

S B

514

# HOUSE COMMITTEE REPORT

5/8

(9)

Date referred: 5/8/88

FURTHER REFERRALS:

Finance

DATE: 5-8-88

The Resources Committee has considered CSSB 514(Fin)

"An Act relating to the farming of aquatic plants and shellfish; prohibiting the farming of Atlantic salmon; extending the moratorium on finfish farming until July 1, 1990; establishing the Alaska Finfish Farming Task Force; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Adelheid Herrmann HERRMANN  
Mike Navarre NAVARRE  
[Signature] HOFFMAN  
[Signature] SONN  
[Signature] CITTEN

**SIGNING OTHER RECOMMENDATIONS:**

[Signature] DEAROE  
[Signature] DAVIDSON  
[Signature] SPRINGER  
[Signature] SEALTE

Adelheid Herrmann HERRMANN  
 Chairman's signature  
 Co-Chair



# UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106  
Juneau, AK 99801  
907-586-2820

May 7, 1988

United Fishermen of Alaska urges the passage of CSSB 514 (Finance) without further amendments.

This bill establishes an effective mechanism for the development of shellfish farming in Alaska. It provides stability to encourage the growth of the industry.

This bill temporarily resolves the question of the legal status of finfish farming. It will help prevent lawsuits that would be costly to all parties.

This bill establishes a task force with specific goals to find answers to questions that have been raised about the value or cost to Alaskans of finfish farming.

Mariculture has been a controversial topic in the state. This bill puts an end to part of the controversy by establishing in statute a framework for the development of shellfish and kelp mariculture. This bill also establishes a solid forum for future discussions about finfish farming.

This bill specifically allows freshwater farms to continue or to be established while the larger issues regarding other farming projects are resolved.

We urge you to support CSSB 514 (Finance) as it is currently worded.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN  
LEGISLATIVE COUNCIL  
RESOURCES COMMITTEE  
FISHERIES SUBCOMMITTEE, CHAIRMAN



P.O. BOX 143  
SITKA, ALASKA 99835  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465 4916

M E M O R A N D U M

TO: Senator Dick Eliason

FROM: Sheila Peterson, staff  
Senator Eliason's Office *Sheila*

DATE: March 7, 1988

RE: Opposition to the pen rearing of salmon

The following communities and organizations have submitted resolutions in opposition to the pen rearing of salmon:

Communities:

Kenai Peninsula Borough  
Edna Bay Community, Inc.  
City of Port Alexander  
City and Borough of Sitka  
City of Craig  
City of Wrangell  
Ketchikan Gateway Borough  
Sitka Chamber of Commerce

Organizations:

Craig Fish and Game Advisory  
SW Regional Fish and Game  
Council  
United Fisherman of Alaska  
Northern Southeast Regional  
Aquaculture Association  
Alaska Trollers' Association  
Southeast Alaska Conservation  
Council  
Alaska Environmental Lobby  
Seafood Producers Cooperative  
Southeast Regional Fish and  
Game Council  
North Pacific Fisheries Assn.  
Cook Inlet Fisheries Coalition  
Cordova District Fishermen  
United

We have also received many, many letters and public opinion messages statewide in opposition to the pen rearing of salmon.

SB 514 - ADVANTAGES TO SHELLFISH GROWERS

1. A strong policy statement by the legislature which encourages the establishment and responsible growth of an aquatic farming industry by the state is listed.
2. A hatchery could be established which would provide a stable and reliable source of shellfish spat.
3. An aquatic farm permit issued by the Department of Fish and Game may be transferred. This fact should facilitate the shellfish grower in obtaining financing.
4. A shellfish permittee shall be given a preference to a long term lease. This lease may be assigned. A long term lease will provide the much needed stability to the industry. The permittee will not have to compete competitively with other interested parties, but will be given a preference.
5. A permit will be issued for three years. Currently a one year permit is issued in Southeast.
6. Existing permit holders are grandfathered in for a lease preference. Under the current system, these farmers would have to compete competitively with all other residents to obtain a long term lease.

Distributed by Senator Eliason

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

MEMORANDUM

TO: ALL MEMBERS  
ALASKA HOUSE OF REPRESENTATIVES

DATE: May 8, 1988

FROM: Steve Cowper  
Governor

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the printed name.

PHONE: 465-3500

SUBJECT: SB 514

I urge you to support passage of SB 514 (Finance) without amendment. The bill passed the Senate last night 17-3. Passage of SB 514 is important. Without this bill, the mariculture issue will be the subject of expensive and time-consuming litigation.

SB 514 will serve to encourage the growth of our shellfish and sea vegetable industry, and prevent this issue from becoming entangled in the courts by extending the existing moratorium on finfish farming.

Once again, I urge you to support passage of SB 514 (Finance) without amendment.

SENATE BILL 514

LETTER OF INTENT

It is the intent of the Senate that, for the period of the moratorium on finfish farming, the farming of finfish in a privately owned freshwater body with no outlet to state water should proceed. By enacting this bill, the Senate also directs the Commissioner of Fish and Game to work with prospective farmers and the Board of Fisheries to develop appropriate proposals to meet the goals of this legislation.

STEVE COWPER, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465 2400

OFFICE OF THE COMMISSIONER

May 2, 1988

The Honorable Fred Zharoff  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

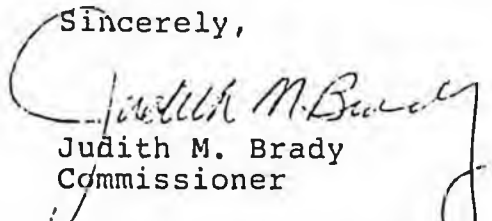
Dear Senator Zharoff:

I understand that the subject of land use regulations for mariculture activities continues to be an issue in the progress of SB 482 and SB 514. I believe that passage of a mariculture bill this session is extremely important to resolve some of the many pending policy questions surrounding the rearing of finfish and shellfish.

I support your position that districting, opening of application periods, and preparation of final written findings not appear in statute (specifically, Section 18, lines 5 through 24 in SB 514). Placing these provisions in statute restricts the department's ability to fine tune our system for processing applications if we find that it needs adjusting several years from now. Should either SB 482 or SB 514 pass this session without including this system in statute I do intend to propose the adoption of the system in regulation. It is essential that the public be aware of, and participate in the development of the rules that affect them.

As you are aware, this system for processing applications was proposed by the department. I would not oppose passage of a bill solely because it mandates this language in statute. I believe the need for the Legislature to settle the larger policy questions is greater than any constraints the department may encounter if the language were in statute. If I may be of further assistance to you, do not hesitate to contact me.

Sincerely,

  
Judith M. Brady  
Commissioner

cc: Members of the Senate Finance Committee  
Senator Richard Eliason  
Rod Swope  
Bob Evans  
Richard LeFebvre

FISCAL NOTE

REQUEST:

Revision Date: 5/6/88  
Title: "An Act relating to the farming of aquatic plants..."  
Sponsor: Rules Committee  
Requestor: Finance Committee

Agency Affected: Office of the Governor  
BRU: Executive Operations  
Components: Executive Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL		30.0	15.0			
CONTRACTUAL		118.0	134.0	150.0	150.0	150.0
SUPPLIES		2.0	1.0			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		150.0	150.0	150.0	150.0	150.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		150.0	150.0	150.0	150.0	150.0
FEDERAL FUNDS						
OTHER						
TOTAL		150.0	150.0	150.0	150.0	150.0

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Requested funding is for Alaska FinFish Farming Task Force activities in FY 89 and FY 90 (50.0) and to expedite mariculture permitting activities within impacted State agencies (100.0 in FY 89 and FY 90; 150.0 in remaining years).

Prepared by: Michael A. Nizich, Director *Man* Phone: 465-3616  
Division: Division of Administrative Services Date: 5/6/88

Approved by Commissioner: [Signature] Date: 5/6/88  
Agency: Office of the Governor

Distribution (by preparer):

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

Funds will be provided to the Departments of Natural Resources, Environmental Conservation and Fish and Game to assist in the implementation this bill.

The Department of Natural Resources will be responsible for issuing permits and leases for mariculture sites as well as the siting review process established in Section 15 of the bill.

The Department of Environmental Conservation will be responsible for implementing provisions contained in the bill relating to chemical usages, product wholesomeness, shellfish site certification and other duties. Fish and Game will be responsible for the permitting of farms, pathology and genetics inspections and regulating brood aquisition.

In addition funds will be used to established and support Alaska Finfish Farming Task Force establish in Section 21 of the bill.

Funds will be provided to the agencies for personal services and support services to discharge their respective duties.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 7, 1988

SUBJECT: Sectional analysis of CSSB 514 (Finance)

TO: Senator Dick Eliason, Chairman  
Senate Rules Committee

FROM: Edward H. Hein *EHA*  
Legislative Counsel

Section 1 states legislative findings and policy regarding aquatic farming.

Sec. 2 is the guts of the bill. This creates a new article within AS 16.40, providing for the farming of shellfish and aquatic plants.

Sec. 16.40.100 requires a person to have a permit from the commissioner of fish and game in order to construct or operate an aquatic farm or related hatchery. The section spells out what a person is allowed to do under a permit and authorizes the commissioner to attach conditions to the permit to protect natural stocks. Permits may not be issued for farming Atlantic salmon.

Sec. 16.40.105 requires the commissioner to use specified criteria in issuing permits.

Sec. 16.40.110 provides for permit application, renewal, and transfer procedures and requirements. Applicants must submit a development plan for initial permit issuance. Renewal applications must include a report of disease history of the aquatic farm or hatchery, and evidence that the applicant has complied with the development plan. Commissioner may require a health inspection. Transferees are limited to the same terms as the transferors.

Sec. 16.40.120 requires a stock acquisition permit from the commissioner of fish and game in order to acquire wild shellfish or plant stock to supply an aquatic farm or

related hatchery. The commissioner must act on a permit application within 30 days. Permits may be denied or restricted if sustained yield would be impaired or if issuance would unreasonably disrupt an established use of the resource for commercial, sport, subsistence, or personal use purposes. Commissioner must inform the Board of Fisheries of permits denied because of unreasonable disruption of established uses or of any action taken on permits for acquiring species subject to limited entry. The Board of Fisheries may adopt regulations for conservation, maintenance, and management of species for which an acquisition permit is required. Unless a permit must be denied because of impairment of sustained yield, unreasonable disruption of an established use, or a conflicting Board of Fisheries regulation, the commissioner must issue acquisition permits if any of four circumstances exist: (1) wild stock is needed to start the farm or hatchery; (2) there are technological limitations on propagating the species for which a permit is sought; (3) the wild stock sought is not being fully utilized for other fishing uses; or (4) wild stock is needed to maintain the gene pool of the farm or hatchery. Shellfish and plants acquired under the permit become the property of the permit holder.

Sec. 16.40.130 prohibits importation of aquatic plants or shellfish for aquatic farms and hatcheries unless allowed by the Board of Fisheries by regulation.

Sec. 16.40.140 Limits sale or transfer of aquatic farm hatchery stock to other farms or hatcheries in state that have a permit, but shellfish stock can be sold to aquatic farms and related hatcheries outside the state.

Sec. 16.40.150 requires the Department of Fish and Game to order a quarantine or the destruction and disposal of diseased hatchery stock or aquatic farm products if necessary to protect wild stock. Permit holders must allow the department to conduct inspections during reasonable business hours and with reasonable notice. Cost of inspection paid by the department.

Sec. 16.40.160 allows the commissioner of fish and game to adopt necessary regulations for aquatic farming.

Sec. 16.40.170 establishes a class B misdemeanor penalty for violations of statutes and regulations relating to aquatic farming.

Sec. 16.40.199 defines various terms.

Sec. 3 authorizes the commissioner of environmental conservation to establish standards and conditions of operation and siting requirements for aquatic farms and related hatcheries to protect public health.

Sec. 4 requires the commissioner of environmental conservation to adopt aquatic farm products labeling regulations.

Sec. 5 gives the Department of Environmental Conservation authority to inspect aquatic farms and sites.

Sec. 6 defines "aquatic farm" and "aquatic farm product" for purposes of AS 03.05.

Sec. 7 authorizes the commissioner of fish and game to regulate aquatic farming in a manner that ensures the protection of fish and game resources.

Sec. 8 limits the regulatory authority of the Board of Fisheries with respect to aquatic farming to the authority expressly granted in Sec. 16.40.120(d) and (e) and 16.40.130.

Sec. 9 exempts aquatic farms and related hatcheries from the licensing requirements for sport and commercial fishing under AS 16.05.

Sec. 10 removes shellfish farming from the definition of "fish farming"; shellfish farming would be governed under AS 16.40; other fish farming would be under AS 16.05.

Sec. 11 exempts the sale of aquatic farm shellfish that are subject to limited entry from the permit and purchasing requirements of AS 16.10.265 - 16.10.267, which require fish buyers and processors to buy only from limited entry permit holders.

Sec. 12 exempts aquatic farming from the requirements of the Limited Entry Act, AS 16.43.

Sec. 13 excludes aquatic farm products from the definition of "seafood" for purposes of the Alaska Seafood Marketing Institute statutes.

Sec. 14 establishes a process for the Department of Natural Resources to lease sites for aquatic farms and related hatcheries. Lessees would be required to post a performance bond or other security to cover costs to the state of clean-up in the event the site is abandoned.

Sec. 15 requires the commissioner of natural resources to identify districts within which aquatic farming sites may be selected. Persons may then submit applications for sites during a 60-day period. Based on the applications received and consultations with other department heads, the commissioner makes a preliminary finding proposing sites in each district. After notice and hearing, the commissioner issues a final written finding identifying sites for which permits will be issued, and specifying conditions and limitations on the development of each site. The commissioner may then issue tideland and land use permits for aquatic farms. Permits are valid for three years and may be renewed, but not transferred. Before renewal, interested persons may submit written or oral testimony concerning the renewal. The commissioner must consider all relevant testimony before issuing or renewing a permit. A permit may be denied for good cause, but then the commissioner must provide the applicant with written findings explaining the reason for the denial. Applicants must post a performance bond or other security. The commissioner must adopt criteria for approving and denying permits and for limiting the number of sites in an area to protect the environment and natural resources.

Sec. 16 requires notice for public hearings on tideland permits and the siting of aquatic farms.

Sec. 17 requires that the notice under Sec. 16 be given to regional fish and game councils and coastal resource service areas.

Sec. 18 requires a public hearing by the commissioner of natural resources within 30 days after giving notice of the preliminary finding concerning siting.

Sec. 19 "grandfathers-in" existing lawful aquatic farms and related hatcheries, but conditions obtaining an initial lease or permit on the person's agreement not to change the use during the term of the lease or permit.

Sec. 20 requires the commissioner of natural resources to submit to the legislature a report on the implementation of

Senator Dick Eliason  
Page 5  
May 7, 1988

the statutes that provide for issuance of leases and tide-land or land use permits for aquatic farming.

Sec. 21 establishes a finfish farming task force to study issues relating to finfish farming in the state. The task force consists of five members appointed by the governor. It is to submit to the legislature an interim report in January, 1989, and a final report a year later.

Sec. 22 extends the existing finfish moratorium for two more years.

Sec. 23 provides an immediate effective date.

EHH:bb  
56/008