective stock manage-
19 ment plan, whichever occurs first.

20 (c) Within 120 days after adopting an interim corrective stock
21 management plan the Board of Game shall adopt a corrective stock
22 management plan in accordance with the Administrative Procedure Act
23 (AS 44.62).

24 (d) The Board of Game

25 (1) shall include in the corrective stock management plan
26 regulations for intensive management of the threatened stock and for
27 effective and expeditious corrective management of prey and natural
28 predator species of the threatened stock; and

29 (2) may include in the corrective stock management plan

1 guidelines or regulations for human utilization of the threatened
2 stock, for research on the population status and the ecology of the
3 threatened stock, for restoration of habitat, for public education
4 programs, for law enforcement programs, for designation of reserves,
5 ranges, and preserves, and for artificial rearing of the threatened
6 stock.

7 (e) The Board of Game shall review annually each corrective
8 stock management plan and shall

9 (1) receive scientific data compiled by the department on
10 the status of the threatened stock;

11 (2) evaluate the success of the corrective stock management
12 plan;

13 (3) continue, amend, or rescind the corrective stock man-
14 agement plan; and

15 (4) adopt regulations in accordance with the Administrative
16 Procedure Act (AS 44.62) necessary to achieve the corrective goals of
17 the corrective stock management plan.

18 (f) The commissioner shall implement interim corrective stock
19 management plans and corrective stock management plans subject to
20 priorities among plans and to the availability of resources to the
21 department.

22 (g) In this section

23 (1) "corrective stock management plan" means a document
24 that compiles information for the purpose of restoring a stock to
25 sustained-yield population levels, as determined by the department,
26 and the regulations adopted to implement the plan;

27 (2) "interim corrective stock management plan" means a
28 corrective stock management plan that provides for management and
29 conservation of a threatened stock while the Board of Game prepares

1 and adopts a corrective stock management plan;

2 (3) "stock" means a population of a game species identi-
3 fied with a specific geographic area;

4 (4) "threatened" means the prospect for the continued human
5 utilization of the stock is jeopardized due to either

6 (A) reduction of the stock below sustained-yield
7 levels by disease, pollution, predation, or overutilization;

8 (B) overabundance of a game species leading to the
9 imminent

10 (i) depletion of the stock; or

11 (ii) destruction of habitat of the stock;

12 (C) destruction, modification, or reduction of habi-
13 tat; or

14 (D) other natural or man-made factors seriously af-
15 fecting the prospect of continued human utilization of the stock.