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Alaska Mariculture Report

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SPECIAL LEGISLATIVE SUMMARY

This special summary of legislative action on mariculture combines the April and May issues of the Alaska Mariculture Report. The crush of the last weeks of the session did not allow a regular issue during April. We hope to make amends with this 12-page issue focusing on legislative action. Included are some additional items, including another installment in a series of articles on what Alaska can learn about salmon farming from British Columbia and other areas.

'Anti-Mariculture' Bill Passes in Final Days of Session

by Rodger Painter, AMA Executive Director

Legislation dubbed by some reporters as the "anti-mariculture" bill was pushed through the legislature in the final days of the session, despite indications of widespread support for mariculture development.

The legislation (Senate Bill 514) extended the moratorium on finfish farming for two years, established a finfish farming task force, and gave shellfish farmers a mixed bag of benefits and heavy regulations. The measure was approved by wide margins in both houses, although many lawmakers made it clear they were unhappy with the bill and did not regard it as a good compromise.

The In.rigue

After being bottled up in committee for months, mariculture legislation hit the fast track in the final two weeks of the session when Gov. Steve Cowper combined forces with Senator Dick Eliason, a leading critic of finfish farming. Widespread support for mariculture development crumbled under intense pressure applied by the powerful Sitka Republican, Gov. Cowper, fishermen and environmentalists.

After attracting little attention throughout the session, mariculture became a major adjournment item, taking some participants by surprise. However, some observers have been predicting for months that an extension of the moratorium would be shoved through at the eleventh hour.

SB 514 was introduced by Eliason in late April after a similar

measure (Senate Bill 482) became bogged down in a sharply divided Senate Resources Committee. The Resources Committee debated SB 482 for weeks and had adopted numerous amendments to the measure suggested by the Alaska Mariculture Association (AMA).

At various points in the Resources Committee process, SB 482 allowed many forms of finfish mariculture and removed many of the provisions opposed by shellfish farmers. Frustrated by the revisions and slow movement, Eliason introduced SB 514 as a "shellfish-only" bill that avoided addressing finfish farming.

The new legislation failed to resolve the deadlock, and with as little as two weeks left in the session it appeared that no mariculture bill would clear the legislative process. Most committee members were caught off guard when Fairbanks Senator Ken Fanning moved to pass out both bills for action by the Senate Finance Committee.

Confused by what appeared to be conflicting legislation moving forward, the Finance Committee appeared to be prepared to let the legislation die with less than two weeks in the session. Kodiak Senator Fred Zharoff, who earlier had introduced a pro-mariculture bill, then attempted to hammer out a compromise imposing a three-year moratorium on the pen rearing of salmon, and one year moratoriums on freshwater finfish farming and salt water to upland salmon farms.

Zharoff's compromise failed when the United Fishermen of Alaska and other groups balked at the package because it would allow finfish farming to proceed after the moratoriums lapsed. The final version hammered out by Zharoff, Eliason and the governor's office leaves finfish farming in an ambiguous legal situation at the end of the two-year moratorium.

Eliason's insistence that the bill be unamended, concern over the falling of the moratorium and the lobbying pressure combined to head off such popular amendments as freshwater finfish farming and upland salmon farms with pumped sea water.

How Shellfish Farming will be Affected

SB 514 brings mixed blessings to shellfish farmers. In testimony before the House and on the floor of the Senate, Eliason proudly pointed to a list of benefits under SB 514 to shellfish farmers:

Lease preference. "The commissioner may offer to the public for lease a site that has been developed for aquatic farming or related hatchery operations... Before offering the site to the public, the commissioner shall offer the site to the permittee." Presently, shellfish farmers have no preference and could be outbid by a competitor when securing a long-term lease.

Grandfather clause. All shellfish farmers with a valid tideland permit will automatically qualify for a lease preference or permit on that parcel. SB 514 stipulates that farmer "must agree that during the term of the lease or permit the person will not change the use of the site." This clause apparently is designed to protect against speculators who may wish later modify a shellfish lease to farm salmon or other finfish.

Shellfish hatcheries allowed. SB 514 allows private for-profit shellfish and aquatic plant hatcheries. The state says current law does not provide for private-for profit hatcheries, although some attorneys counter that since private hatcheries are not prohibited by statute they're permissible.

Positive mariculture policy established. A positive findings section in SB 514 is followed by a policy section: "It is the policy of the state (1) to encourage the establishment and responsible growth of an aquatic farming industry in the state; and (2) that allocation of aquatic farming sites be made with full consideration of established and ongoing activities in an area."

Legal status of aquatic plant and shellfish farming firmly clarified in law.

Despite these attractive features, SB 514 was opposed by AMA, Kodiak Mariculture Association and the Alaskan Shellfish Growers Association and individual shellfish farmers because of restrictive siting provisions and wide-ranging powers granted various state agencies.

The most objectionable provision to shellfish growers is a section which prompted weeks of debate before the Senate Resources Committee and had been stripped from SB 482. Under the bill, DNR is required to follow this procedure:

Divide the state into aquatic farming districts.

Schedule at least one 60-day period per year in each district when tideland permit application would be processed.

Consult with the Alaska Department of Fish and Game (ADFG) and the Department of Environmental Conservation (DEC), then issue a preliminary finding proposing sites within the district for which permits may be issued. This preliminary finding and other aquatic farming tidelands actions are to be subject to a broader statutory notice than requirements for any other state land action.

Provide notice and hold a public hearing for all proposed permits, then identify eligible sites with specific conditions and limitations on farming activities.

These siting provisions created considerable controversy because mariculture proponents said they are far more restrictive than what is applied to any other users of public water. The area-wide siting process was devised by DNR, but the agency testified against putting them into statute. AMA and other farmers preferred elimination of the process entirely.

SB 514 also is riddled with open-ended sections giving the agencies broad discretion in regulatory action. For example, ADFG "may attach conditions to a permit issued under this section that are necessary to protect natural fish and wildlife resources." While this sounds pretty reasonable, it also provides the agencies with broad

discretionary authority.

There are numerous examples of overkill in the legislation. For instance, detailed provisions on disease control and inspection provide a framework to be applied to all forms of mariculture, but most are mandatory procedures written primarily to protect wild stocks from salmon farming. Many of the precautions are unnecessary for shellfish and aquatic plant farming.

The agreement between Eliason and Cowper to push through SB 514 with no amendments was quite effective, although the House allowed mariculture advocate Rep. Johnny Ellis to add a couple of minor changes. One amendment removed a provisions requiring DEC to force the labeling of all farm products grown in Alaska as "aquatic farm products."

The labeling requirement, which apparently was designed to differentiate farmed from wild-caught products, was opposed by AMA and many shellfish farmers as unnecessary and ineffective. Ellis argued the section did not make any sense if applied to only shellfish and aquatic plants, since there are no oysters or mussels harvested from the wild.

The Cost of Regulating

Just how much of SB 514 is actually implemented during the coming year probably depends upon how much money the bureaucrats are given. In the rush to push the legislation through at the last minute, funds to the agencies to implement the legislation fell between the cracks.

State agencies are required to prepare "fiscal notes" detailing the cost of implementing each piece of legislation. Last year, fiscal notes were submitted totalling about \$100,000, although all agencies had not compiled estimates.

The fiscal notes for SB 482 and SB 514 escalated to more than \$500,000 each. Perhaps the most surprising feature of the fiscal notes was that the version of SB 482 including freshwater finfish farms and upland saltwater farms only cost \$6,000 more in the first year than SB 514 which excluded finfish farming.

When it became clear the SB 514 fiscal notes had to be trimmed substantially if the measure was to pass, the Cowper Administration came up with an estimate of \$100,000 for the agencies and \$50,000 for the task force.

However, the Finance Committees failed to include the fiscal note in the budget bill and no funds were made available. When the glitch was pointed out, some legislators suggested Gov. Cowper might have to fund the measure out of funds set aside for the governor's office. No funds had been identified by late May.

Even if the \$150,000 is eventually secured, however, it appears highly unlikely that it will be sufficient to allow the agencies to implement many provisions of SB 514.

An example of new programs unlikely to proceed forward even if the entire \$150,000 is secured is DEC's plan to examine shellfish for concentrations of heavy metals. Under its broad authority granted by SB 514, DEC had planned to initiate new shellfish test for heavy metal concentrations.

The agency says there is growing national concern that farmed shellfish may retain significant quantities of heavy metals in their

flesh, and Alaska should be the first jurisdiction to initiate testing programs to avoid potential future problems from adverse consumer reactions.

How Finfish Farming is Affected

The short answer to the question of how SB 514 will affect finfish farming is that it leaves the contentious issue unresolved for another two years.

Extension of the finfish farming moratorium effectively prohibits farmers from proceeding beyond the conceptual stage, and even the one freshwater salmon farm established last year is likely to be stuck in place. The moratorium is exceedingly tight, allowing only a fish farming license and fish transport permit to be issued for "commercial finfish farming in a privately owned freshwater body that has no outlet to state water."

Under the terms of the moratorium, finfish farmers would not be allowed to capture broodstock, or obtain a land-use permit/lease or permits to appropriate water. The state also contends that private for profit hatcheries are not sanctioned by current state law.

Andrew Wescott of Fairbanks has obtained a commercial fish transport permit and fish farming license for farming coho in a spring-fed gravel pit. He also will be receiving 5,000 coho fry from a state hatchery in exchange for his volunteer labor in remote egg takes. The fry will be raised in tanks in Wescott's work shop on an experimental basis.

However, some questions apparently are being raised by state officials over whether Wescott should have been given a fish transport permit or fry without approval of the Board of Fisheries. One attorney general's opinion said existing fish transport regulations should be modified before permits could be granted to finfish farms.

Department of Fish and Game officials also have stated that the Board of Fisheries must approve all sales or transfers of eggs from state hatcheries for fish farming as it involves an allocation issue, even if the eggs are surplus and would otherwise be destroyed. Mariculture advocates question the likelihood of the Board of Fisheries (a seven-member citizens board which traditionally includes five commercial salmon fishermen) approving an egg allocation to foster a fish farming industry.

Even with cooperation from the Board, Wescott apparently will not be allowed to start a hatchery operation. This means he will have to take eggs and rearing space that normally would be used to enhance sport, commercial and subsistence fisheries.

If his initial rearing experiments are successful, Wescott wants to obtain about 500,000 fry next year. This seems highly unlikely to occur, and it appears Wescott will be stopped short of commercial scale production during the life of the moratorium.

A non-binding letter of intent was adopted in the Senate to help Wescott move forward:

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."

The path for others interested in finfish farming appears to be a deadend. For example, Thorne Ferguson of Anchorage has invested about \$600,000 into a proposed upland saltwater salmon farm near Hydaburg. Ferguson, owner of a small construction company, has been pursuing the farm for about six years. He and his son have hired upland farming expert Jon Lindbergh to design a farm and traveled to Norway, Canada and other areas gathering information.

Ferguson had gained strong support for his project in Hydaburg because he had offered to process his fish in the community-owned cold storage which has had difficulty securing enough product and to hire local residents to work on the farm. Native leaders from other Southeast communities also had voiced support.

Ferguson was caught short by last year's moratorium, but proceeded forward under the good faith assumption that it would expire this July. His options appear to be to try to fit within the narrow confines of the moratorium, abandon fish farming, or declare bankruptcy.

The same situation is faced by Juneau-based Wilderness Acquisitions which sued the state over water rights denied a salmon farming hatchery on Baranof Island (see later article), Indicator, Inc. which is seeking financing for a fish farm located on Ship Creek in downtown Anchorage, and a score of other smaller scale finfish farming projects scattered from Ketchikan to Unalaska.

The Finfish Farming Task Force

The only positive piece of finfish farming news in SB 514 is the creation of the Alaska Finfish Farming Task Force. The task force was a major priority of Sen. Arliss Sturgulewski and other mariculture advocates as a method of getting the debate focused on a good factual plane, rather than emotionalism and fear of the unknown.

Of course, the task force will be hamstrung if no funding is made available.

The moratorium language in SB 514 needs no elaboration:

ALASKA FINFISH FARMING TASK FORCE. (a) The Legislature finds that the farming of finfish raises a series of socio-economic, biological, and environmental issues requiring an in-depth examination.

(b) The Alaska Finfish Farming Task Force is established to study the issue and make a report of findings for administrative and legislative consideration. The governor shall appoint a five-member task force composed of state residents who are not state employees and who represent a broad spectrum of expertise, including one representative of commercial salmon fishermen, one aquatic farming advocate, one private economist, one fisheries biologist, and one public member with no involvement in the seafood or aquatic farming industry.

The task force shall submit an interim report to the legislature not later than January 30, 1989, and a final report to the legislature not later than January 30, 1990. The reports must address finfish farming in the state in freshwater, in marine environments, and in tanks or other enclosed structures that contain marine water and that are located on land, and shall address related hatchery operations. The reports may address other issues the task force considers appropriate. The reports must examine

(1) whether the farming of finfish can be conducted in a manner that protects the health of the state's fishery resources;

(2) criteria for the siting of finfish farms to minimize land use conflicts and to protect the environment;

(3) net economic costs and benefits of finfish farming in the state to state residents, including jobs created or lost for state residents, tax revenue (assuming an appropriate tax rate), cost of state regulation and monitoring, and effects on markets for salmon caught by the state's commercial fishing fleets.

(4) the cost of providing adequate regulation of finfish farming to protect wild stocks, the environment, public health, and existing beneficial uses of the state's coastal water and land, and the role of the private sector in providing pathological and other services;

(5) identification and analysis of appropriate sources of supply for stock for finfish farms, including but limited to private nonprofit hatcheries, private for-profit hatcheries, and wild stock, and their likely effect on existing state policy; and

(6) strategies for improving the marketability of Alaska salmon, particularly those high-value species competing with farmed salmon for domestic and export sales.

Ending of Legislative Saga Anticlimatic

The legislature was so deeply divided over mariculture that nearly everyone was expecting major fireworks when the issue finally hit the floor of the Senate. But, the floor debate was relatively subdued and very anticlimatic, as the issue was settled before the bill ever came up for debate.

As Chairman of the Rules Committee and majority leader, Eliason wielded enormous power at the end of the session, in deciding which legislation would see the light of day, and Eliason's only priority appeared to be pushing through SB 514 unamended. The fate of the mariculture issue was sealed when Eliason was joined in a pact to push through an unamended bill by Gov. Cowper, Sen. Zharoff who supports shellfish farming, Rep. Mike Navarre (chairman of the House Rule Committee), House Speaker Ben Grussendorf, United Fishermen of Alaska, and lobbyists for environmentalists.

Lobbying on the other side of the issue were the AMA, Resource

Development Council and Alaska State Chamber of Commerce. Senate opposition to SB 514 was led by Senators Sturgulewski and Jack Coghill, chairman of the Resources Committee.

It was no contest when push came to shove. On the day of the Senate vote, pro-mariculture forces counted as many as 12 votes in favor of a Sturgulewski amendment to allow the farming of finfish in freshwater and in upland saltwater farms. By the time the vote was taken, however, seven remained in support: Coghill, Fahrenkamp, Faiks, Fanning, Halford, Rodey and Sturgulewski. Only Coghill, Fahrenkamp and Sturgulewski voted against the unamended SB 514.

House supporters of mariculture decided the battle was settled by the time they received the bill and only minor resistance was mounted in the face of the powerful lobbying force mounted by Eliason and company. Rep. Johnny Ellis, who had championed mariculture for the past two years, managed to convince the House Rules Committee to add two minor shellfish amendments, but in the end even he voted for the bill. The House vote was a lopsided 31-6, with Reps. Boyer, Frank, Miller, Pearce, Rieger and Shultz voting no.

Superior Court Decision Ducks Salmon Farming Issue

Superior Court Judge Duane Craske ruled against a Juneau company seeking water rights to build a hatchery to supply brood stock for salmon farms, but the decision failed to clarify the legal status of salmon farming.

Wilderness Acquisitions, Inc., had appealed the denial of a water appropriation permit at Warm Spring Bay on Baranof Island by the Department of Natural Resources (DNR). The City and Borough of Sitka filed an amicus curiae brief in support of the state, and an intervening brief backing DNR was filed in behalf of the United Fishermen of Alaska, Alaska Trollers Association, Sierra Club and Southeast Alaska Conservation Council.

DNR based its denial upon two separate points: (1) the company could not complete an appropriation because salmon farming is not legal, and (2) an ocean ranching salmon hatchery proposed by the Alaska Department of Fish and Game was a better use of the water. Wilderness Acquisitions argued that DNR erred in ruling it could not obtain all permits necessary to get into the salmon farming business, and that it should not be denied water rights for a legal commercial activity, particularly since it applied before ADFG proposed a hatchery for ocean releases.

Sitka and the environmental and fishing groups stressed that the 200 cubic feet per second request by Wilderness Acquisitions was excessive and could periodically dry up Baranof River and its unique waterfall emptying into Warm Spring Bay.

"When reading (then-DNR Commissioner Esther Wunnicke's) decision in its entirety, there can be no question that she had a rational basis for concluding the public interest would best be met by denying the permit," Craske said. The ruling said it appeared the 200 cfs appropriation would adversely affect the ADFG hatchery.

The arguments advanced by Sitka and the brief filed in behalf of the fishing and environmental groups also appeared to sway Craske.

"Based on the foregoing, the court concludes the commissioner's

decision denying WAI's application was reasonably based on its conclusion that the permit was not in the public interest," Craske said. "Because the public interest determination alone is sufficient justification for denying the water permit, the court will not express its opinion as to whether ADFG could preclude fish farming."

Siting a Salmon Farm

One of the most difficult and critical decisions faced by a prospective salmon farmer--where to locate the farm--comes at a time when he or she knows the least. An improperly sited farm is a mistake you may get no opportunity to correct because you may go bankrupt first.

A host of factors are involved in siting, but they probably can be boiled down into two major categories: (1) biophysical criteria; and (2) economics.

Improper siting can lead to disastrous results such as massive mortalities from algae blooms, pollution or swift fluctuations in water temperatures, or slow growth rates from low marine temperatures. Look for areas with strong oceanic conditions and water exchange, stable water temperatures, and high salinity and dissolved oxygen.

Economic considerations obviously are important. If your site is too remote, it will cost a fortune to haul in feed and haul out your fish, and you will be non-competitive. The location of your farm also can affect the stability of your work force and your access to support services.

While economic considerations are important, siting should not be decided upon cost of operation. In the long run, the biological factors involved in siting may be the most important.

The best available report on siting a salmon farming is a 1987 study by the Fisheries Branch in the Ministry of Agriculture and Fisheries entitled: Biophysical Criteria for Siting Salmon Farms in British Columbia. The report provides these guidelines:

Temperature--Summer: 10-15 Centigrade (good); 16-21 C. (medium); greater than 21 C. (poor). Winter: greater than 7 C. (good); 5-7 C. (medium); 4 C. or less (poor). Salmon have low tolerance to sudden temperature change, such as 5 C. change in 12 hours. Avoid poorly flushed enclosed bays and warm water bays subject to upwelling during offshore breezes.

Dissolved Oxygen--Minimum concentration: 8.1 mg/l (good); 6.2 mg/l (medium); 4.5 mg/l (poor). Maximum saturation: 100% (good); 79% (medium); 57% (poor). Salmon require higher levels of dissolved oxygen than other marine fish. For example, coho and chinook show symptoms of oxygen distress when oxygen is below saturation, while Atlantic salmon do not show signs until saturation drops to about 44%.

Salinity--Long term: greater than 24/00 (good); 15-24/00 (medium); less than 15/00 (poor). Fluctuations: 3/00 change (good); 3-5/00 change (medium); greater than 5/00 change (poor). Salinity probably affects growth and mortalities. Full oceanic salinity (28-30/00) is preferred.

Currents--Slack water: 10-15 cm/s (good); 10-2 cm/s (medium);

less than 2 cm/s (poor). Flood: 10-15 cm/s (good); 10-100 cm/s (medium); 100-200 cm/s (poor). Good current flows is important to produce water exchange within net pens, and to disperse waste feed and feces. Avoid excessive flows.

Depth--Greater than 50 meters deep at low tide (good); 20-49 meters (medium); 10-19 meters (poor). Deep waters are preferred for dispersal of waste feed and feces, but you must be able to anchor at a reasonable price.

Geomorphology & Substrate--The best seabed has a 30 degree slope or greater, with rock, sand or gravel. Acceptable is 15-30 degree slope, with sand or mixed rock. A poor seabed is less than a 15 degree slope, with mud or organic ooze. The bottom will affect dispersal of waste feed and feces and water exchange. Dive at your site to check out the ocean floor.

Plankton--One of the biggest problems facing B.C. salmon farmers is the frequent occurrences of phytoplankton blooms, the most dangerous of which are a diatom (non-swimming phytoplankton) called Chaetoseros convolutus and a flagellate (swimming or mobile phytoplankton) Heterosigma akashiwo. Select a site with no history of these algae blooms, and avoid sites where deep nutrient-rich water wells up within the zone of light penetration.

Hydrology--Depth of freshwater lens: less than 1 meter (good); 1-4 meters (medium); and greater than 4 meters (poor). Avoid sites with potential for high runoff of freshwater such as streams that drain large watersheds. Best sites from a hydrological perspective are located in areas of low relief, away from mountain areas.

Predators--Most troublesome predators are seals, sea lions and otter. Locate well away from seal and seal lion rookeries or haul outs.

Marine Plants and Fouling Organisms--Locate away from eel grass beds which are important habitats for many fish and shellfish, and avoid herring spawning areas. Kelp beds can interfere with navigation, foul nets during storms and alter currents. Avoid areas with fouling organisms, such as mussels, barnacles and small plants.

Wind and Waves--Rough water not only causes problems with anchoring systems and makes it difficult for farm workers, but some farmers believe fish in net pens can get sea sick. Excessive wave action can stress the fish.

Pollution--Water pollution problems to avoid: industrial and municipal effluents; discharges from anchored and passing boats; debris from logged watersheds or log-handling areas; accidental spills from transport vessels (oil tankers); upland runoff contaminated with sediment or toxic substances. Water pollution problems are probably not as severe in Alaska as in lower B.C., but should be watched for, particularly in urban areas.

B.C. Aquaculture Show to be World Class

Vancouver, B.C. will host what's believed to be the largest aquaculture trade show ever held in the world on September 6-9, with about 400 exhibition spaces attracting thousands of visitors.

According to event organizers, exhibits are planned from 26 states, eight Canadian provinces, Sweden, Norway, Switzerland, West

Germany, Italy, Iceland, Ecuador, Taiwan, Finland France and the United Kingdom. The 1988 Aquaculture International Congress & Exposition will feature close to 100 speakers from all over the world, addressing a broad range of key and controversial topics.

"The Congress Program is designed to be quite international in scope," said Bill Ellwyn, marketing manager for the event. "We have 30 plenary and concurrent sessions addressing global issues such as production of salmon, trout, oysters and shrimp in cold water and warm water environments, post harvest technology and quality, and a stimulating subject for processors and marketers, that of value-added products." Other topics will cover transportation techniques, packaging technologies, marketing to the domestic and export trades, public and private financing and aquaculture as a viable investment.

The show will be held in Canada's premier convention center, the Vancouver Trade and Convention Centre, which was built for Vancouver's EXPO 86. Admission to the event is \$440 (Canadian) for registrations prior to Aug. 1 and \$500 (Canadian) after that date. For more information, contact: Aquaculture International Secretariat, #801 - 750 Jervis Street, Vancouver, B.C., CANADA, V6E 2A9. (604) 681-5226. FAX: (604) 681-2503.

Mariculture Management Shaped by Studies

While the legislature has been grappling with a state policy on mariculture, state land managers have several study efforts in various stages of completion that will set a framework for hands-on decision making.

The most significant may be two area management plans by the Department of Natural Resources (DNR) that set management policies for Prince William Sound and Prince of Wales Island. The POW plan is nearing completion with release of an April public review draft, while a public version of the PWS was circulated several months ago and is in the final revision stage.

A third project underway is the Etolin Island Area Mariculture Pilot Project, a state-federal agency effort spearheaded by DNR. The Etolin Island plan is designed to "examine the major elements common to mariculture development in a defined area," according to a March agency review draft.

The two area land use plans have almost identical areawide land management policies for mariculture, but specific restrictions and conditions vary from management unit to management unit. Examples of the specific area approach can be found in the POW plan for the Edna Bay and adjoining Coronation Island management units:

Edna Bay--Because of limited area for access, navigation, and anchorage, mariculture will be precluded from Fisherman Harbor and Pole Anchorage. Mariculture may be allowed in the rest of the subunit. However, mariculture should not preclude upland residential uses, including access of planned disposal of land.

Coronation Island--Mariculture will be allowed only to the extent it is consistent with the management intent of this unit (wilderness). Mariculture should not be located in this unit if there are feasible and prudent alternatives. Only mariculture

growing facilities that are submerged and do not impact the visual characteristics of the wilderness or wildlife refuge may be considered for authorization. Mariculture support or caretaker facilities will not be authorized within the subunit.

The areawide management guidelines in the two plans cover competing uses, separation between facilities, upland owner support for mariculture objections, mariculture caretaker facilities, siting near anadromous fish streams, siting in certain habitats, siting near marine mammals and birds, performance standards, development plans, preferred storage sites, dispersion of organic deposits, Coast Guard approval, and other guidelines affecting mariculture.

Regarding competing uses, the POW plan said: "Mariculture may be allowed on state tidelands where there is no significant conflict. The siting of mariculture facilities may be more difficult on tidelands designated for log transfer or storage, mineral transfer or access, commercial activities, crucial fish and wildlife habitat, intensive harvest areas, adjacent to existing or proposed land sales, or developed recreation.

"These areas will be available for mariculture (a) if the land manager determines that it is possible to site, design, and operate the two or more uses compatibly in the same area, or (b) there is no feasible and prudent alternative for mariculture while one exists for the competing use.

"In no case will mariculture be allowed to foreclose access to mineral, timber, or recreational resources unless feasible or prudent alternative access exists. However, in some cases it may be in the public interest to concentrate uses in one bay, (i.e., pen reared salmon and timber transfers) rather than allowing the proliferation of uses in many bays."

Comments on the POW plan are due June 16. For more information, contact: Dee Koester or Chas Dense at 465-3400, DNR, Resource Allocations Section, 400 Willoughby, Suite 400, Juneau, AK 99801.

For information on the PWS plan, contact: Bob Loeffler, Prince William Sound Area Plan, DNR, P.O. Box 107005, Anchorage, AK 99510-7005.

A public review draft of the Etolin Island project will be released in the near future. For more details, contact: Terry Rader, Etolin Area Mariculture Project, DNR, 400 Willoughby Ave., Suite 400, Juneau, AK 99801-1000. 465-3400.

The Alaska Mariculture Report is a monthly newsletter published by the Alaska Mariculture Association. We encourage contributions. AMA members receive the publication at no cost. Annual subscriptions are available to non-members for \$20 domestic or Canada, or \$25 foreign. For more information, contact: Alaska Mariculture Association, 130 Seward St., Suite 201, Juneau, Alaska 99801. (907) 463-3600.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 8, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

On this date I have signed the following bill and am transmitting the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

HOUSE COMMITTEE SUBSTITUTE FOR
COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 514(R1s)

(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.)
Chapter No. 145, SLA 1988

Our existing seafood industry is extremely important to our coastal communities and Alaska's economy as a whole and must be protected, while at the same time taking advantage of new opportunities. Mariculture may well prove to be one of the more significant opportunities we have to diversify and expand our seafood industry.

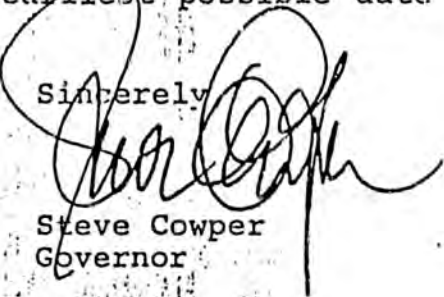
I believe there remain many unanswered questions regarding finfish farming, particularly salmon. I will not do anything to jeopardize either existing markets or our natural fisheries stocks. Therefore, I support the concept of this bill to proceed cautiously on the issue of finfish farming. I am interested, however, in continuing to collect factual information about the potential of salmon farming in Alaska. I remain open to considering other species of finfish mariculture besides salmon.

Potential use conflicts of areas for mariculture activities are going to be a problem which we will have to address and consider when permitting mariculture activities. This legislation places additional permitting responsibilities and requirements on state agencies. It also calls for the establishment of a task force to evaluate technical aspects of finfish farming, particularly salmon.

Unfortunately, the Legislature did not see fit to appropriate the funds necessary to implement the task force or to accomodate the additional regualtory requirements that this legislation imposes on permitting agencies.

Until such time as the necessary funds are appropriated by the Legislature, we will not be able to meet all of the requirements of the legislation. The members of the new task force, for example, will not be appointed until the Legislature provides sufficient funding to allow them to carry out the responsibilities they are charged with. It is my hope that an early appropriation by the Legislature will allow us to proceed at the earliest possible date with the work which is needed.

Sincerely,



Steve Cowper
Governor

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

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LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN
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FISHERIES SUBCOMMITTEE, CHAIRMAN



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JUNEAU, ALASKA 99811
(907) 465-4916

May 25, 1988

The Honorable Steve Cowper, Governor
State of Alaska
P. O. Box A
Juneau, Alaska 99811

Dear Governor Cowper:

Due to what appears to have been an oversight, SB 514, relating to the farming of aquatic plants and shellfish, was not included among the items of new legislation funded as part of the operating budget. At its May 6 meeting, the Conference Committee on the operating budget approved for funding those bills with fiscal impact expected to pass before adjournment. SB 514 did not appear on this list, and consequently the fiscal note of \$150,000 is not funded.

The Legislature intended that the Office of the Governor receive the \$150,000 in order that you might have maximum flexibility in coordinating the expenditure of these funds; they were to have been used for the activities of the Alaska Finfish Farming Task Force and for expediting mariculture permitting activities within the three state agencies involved.

The lapse date on FY '88 operating budget funds for the Office of the Governor has been extended by language in the reappropriations bill. I hope that you will consider using a portion of this money to fund the activities of the Alaska Finfish Farming Task Force and the mariculture-related permitting activities of the departments of Fish and Game, Environmental Conservation, and Natural Resources.

Please let me know if I can provide more information. Thank you for your consideration of this suggested solution to an unanticipated problem.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dick Eliason".
Sen. Dick Eliason

cleaner copy
-original

5-1806A ✓
Hein
2/17/88

S.F. R. 110

~~BY ELIASON~~

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: ("An Act relating to the farming of aquatic plants and
7 aquatic animals; prohibiting the aquatic farming of
8 finfish in saltwater; and providing for an effective
9 date.")

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

11 * Section. 1. AS 16.40 is amended by adding new sections to read:

12 ARTICLE 2. AQUATIC FARMING.

13 Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A
14 person may not, without a permit from the commissioner, construct or
15 operate

16 (1) an aquatic farm; or

17 (2) a hatchery for the purpose of supplying aquatic plants
18 or aquatic animals to an aquatic farm.

19 (b) A permit issued under this section authorizes the permittee,
20 subject to the conditions of AS 16.40.100 - 16.40.199, to acquire,
21 purchase, offer to purchase, transfer, possess, sell, and offer to
22 sell stock and aquatic farm products that are used or reared at the
23 hatchery or aquatic farm.

24 (c) The commissioner, after consulting with the commissioner of
25 environmental conservation, may attach conditions to a permit issued
26 under this section that are necessary to protect the public health or
27 natural stock.

28 (d) A permit issued under this section is nontransferable.

29 (e) Notwithstanding other provisions of law, the commissioner

1 may not issue a permit under this section for the farming of finfish
2 in saltwater.

3 Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commis-
4 sioner shall issue permits under AS 16.40.100 on the basis of the
5 following criteria:

6 (1) the biological and environmental suitability of the
7 site for the proposed aquatic farm or hatchery;

8 (2) the ability of the permit applicant to establish and
9 operate the aquatic farm or hatchery without

10 (A) adversely affecting the department's management of
11 wild stocks;

12 (B) requiring substantial alterations in traditional
13 fisheries and other existing uses of fish and wildlife resources;
14 or

15 (C) adversely affecting wild stocks of fish or wild-
16 life, or their habitats.

17 Sec. 16.40.110. PERMIT APPLICATION AND RENEWAL. (a) An appli-
18 cant for an aquatic farming or hatchery permit required under AS 16.-
19 40.100 shall apply on a form prescribed by the commissioner. An
20 application for a permit must include a plan for the development of
21 the aquatic farm or hatchery, which must be approved by the commis-
22 sioner before the permit is issued.

23 (b) An application for renewal must be accompanied by fees re-
24 quired by the commissioner, a report of a health inspection of the
25 farm or hatchery covered by the permit, and evidence that satisfies
26 the commissioner that the applicant has complied with the development
27 plan required under (a) of this section. The department shall conduct
28 the inspection or contract with a disease diagnostician to conduct the
29 inspection. The inspection shall be conducted not more than 30 days

1 before the application is submitted to the department.

2 (c) Before issuing a permit under AS 16.40.100, the commissioner
3 shall require an applicant to post a bond in an amount adequate to
4 cover the costs of cleaning up environmental pollution or repairing
5 other harm to the natural resources of the state that might result
6 from activities under the permit.

7 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
8 person may not acquire aquatic plants or aquatic animals from wild
9 stock in the state for the purpose of supplying stock to an aquatic
10 farm or hatchery required to have a permit under AS 16.40.100 unless
11 the person holds an acquisition permit from the commissioner.

12 (b) An acquisition permit authorizes the permit holder to ac-
13 quire the species and quantities of wild stock in the state specified
14 in the permit for the purpose of supplying stock to an aquatic farm or
15 hatchery required to have a permit under AS 16.40.100.

16 (c) The commissioner shall specify the expiration date of an
17 acquisition permit and may attach conditions to an acquisition permit,
18 including conditions relating to the time, place, and manner of har-
19 vest. Size, gear, place, time, licensing, and other limitations
20 applicable to sport, commercial, or subsistence harvest of aquatic
21 plants and aquatic animals do not apply to a harvest with a permit
22 issued under this section. The commissioner of fish and game shall
23 issue or deny a permit within 30 days after receiving an application.

24 (d) The commissioner shall deny or restrict a permit under this
25 section upon finding that the proposed harvest will substantially
26 impair sustained yield of the species. The commissioner may deny or
27 restrict a permit under this section upon finding that the proposed
28 harvest will significantly disrupt established uses of the resources
29 by commercial, sport, personal use, or subsistence users. The

1 commissioner shall forward to the Board of Fisheries for action permit
2 applications for species that support commercial fisheries subject to
3 limited entry under AS 16.43. A denial of the permit by the commis-
4 sioner must contain the factual basis for the findings. The commis-
5 sioner shall forward denied permit applications to the Board of Fish-
6 eries for consideration at the next regularly scheduled meeting of the
7 board.

8 (e) Except as provided in (d) of this section, the commissioner
9 shall issue a permit if

10 (1) wild stock is necessary to meet the initial needs of
11 farm or hatchery stock;

12 (2) there are technological limitations on the propagation
13 of cultured stock for the species sought;

14 (3) wild stock sought is not fully utilized by commercial,
15 sport, personal use, or subsistence fisheries; or

16 (4) wild stock is needed to maintain the gene pool of a
17 hatchery or aquatic farm.

18 (f) Aquatic plants and aquatic animals acquired under a permit
19 issued under this section become the property of the permit holder and
20 are no longer a public or common resource.

21 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH FOR
22 STOCK. A person may not import into the state an aquatic plant or
23 aquatic animal for the purpose of supplying stock to an aquatic farm
24 or hatchery unless authorized by the commissioner or by a regulation
25 of the Board of Fisheries.

26 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
27 PRODUCTS. (a) A private hatchery required to have a permit under
28 AS 16.40.100 may sell or transfer stock from the hatchery only to an
29 aquatic farm or other hatchery that has a permit issued under

1 AS 16.40.100.

2 (b) Stock may not be transferred to or from an aquatic farm or
3 hatchery required to have a permit under AS 16.40.100 without prior
4 notice of the transfer to the commissioner. A notice of transfer
5 shall be submitted at least 30 days before the proposed date of trans-
6 fer.

7 (c) A notice of transfer must be accompanied by a report of a
8 health inspection of the stock. The department shall conduct the
9 inspection or contract with a disease diagnostician to conduct the
10 inspection. The cost of inspection shall be borne by the department.

11 (d) The department may restrict or disapprove a transfer of
12 stock if it finds that the transfer would present a substantial risk
13 of spreading disease.

14 (e) A person may not sell, transfer, or offer to sell or trans-
15 fer, or knowingly purchase or receive, an aquatic farm product grown
16 or propagated in the state unless the product was grown or propagated
17 on a farm with a permit issued under AS 16.40.100. The permit must be
18 in effect at the time of the sale, transfer, purchase, receipt, or
19 offer.

20 Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The de-
21 partment shall order the quarantine or the destruction and disposal of
22 diseased hatchery stock or of aquatic farm products when necessary to
23 protect wild stock. A holder of a permit issued under AS 16.40.100
24 shall report to the department an outbreak or incidence of disease
25 among stock or aquatic farm products of the permit holder.

26 (b) A holder of a permit issued under AS 16.40.100 shall allow
27 the department to inspect the permit holder's farm or hatchery during
28 operating hours and upon reasonable notice. The cost of inspection
29 shall be borne by the department.

1 (c) The department shall develop a disease management and con-
2 trol program for aquatic farms and hatcheries.

3 (d) The department may enter into an agreement with a state or
4 federal agency or a private provider to provide services under (b) and
5 (c) of this section, or inspections under AS 16.40.110(b).

6 Sec. 16.40.160. REGULATIONS. The commissioner may adopt regu-
7 lations necessary to implement AS 16.40.100 - 16.40.199.

8 Sec. 16.40.170. PENALTY. A person who violates a provision of
9 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
10 16.40.199, or a term or condition of a permit issued under AS 16.40.-
11 100 - 16.40.199, is guilty of a class B misdemeanor.

12 Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

13 (1) "aquatic farm" means a facility ^{for profit?} that grows, farms, or
14 cultivates aquatic farm products in captivity or under positive con-
15 trol;

16 (2) "aquatic farm product" means an aquatic plant, finfish,
17 shellfish, or other aquatic animal, or part of an aquatic plant or
18 aquatic animal, that is propagated, farmed, or cultivated in an
19 aquatic farm and sold or offered for consumption;

20 (3) "aquatic plant" means a plant indigenous to state water
21 or that is authorized to be imported into the state under a permit
22 issued by the commissioner;

23 (4) "commissioner" means the commissioner of fish and game;

24 (5) "hatchery" means a facility for the artificial incu-
25 bation of stock, including rearing of juvenile aquatic plants or
26 aquatic animals;

27 (6) "positive control" means, for mobile species, enclosed
28 within a natural or artificial escape-proof barrier; for species with
29 limited or no mobility, such as a bivalve or an aquatic plant,

1 "positive control" also includes managed cultivation in unenclosed
2 water;

3 (7) "shellfish" means a species of crustacean, mollusk, or
4 other invertebrate, in any stage of its life cycle, that is indigenous
5 to state water or that is authorized to be imported into the state
6 under a permit issued by the commissioner;

7 (8) "stock" means live aquatic plants or aquatic ani-
8 mals acquired, collected, possessed, or intended for use by a hat-
9 chery or aquatic farm for the purpose of further growth or propa-
10 gation.

11 * Sec. 2. AS 03.05.011(a) is amended to read:

12 (a) To carry out the requirements of this title, the commis-
13 sioner of environmental conservation may issue orders, regulations,
14 permits, quarantines, and embargoes relating to

15 (1) examination and inspection of premises containing
16 products, articles, and commodities carrying pests;

17 (2) establishment of quarantines for eradication of pests;

18 (3) establishment of standards and labeling requirements
19 pertaining to the sale of meat, fish, and poultry;

20 (4) tests and analyses which may be made and hearings which
21 may be held to determine whether the commissioner will issue a stop
22 order or quarantine;

23 (5) cooperation with federal and other state agencies;

24 (6) regulation of fur farming; for purposes of this para-
25 graph, "fur farming" means the raising of and caring for animals for
26 the purpose of marketing their fur, or animals themselves for breeding
27 stock;

28 (7) examination and inspection of meat, fish, and poultry
29 advertised for sale or sold to the public;

1 (8) enforcement of quality assurance plans developed in
2 cooperation with appropriate industry representatives;

3 (9) establishment of standards and conditions of operation
4 for aquatic farms and related hatcheries, including

5 (A) restrictions on the use of chemicals;

6 (B) requirements to protect the public from contami-
7 nants that pose a risk to health; and

8 (C) criteria for tidal volumes, flushing action,
9 currents, and water depth.

10 * Sec. 3. AS 03.05.020(a) is amended to read:

11 (a) The commissioner shall

12 (1) require routine inspection of food animals, fish,
13 poultry and derivative food products, to protect the public against
14 fraud, disease and spoilage, and in this connection adopt uniform
15 regulations establishing standards of identity and composition of
16 these food products and minimum standards of sanitation and handling
17 methods as to all phases of slaughtering, processing, storing, trans-
18 porting, displaying and selling of these food products;

19 (2) issue orders or cause the orders to be issued by an
20 authorized veterinarian prohibiting transportation and sale of food
21 products intended for human consumption which do not meet the minimum
22 requirements established under (1) of this subsection, and limiting
23 their use and disposal in conformity with protection of the public;

24 (3) adopt a schedule of fees or charges, and credit pro-
25 visions, for services rendered by state veterinarians to farmers and
26 others at their request in caring for livestock and poultry, and all
27 the fees shall be transmitted to the commissioner for deposit in the
28 state treasury;

29 (4) designate points of entry for admission of livestock or

1 poultry into the state, and arrange inspection at those points with or
2 without collaboration and assistance of the federal government, and
3 bar entry of stock or poultry not shipped under a valid permit or not
4 free from contagious or infectious disease;

5 (5) adopt, repeal, and amend regulations consistent with
6 existing law for

7 (A) the labeling and grading of milk and milk products
8 and standards of cleanliness and sanitation, to at least the
9 minimum of current recommendations of the United States Public
10 Health Service, for the operation of dairies selling, or offering
11 for sale, milk or milk products;

12 (B) the production and sale of ice cream and allied
13 frozen desserts;

14 (C) the production and sale of imitation milk and
15 imitation milk products;

16 (6) monitor or contract for the monitoring of aquatic farms
17 and hatcheries that hold permits under AS 16.40.100 for the possible
18 presence of paralytic shellfish poisoning.

19 * Sec. 4. AS 03.05.040(a) is amended to read:

20 (a) On any business day during the usual hours of business the
21 commissioner or an authorized inspector may, for the purpose of in-
22 specting agricultural, [OR] fisheries, or aquatic farm products or
23 aquatic farm sites subject to regulation, enter a storehouse, ware-
24 house, cold storage plant, packing house, slaughterhouse, retail store
25 or other building or place where those products are kept, stored,
26 processed or sold.

27 * Sec. 5. AS 03.05.100 is amended to read:

28 Sec. 03.05.100. DEFINITIONS. In this chapter

29 (1) "agricultural products" does not include fish or

1 fisheries products;

2 (2) "aquatic farm" and "aquatic farm product" have the
3 meanings given in AS 16.40.199;

4 (3) "fish or fisheries products" means any aquatic animal,
5 including amphibians, or aquatic plants or parts of those plants,
6 animals or amphibians that are usable as human food.

7 * Sec. 6. AS 16.05.050 is amended by adding a new paragraph to read:

8 (17) to permit and regulate aquatic farming in the state in
9 a manner that ensures the protection of the state's fish and game
10 resources and improves the economy, health, and well-being of the
11 citizens of the state;

12 * Sec. 7. AS 16.05.251 is amended by adding a new subsection to read:

13 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
14 130, the Board of Fisheries may not adopt regulations or take action
15 regarding the issuance, denial, or conditioning of a permit under
16 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
17 hatchery required to have a permit under AS 16.40.100, or a harvest
18 with a permit issued under AS 16.40.120. Regulations or orders adopt-
19 ed by the Board of Fisheries under this section do not apply to a
20 harvest with a permit issued under AS 16.40.120.

21 * Sec. 8. AS 16.05.330(a) is amended to read:

22 (a) Except as otherwise permitted in this chapter, a person may
23 not engage in sport fishing, including the taking of razor clams; in
24 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
25 or game; or in taxidermy, without having the appropriate license or
26 tag in actual possession.

27 * Sec. 9. AS 16.05.930 is amended by adding a new subsection to read:

28 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
29 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a

1 person or vessel employed in an activity authorized by a permit issued
2 under AS 16.40.100 or 16.40.120.

3 * Sec. 10. AS 16.05.940(14) is amended to read:

4 (14) "[FISH OR] game farming" means the business of prop-
5 agating, breeding, raising, or producing [FISH OR] game in captivity
6 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
7 ucts, and "captivity" means having the [FISH OR] game under positive
8 control, as in a pen [, POND,] or an area of land that [OR WATER
9 WHICH] is completely enclosed by a generally escape-proof barrier;

10 * Sec. 11. AS 16.10 is amended by adding a new section to read:

11 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
12 apply to the purchase or sale of aquatic farm products from a holder
13 of a permit issued under AS 16.40.100 or stock from a holder of a
14 permit issued under AS 16.40.120.

15 * Sec. 12. AS 16.10.400 is amended by adding a new subsection to read:

16 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
17 operation of a private hatchery that has a permit issued under AS 16.-
18 40.100.

19 * Sec. 13. AS 16 43.140 is amended by adding a new subsection to read:

20 (d) This chapter does not apply to activities authorized by a
21 permit issued under AS 16.40.100 or 16.40.120.

22 * Sec. 14. AS 16.51.180(5) is amended to read:

23 (5) "seafood" means finfish, shellfish, and fish by-prod-
24 ucts, including but not limited to salmon, halibut, herring, flounder,
25 crab, clam, cod, shrimp, and pollock, but does not include aquatic
26 farm products as defined in AS 16.40.199;

27 * Sec. 15. AS 38.05 is amended by adding a new section to read:

28 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)
29 The commissioner may offer to the public for lease a site that has

1 been developed for aquatic farming or related hatchery operations
2 under a permit issued under AS 38.05.856. Before offering the site to
3 the public, the commissioner shall offer the site to the permittee.

4 (b) A lease under this section shall be offered by lottery if
5 the holder of a permit for the site under AS 38.05.856 does not wish
6 to obtain a lease for the site or if no one holds a permit for the
7 site under AS 38.05.856. To participate in the lottery a person shall

8 (1) be 18 years of age or older;

9 (2) have been a resident for not less than one year; and

10 (3) have paid a nonrefundable application fee required by
11 the commissioner.

12 (c) A site shall be leased under this section for not less than
13 its appraised fair market value. The value shall be reappraised every
14 five years.

15 (d) A lease under this section may be assigned, but if the
16 assignee changes the use of the site the lease reverts to the state.

17 * Sec. 16. AS 38.05 is amended by adding new sections to read:

18 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
19 HATCHERIES. (a) The commissioner, in consultation with the commis-
20 sioner of fish and game, shall identify districts in the state within
21 which sites may be selected for the establishment and operation of
22 aquatic farms and related hatcheries required to have a permit under
23 AS 16.40.100. *Commercial sites (for profit)*

24 (b) The commissioner shall issue a call for nominations for each
25 district identified under (a) of this section. A call for nominations
26 shall invite interested persons and municipalities to identify sites
27 within the district that are suitable for aquatic farms and related
28 hatcheries.

29 (c) Based on comments received under (b) of this section, and

1 after consultation with the commissioner of fish and game and the
2 commissioner of environmental conservation, the commissioner shall
3 make a preliminary written finding under AS 38.05.035(e) that proposes
4 sites in each district for which permits may be issued under AS 38.-
5 05.856.

6 (d) After notice is given under AS 38.05.945 and a hearing is
7 held under AS 38.05.946(b), the commissioner shall issue a final
8 written finding under AS 38.05.035(e) that identifies sites in each
9 district for which permits shall be issued under AS 38.05.856 and that
10 specifies conditions and limitations for the development of each site,
11 and provides for a minimum distance between sites.

12 Sec. 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARM-
13 ING. (a) The commissioner shall issue a tideland or land use permit
14 for the establishment and operation of an aquatic farm and related
15 hatchery operations at a site identified under AS 38.05.855(d). A
16 permit under this section shall be issued by lottery for not less than
17 the appraised fair market value. The value shall be reappraised every
18 five years.

19 (b) A permit under this section is valid for five years after
20 the date of issuance. The permit may not be transferred.

21 (c) Before renewing a permit under this section, the commission-
22 er shall require the applicant to (1) provide a copy of the applica-
23 tion to newspapers, radio and television stations for public service
24 announcement or (2) to provide paid notice of the application once
25 each week for three successive weeks in a newspaper or by radio. The
26 notice required in this subsection must be in more than one language
27 if the commissioner decides it is necessary. The notice must state
28 that interested persons may submit written testimony concerning the
29 renewal to the commissioner within 30 days after the date of the

notice.

(d) Before renewing a permit under this section, the commissioner shall consider all relevant testimony submitted. Based on the the testimony or other good cause, the commissioner may deny the application for renewal, but must provide the applicant with written findings that explain the reason for the denial.

* Sec. 17. AS 38.05.945(a) is amended to read:

(a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) a decision under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources; [AND]

(4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(e);

(5) a preliminary finding under AS 38.05.035(e) and 38.05.-855(c) concerning sites for aquatic farms and related hatcheries.

* Sec. 18. AS 38.05.946 is amended by adding a new subsection to read:

(b) The commissioner shall hold a public hearing in each district identified under AS 38.05.855 within 30 days after giving notice of a preliminary finding under AS 38.05.035(e) and 38.05.855(c) concerning sites for aquatic farms and related hatcheries.

* Sec. 19. AS 16.05.340(a)(14) is repealed.

* Sec. 20. The commissioner of fish and game may not issue a permit under AS 16.40.100 or 16.40.120, enacted by sec. 1 of this Act, until regulations have been adopted under AS 16.40.160, enacted by sec. 1 of this Act.

1 * Sec. 21. The commissioner of natural resources may not enter into a
2 lease under AS 38.05.083 or issue a permit under AS 38.05.856, enacted by
3 secs. 15 and 16 of this Act, until the commissioner adopts regulations
4 necessary for the implementation of AS 38.05.083 and 38.05.855 - 38.05.856.

5 * Sec. 22. Notwithstanding any other provisions of law, a person who is
6 lawfully operating an aquatic farm or related hatchery in the state on the
7 effective date of this Act is entitled to continue lawful operations at the
8 existing site. The person may obtain an initial lease or permit for the
9 person's existing operations without participating in a lottery under
10 AS 38.05.083 or 38.05.856, enacted by secs. 15 and 16 of this Act, but as a
11 condition of obtaining the lease or permit without participating in a
12 lottery the person must agree that during the term of the lease or permit
13 the person will not expand operations beyond the scope allowed under the
14 existing permit.

15 * Sec. 23. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE SENATE

BY ELIASON

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the farming of aquatic plants and
7 aquatic animals; prohibiting the aquatic farming of
8 fish other than shellfish; and providing for an
9 effective date."

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

11 * Section. 1. AS 16.40 is amended by adding new sections to read:

12 ARTICLE 2. AQUATIC FARMING.

13 Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A
14 person may not, without a permit from the commissioner, construct or
15 operate

16 (1) an aquatic farm; or

17 (2) a hatchery for the purpose of supplying aquatic plants
18 or shellfish to an aquatic farm.

19 (b) A permit issued under this section authorizes the permittee,
20 subject to the conditions of AS 16.40.100 - 16.40.199, to acquire,
21 purchase, offer to purchase, transfer, possess, sell, and offer to
22 sell stock and aquatic farm products that are used or reared at the
23 hatchery or aquatic farm.

24 (c) The commissioner, after consulting with the commissioner of
25 environmental conservation, may attach conditions to a permit issued
26 under this section that are necessary to protect the public health or
27 natural stock.

28 (d) A permit issued under this section is nontransferable.

29 (e) Notwithstanding other provisions of law, the commissioner

1 may not issue a permit under this section for the farming of fish
2 other than shellfish.

3 Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commis-
4 sioner shall issue permits under AS 16.40.100 on the basis of the
5 following criteria:

6 (1) the biological and environmental suitability of the
7 site for the proposed aquatic farm or hatchery;

8 (2) the ability of the permit applicant to establish and
9 operate the aquatic farm or hatchery without

10 (A) adversely affecting the department's management of
11 wild stocks;

12 (B) requiring substantial alternations in traditional
13 fisheries and other existing uses of fish and wildlife resources;
14 or

15 (C) adversely affecting wild stocks of fish or wild-
16 life, or their habitats.

17 Sec. 16.40.110. PERMIT APPLICATION AND RENEWAL. (a) An appli-
18 cant for an aquatic farming or hatchery permit required under AS 16.-
19 40.100 shall apply on a form prescribed by the commissioner. An
20 application for a permit must include a plan for the development of
21 the aquatic farm or hatchery, which must be approved by the commis-
22 sioner before the permit is issued.

23 (b) An application for renewal must be accompanied by fees
24 required by the commissioner, a report of a health inspection of the
25 farm or hatchery covered by the permit, and evidence that satisfies
26 the commissioner that the applicant has complied with the development
27 plan required under (a) of this section. The inspection shall be
28 conducted by the department or by a disease diagnostician approved by
29 the department. The inspection shall be conducted not more than 30

1 days before the application is submitted to the department.

2 (c) Before issuing a permit under AS 16.40.100, the commissioner
3 shall require an applicant to post a bond in an amount adequate to
4 cover the costs of cleaning up environmental pollution or repairing
5 other harm to the natural resources of the state that might result
6 from activities under the permit.

7 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
8 person may not acquire aquatic plants or shellfish from wild stock in
9 the state for the purpose of supplying stock to an aquatic farm or
10 hatchery required to have a permit under AS 16.40.100 unless the
11 person holds an acquisition permit from the commissioner.

12 (b) An acquisition permit authorizes the permit holder to ac-
13 quire the species and quantities of wild stock in the state specified
14 in the permit for the purpose of supplying stock to an aquatic farm or
15 hatchery required to have a permit under AS 16.40.100.

16 (c) The commissioner shall specify the expiration date of an
17 acquisition permit and may attach conditions to an acquisition permit,
18 including conditions relating to the time, place, and manner of har-
19 vest. Size, gear, place, time, licensing, and other limitations
20 applicable to sport, commercial, or subsistence harvest of aquatic
21 plants and shellfish do not apply to a harvest with a permit issued
22 under this section. The commissioner of fish and game shall issue or
23 deny a permit within 30 days after receiving an application.

24 (d) The commissioner of fish and game shall deny or restrict a
25 permit under this section if the commissioner finds that the proposed
26 harvest will substantially impair sustained yield of the species. The
27 commissioner may deny or restrict a permit under this section if the
28 commissioner finds that the proposed harvest will significantly dis-
29 rupt established uses of the resources by commercial, sport, personal

1 use, or subsistence users. The commissioner shall forward to the
2 Board of Fisheries for action permit applications for species that
3 support commercial fisheries subject to limited entry under AS 16.43.
4 A denial of the permit by the commissioner must contain the factual
5 basis for the findings. The commissioner shall forward denied permit
6 applications to the Board of Fisheries for consideration at the next
7 regularly scheduled meeting of the board.

8 (e) Except as provided in (d) of this section, the commissioner
9 shall issue a permit if

10 (1) wild stock is necessary to meet the initial needs of
11 farm or hatchery stock;

12 (2) there are technological limitations on the propagation
13 of cultured stock for the species sought;

14 (3) wild stock sought is not fully utilized by commercial,
15 sport, personal use, or subsistence fisheries; or

16 (4) wild stock is needed to maintain the gene pool of a
17 hatchery or aquatic farm.

18 (f) Aquatic plants and shellfish acquired under a permit issued
19 under this section become the property of the permit holder and are no
20 longer a public or common resource.

21 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH FOR
22 STOCK. A person may not import into the state an aquatic plant or
23 shellfish for the purpose of supplying stock to an aquatic farm or
24 hatchery unless authorized by the commissioner or by a regulation of
25 the Board of Fisheries.

26 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
27 PRODUCTS. (a) A private hatchery required to have a permit under
28 AS 16.40.100 may sell or transfer stock from the hatchery only to an
29 aquatic farm or other hatchery that has a permit issued under

AS 16.40.100.

(b) Stock may not be transferred to or from an aquatic farm or hatchery required to have a permit under AS 16.40.100 without prior notice of the transfer to the commissioner. A notice of transfer shall be submitted at least 30 days before the proposed date of transfer.

(c) A notice of transfer must be accompanied by a report of a health inspection of the stock. The inspection shall be conducted by the department or by a disease diagnostician approved by the department. The cost of inspection shall be borne by the department.

(d) The department may restrict or disapprove a transfer of stock if it finds that the transfer would present a substantial risk of spreading disease.

(e) A person may not sell, transfer, or offer to sell or transfer, or knowingly purchase or receive, an aquatic farm product grown or propagated in the state unless the product was grown or propagated on a farm with a permit issued under AS 16.40.100. The permit must be in effect at the time of the sale, transfer, purchase, receipt, or offer.

Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The department shall order the quarantine or the destruction and disposal of diseased hatchery stock or of aquatic farm products when necessary to protect wild stock. A holder of a permit issued under AS 16.40.100 shall report to the department an outbreak or incidence of disease among stock or aquatic farm products of the permit holder.

(b) A holder of a permit issued under AS 16.40.100 shall allow the department to inspect the permit holder's farm or hatchery during operating hours and upon reasonable notice. The cost of inspection shall be borne by the department.

1 (c) The department shall develop a disease management and con-
2 trol program for aquaculture farms and hatcheries.

3 (d) The department may enter into an agreement with a state or
4 federal agency or a private provider to provide services under (b) and
5 (c) of this section, or inspections under AS 16.40.110(b).

6 Sec. 16.40.160. REGULATIONS. The commissioner may adopt regu-
7 lations necessary to implement AS 16.40.100 - 16.40.199.

8 Sec. 16.40.170. PENALTY. A person who violates a provision of
9 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
10 16.40.199, or a term or condition of a permit issued under AS 16.40.-
11 100 - 16.40.199, is guilty of a class B misdemeanor.

12 Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

13 (1) "aquatic farm" means a facility that grows, farms, or
14 cultivates aquatic farm products in captivity or under positive con-
15 trol;

16 (2) "aquatic farm product" means an aquatic plant or shell-
17 fish, or parts of shellfish, that are propagated, farmed, or cul-
18 tivated in an aquatic farm and sold or offered for consumption;

19 (3) "aquatic plant" means a plant indigenous to state
20 water;

21 (4) "commissioner" means the commissioner of fish and game;

22 (5) "hatchery" means a facility for the artificial incu-
23 bation of stock, including rearing of juvenile aquatic plants or
24 shellfish;

25 (6) "positive control" means, for mobile species, enclosed
26 within a natural or artificial escape-proof barrier; for species with
27 limited or no mobility, such as a bivalve or an aquatic plant, "posi-
28 tive control" also includes managed cultivation in unenclosed water;

29 (7) "shellfish" means shellfish that is indigenous to state

1 water or that is authorized to be imported into the state under a
2 permit issued by the commissioner of fish and game;

3 (8) "stock" means live aquatic plants and shellfish ac-
4 quired, collected, possessed, or intended for use by a hatchery or
5 aquatic farm for the purpose of further growth or propagation.

6 * Sec. 2. AS 03.05.011(a) is amended to read:

7 (a) To carry out the requirements of this title, the commis-
8 sioner of environmental conservation may issue orders, regulations,
9 permits, quarantines, and embargoes relating to

10 (1) examination and inspection of premises containing
11 products, articles, and commodities carrying pests;

12 (2) establishment of quarantines for eradication of pests;
13 establishment of standards and labeling requirements
14 pertaining to sale of meat, fish, and

15 tests and analyses which may be required and hearings which
16 may be held to determine whether the commissioner will issue a stop
17 order or quarantine;

18 (5) cooperation with federal and other state agencies;

19 (6) regulation of fur farming; for purposes of this para-
20 graph, "fur farming" means the raising of and caring for animals for
21 the purpose of marketing their fur, or animals themselves for breeding
22 stock;

23 (7) examination and inspection of meat, fish, and poultry
24 advertised for sale or sold to the public;

25 (8) enforcement of quality assurance plans developed in
26 cooperation with appropriate industry representatives;

27 (9) establishment of standards and conditions of operation
28 for aquatic farms and related hatcheries, including

29 (A) restrictions on the use of chemicals;

1 (B) requirements to protect the public from contami-
2 nants that pose a risk to health; and

3 (C) criteria for tidal volumes, flushing action,
4 currents, and water depth.

5 * Sec. 3. AS 03.05.040(a) is amended to read:

6 (a) On any business day during the usual hours of business the
7 commissioner or an authorized inspector may, for the purpose of in-
8 specting agricultural, [OR] fisheries, or aquatic farm products or
9 aquatic farm sites subject to regulation, enter a storehouse, ware-
10 house, cold storage plant, packing house, slaughterhouse, retail store
11 or other building or place where those products are kept, stored,
12 processed or sold.

13 * Sec. 4. AS 03.05.100 is amended to read:

14 Sec. 03.05.100. DEFINITIONS. In this chapter,

15 (1) "agricultural products" does not include fish or fish-
16 eries products;

17 (2) "aquatic farm" and "aquatic farm product" have the
18 meanings given in AS 16.40.199;

19 (3) "fish or fisheries products" means any aquatic animal,
20 including amphibians, or aquatic plants or parts of those plants,
21 animals or amphibians that are usable as human food.

22 * Sec. 5. AS 16.05.050 is amended by adding a new paragraph to read:

23 (17) to permit and regulate aquatic farming in the state in
24 a manner that ensures the protection of the state's fish and game
25 resources and improves the economy, health, and well-being of the
26 citizens of the state;

27 * Sec. 6. AS 16.05.251 is amended by adding a new subsection to read:

28 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
29 130, the Board of Fisheries may not adopt regulations or take action

1 regarding the issuance, denial, or conditioning of a permit under
2 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
3 hatchery required to have a permit under AS 16.40.100, or a harvest
4 with a permit issued under AS 16.40.120. Regulations or orders adopt-
5 ed by the Board of Fisheries under this section do not apply to a
6 harvest with a permit issued under AS 16.40.120.

7 * Sec. 7. AS 16.05.330(a) is amended to read:

8 (a) Except as otherwise permitted in this chapter, a person may
9 not engage in sport fishing, including the taking of razor clams; in
10 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
11 or game; or in taxidermy, without having the appropriate license or
12 tag in actual possession.

13 * Sec. 8. AS 16.05.930 is amended by adding a new subsection to read:

14 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
15 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
16 person or vessel employed in an activity authorized by a permit issued
17 under AS 16.40.100 or 16.40.120.

18 * Sec. 9. AS 16.05.940(14) is amended to read:

19 (14) "[FISH OR] game farming" means the business of prop-
20 agating, breeding, raising, or producing [FISH OR] game in captivity
21 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
22 ucts, and "captivity" means having the [FISH OR] game under positive
23 control, as in a pen [, POND,] or an area of land that [OR WATER
24 WHICH] is completely enclosed by a generally escape-proof barrier;

25 * Sec. 10. AS 16.10 is amended by adding a new section to read:

26 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
27 apply to the purchase or sale of aquatic farm products from a holder
28 of a permit issued under AS 16.40.100 or stock from a holder of a
29 permit issued under AS 16.40.120.

1 * Sec. 11. AS 16.10.400 is amended by adding a new subsection to read:

2 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
3 operation of a private hatchery that has a permit issued under AS 16.-
4 40.100.

5 * Sec. 12. AS 16.43.140 is amended by adding a new subsection to read:

6 (d) This chapter does not apply to activities authorized by a
7 permit issued under AS 16.40.120.

8 * Sec. 13. AS 16.51.180(5) is amended to read:

9 (5) "seafood" means finfish, shellfish, and fish by-prod-
10 ucts, including but not limited to salmon, halibut, herring, flounder,
11 crab, clam, cod, shrimp, and pollock, but does not include aquatic
12 farm products as defined in AS 16.40.199;

13 * Sec. 14. AS 38.05 is amended by adding a new section to read:

14 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)
15 The commissioner may offer to the public for lease a site that has
16 been developed for aquatic farming or related hatchery operations
17 under a permit issued under AS 38.05.856. Before offering the site to
18 the public, the commissioner shall offer the site to the permittee.

19 (b) A lease under this section shall be offered by lottery if
20 the holder of a permit for the site under AS 38.05.856 does not wish
21 to obtain a lease for the site or if no one holds a permit for the
22 site under AS 38.05.856. To participate in the lottery a person shall

23 (1) be 18 years of age or older;

24 (2) have been a resident for not less than one year; and

25 (3) have paid a nonrefundable application fee required by
26 the commissioner.

27 (c) A site shall be leased under this section for not less than
28 its appraised fair market value. The value shall be reappraised every
29 five years.

1 (d) A lease under this section may be assigned, but if the
2 assignee changes the use of the site the lease reverts to the state.

3 * Sec. 15. AS 38.05 is amended by adding new sections to read:

4 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
5 HATCHERIES. (a) The commissioner, in consultation with the commis-
6 sioner of fish and game, shall identify districts in the state within
7 which sites may be selected for the establishment and operation of
8 aquatic farms and related hatcheries required to have a permit under
9 AS 16.40.100.

10 (b) The commissioner shall issue a call for nominations for each
11 district identified under (a) of this section. A call for nominations
12 shall invite interested persons and municipalities to identify sites
13 within the district that are suitable for aquatic farms and related
14 hatcheries.

15 (c) Based on comments received under (b) of this section, and
16 after consultation with the commissioner of fish and game and the
17 commissioner of environmental conservation, the commissioner shall
18 make a preliminary written finding under AS 38.05.035(e) that proposes
19 sites in each district for which permits may be issued under
20 AS 38.05.856.

21 (d) After notice is given under AS 38.05.945 and a hearing is
22 held under AS 38.05.946(b), the commissioner shall issue a final
23 written finding under AS 38.05.035(e) that identifies sites in each
24 district for which permits shall be issued under AS 38.05.856 and that
25 specifies conditions and limitations for the development of each site,
26 and provides for a minimum distance between sites.

27 Sec. 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARM-
28 ING. (a) The commissioner shall issue a tideland or land use permit
29 for the establishment and operation of an aquatic farm and related

1 hatchery operations at a site identified under AS 38.05.855(d). A
2 permit under this section shall be issued by lottery for not less than
3 the appraised fair market value. The value shall be reappraised every
4 five years.

5 (b) A permit under this section is valid for five years after
6 the date of issuance. The permit may not be transferred.

7 (c) Before renewing a permit under this section, the commission-
8 er shall require the applicant to (1) provide a copy of the applica-
9 tion to newspapers, radio and television stations for public service
10 announcement or (2) to provide paid notice of the application once
11 each week for three successive weeks in a newspaper or by radio. The
12 notice required in this subsection must be in more than one language
13 if the commissioner decides it is necessary. The notice must state
14 that interested persons may submit written testimony concerning the
15 renewal to the commissioner within 30 days after the date of the
16 notice.

17 (d) Before renewing a permit under this section, the commis-
18 sioner shall consider all relevant testimony submitted. Based on the
19 the testimony or other good cause, the commissioner may deny the
20 application for renewal, but must provide the applicant with written
21 findings that explain the reason for the denial.

22 * Sec. 16. AS 38.05.945(a) is amended to read:

23 (a) This section establishes the requirements for notice given
24 by the department for the following actions:

25 (1) classification or reclassification of state land under
26 AS 38.05.300 and the closing of land to mineral leasing or entry under
27 AS 38.05.185;

28 (2) zoning of land under applicable law;

29 (3) a decision under AS 38.05.035(e) regarding the sale,

1 lease, or disposal of an interest in state land or resources; [AND]

2 (4) a competitive disposal of an interest in state land or
3 resources after final decision under AS 38.05.035(e);

4 (5) a preliminary finding under AS 38.05.035(e) and 38.05.-
5 855(c) concerning sites for aquatic farms and related hatcheries.

6 * Sec. 17. AS 38.05.946 is amended by adding a new subsection to read:

7 (b) The commissioner shall hold a public hearing in each dis-
8 trict identified under AS 38.05.855 within 30 days after giving notice
9 of a preliminary finding under AS 38.05.035(e) and 38.05.855(c) con-
10 cerning sites for aquatic farms and related hatcheries.

11 * Sec. 18. AS 16.05.340(a)(14) is repealed.

12 * Sec. 19. The commissioner of fish and game may not issue a permit
13 under AS 16.40.100 or 16.40.120, enacted by sec. 1 of this Act, until
14 regulations have been adopted under AS 16.40.160, enacted by sec. 1 of this
15 Act.

16 * Sec. 20. The commissioner of natural resources may not enter into a
17 lease under AS 38.05.083 or issue a permit under AS 38.05.856, enacted by
18 secs. 14 and 15 of this Act, until the commissioner adopts regulations
19 necessary for the implementation of AS 38.05.083 and 38.05.855 - 38.05.856.

20 * Sec. 21. Notwithstanding any other provisions of law, a person who is
21 lawfully operating an aquatic farm or related hatchery in the state on the
22 effective date of this Act is entitled to continue lawful operations at the
23 existing site. The person may obtain an initial lease or permit for the
24 person's existing operations without participating in a lottery under
25 AS 38.05.083 or 38.05.856, enacted by secs. 14 and 15 of this Act, but as a
26 condition of obtaining the lease or permit without participating in a
27 lottery the person must agree that during the term of the lease or permit
28 the person will not expand operations beyond the scope allowed under the
29 existing permit.

* Sec. 22. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturgulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-1907

SENATE RESOURCES FISHERIES SUBCOMMITTEE MEETING

FRIDAY, JANUARY 22, 1988

1:30 P.M., BELTZ ROOM, CAPITOL BUILDING

MARICULTURE WORK SESSION

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

January 15, 1988

Ms. Judith Brady, Commissioner
Department of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801

Dear Commissioner Brady,

During your presentation before the Senate Resources Committee on January 13, 1988, you mentioned that several individuals have submitted requests for tideland permits in order to conduct some type of mariculture activity. I am very much interested in knowing the names and addresses of those making the requests, the location of the tideland desired, and the applicant's proposed use of the land.

Thank you very much for your assistance in responding to this inquiry.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dick Eliason".

Senator Dick Eliason

LEGISLATION REQUIRED FOR SHELLFISH AND AQUATIC PLANTS

1.) Authority may need to be bested in ADF&G for genetic and disease control of aquatic plants. NO IMPORTATION (presently not prohibited.) Agricultural statutes don't cover aquatic plants. Disease and genetics angle, as it relates to fish. (Microorganisms attached to plants could affect fish, especially if foreign to the region.)

2.) Have to address the lands use question, including the bigger picture (public participation questions, land use area plans, Title 38 changes would necessitate requirement for putting together forum for public input). (See attached.) Wouldd be possible to streamline inventory process, oil and gas leasing model: nomination process. If one made mariculture a statutory land classification (it is presently just in regs), disposal would necessitate a public hearing.

3.) (needs polish) There is a need for allowing a shellfish hatchery for production of oyster spat. Private, but accountable to the state for disease (like PNPs are now). Beware of setting a precedent for private, for-profit broodstock hatcheries, but do provide for private, for-profit spat hatchery.

4.) Needs to be criteria for state to certify private labs to certify shellfish as free from disease (talk to Doug Donnegan, DEC).

5.) If the issue is split (finfish/shellfish) needs to be explicit language to clarify matter of holding live fish. Serious threat of someone risking action/legal challenge.

Please read
Mariculture
attached are notes from a
briefing / dialogue w/ Dave
Benton ADF&G - much off
the record

MARICULTURE UPDATE

12/16/87

* Shellfish regs on Commissioners desk for signature (then to AG) Growers like regs

* Informational side of legislation:

- DNR almost finished with issue paper on land use
 - no public hearings required now for tidelands permits
- DEC has drafted issue paper on water quality, chemicals & additives, and product quality, need for additional monitoring
- ADF&G doing theirs on habitat protection, predation, disease, genetics and broodstock acquisition (finfish)
- An informational matrix is being prepared which will show how California, Washington, and B.C. do (or do not) address these issues. The various "controls"-- including public hearings -- will be summarized.
- Issue papers will be reviewed by "mini-cabinet", and an informational packed will be prepared.

* Socioeconomic studies (DCED) - 3 pieces:
(\$50,000)

- 1.) World salmon market study
- 2.) Cost of production study (most useful)
 - will weigh different variables, assuming no state subsidies: environmental controls, land use costs, fees
 - A person at ADF&G FRED who works with a special computer model will be working with DCED contractors to ensure that contractors' data will mesh with FRED's
- 3.) Ask University to develop policy options for salmon farming in the state: this now tabled until hard economic data is available.

Informational film shot with some DCED \$ in Sitka at Marine Advisory Program Mariculture Symposium in Sitka.

Points to consider

* If PNPs can sell eggs or fry, that has tremendous implications: could result in reduced releases. If you don't allow them to sell eggs or fry, but private for-profit hatcheries can, PNPs may rather turn "for-profit" or go bankrupt.

Perhaps FRED computer model could be used to rough out some scenarios on this.

* Money for mariculture: FY '89 operating budget
\$200,000 DNR
\$130,000 DCED

* What is economic development potential of Alaska fish food industry?

* Sea vegetables: Brian Allee (FRED) is going to pull together experts on sea vegetables to look at biological, economic and regulatory aspects of sea vegetables.

* Land use: Johnny Ellis and DNR working on it.

* We might think about using process similar to oil and gas leasing (3 or 5 year schedule) because of changes in last year's land use law. EIS (Environmental Impact Statement) - style review, public hearings and dialogue. Hearings to determine land use priorities before granting permit.

* Consider method used in DNR area plan for Prince of Wales and Prince William Sound (hearings and public input part of process)

* Legislation needs to provide guidance on how "land disposal" permit granting is done. Advertise and auction, or have evaluation of applications? Divide state into 3 regions (Westward, South Central, and Southeast)?

* What is cumulative effect of multiple farms?

* Auction block, first come, first serve, % of total acreage leased for finfish, shellfish or sea vegetables. Send out a call for nominations for sites, mixed with public hearings. Sites to highest bidder for finfish, shellfish or seavegetables. First come, first serve - slightly lower capitalization (state coal regs have system for separating small folks from big operations. A system of some sort could be up and running in a year.

* DNR is currently issuing tideland permits (no leases). There is no centralized information base. Permits expire in 5 years. Lease is much more long term. The policy has been to go ahead and grant leases. 10 to 15 acres for shellfish (and uplands).



5:30

Senate Rules Committee

Scott

- Women's Fishing Network

- Debbie
Veerhuseu - Homer

- Jim Hemming - Anch
interested

46 32
46
92
64



Senate Rules Committee

site deter / low different
compare charges
equation

public hearing lease
" notification

each site

F+G lead agency

commerce

DEC important



Senate Rules Committee

Julie Hursey

772 3967

Bx 213
Petersburg 99833

Cable - Call