

HB

5411

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 541

Revision Date: 2/18/92

Department Affected: Fish and Game

Title: Management of mixed stock fisheries

BRU: Commercial Fisheries

Component: Commercial Fisheries

Sponsor: Representative Lincoln

Requestor: House Resources

COMPONENT SERIAL NO.

4	5	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Geron Bruce G.B.

Phone: 465-4100

Division: Commissioner's Office

Date: 4/28/92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game

Date: 4/28/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OIG/DBR, Gov. Legis. OSC., & Impacted Agency(ies).

**DEPARTMENT OF FISH AND GAME
POSITION PAPER**

Bill No: HB 541

Sponsor: Representative Lincoln

Division: Commercial Fisheries

Bill Title: Management of Mixed Stock Fisheries by the Board of Fisheries.

Department Position: Oppose

House Bill 541 is similar in content to the Board of Fisheries' Policy Statement on Management of Mixed Stock Salmon Fisheries, which the Department of Fish and Game supports. However, adoption of that policy as statute would place a stringent requirement on the board to follow the guidelines when adopting regulations. Given the dynamic nature of Alaska's fisheries, it might be more advisable for the board, which was created to foster both the conservation and development of our fisheries resources, to adopt a mixed stock fisheries policy as a regulation. This would provide the board with the flexibility needed to change the policy if conditions warrant. The Legislature could provide strong guidance, through the form of a resolution, as to what it thinks the board should consider when adopting such a policy.

Stock specific fisheries management is a laudable goal. It is one which the department strives to attain. However, as is the case with many goals, it is one that can not be fully achieved in a practical sense. I would like to point out a few factors that make it difficult to achieve that goal.

There are few, if any, pure single stock fisheries in the state. From a strictly scientific perspective, a stock is a genetically unique breeding population. Application of that definition could lead one to the conclusion that, ideally, fisheries should only take place on the spawning grounds. One can easily envision how dangerous even a small error in setting the allowable fishing time in such a situation would be to the viability of a stock subjected to that type of fishery.

The department and the board take a more broad, pragmatic approach to the concept of stock; that being a concept of more inclusive breeding populations that are manageable as a unit. For example, in management of the commercial fisheries that take place in the lower Yukon River, chinook and fall chum salmon are generally each considered a single management stock, as opposed to breaking those species down by their spawning tributaries. The point is that one should take the broad management approach to defining a stock when dealing with the guidelines such as those contained in this bill.

Position Paper Continued

HB 541

There are some important biological, economic, and social reasons for having mixed stock fisheries. As mentioned above, there is a danger to single stock management in the form of over fishing. The area where the fishery is to take place should be large enough to accommodate the fleet without undue congestion and to allow reasonable time to prosecute the fishery. In many areas this requires that the fishery take place before the fish stocks become highly separated. The quality of some fish species, such as pink and chum salmon, quickly deteriorate as they approach their natal streams. It is also very expensive to manage the large returns of these species on a stock specific basis. Thus, economics dictates some degree of mixed stock fishing in those types of situations.

Although a reasonable interpretation of the bill's language should not cause management difficulties, the lack of a strong definition for "stock," "mixed stock fishery," and other terms in the act could provide rich fodder for future litigation over controversial decisions of the Board of Fisheries. A very narrow interpretation of the term "stock" could force the board to adopt stock specific management plans that would require the department to initiate costly data gathering and inseason management projects on stream by stream basis. I recommend that the board be allowed to retain the flexibility to address specific situations, particularly as factors change with time. An important factor that will change with time is the ability to distinguish stocks of fish and the department's fiscal and technical capabilities to manage those stocks.

Commissioner's Signature

Bon J. J. J. J.
jr

Date:

4/25/92

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To <i>Lena</i>	From <i>Val Angasan</i>
Co. <i>HOUSE RES</i>	Co.
Dept. <i>Sandra B.</i>	Phone # <i>842-5257</i>
Fax # <i>465-3444</i>	Fax #

VAL'S TESTIMONY

HONORABLE REPRESENTATIVE CLIFF DAVIDSON.

MEMBERS OF THE HOUSE RESOURCES COMMITTEE.

MY NAME IS VAL ANGASAN OF DILLINGHAM, ALASKA.

I AM A BRISTOL BAY DRIFT GILLNETTER AND A FORMER MEMBER OF THE ALASKA BOARD OF FISHERIES FROM NOVEMBER 1982 TO FEBRUARY 1989.

I WOULD LIKE TO ADDRESS MY COMMENTS TO HOUSE BILL 541, "AN ACT RELATING TO THE MANAGEMENT OF MIXED STOCK FISHERIES BY THE BOARD OF FISHERIES."

FIRST OFF I'VE FOUND THAT, LIKE THE LEGISLATURE NEEDING GUIDANCE FROM ALASKA'S CONSTITUTION, THE BOARD OF FISHERIES NEED GUIDANCE IN AT LEAST TWO MAJOR AREAS; ONE, SUBSISTENCE; AND TWO, MIXED STOCK FISHERIES.

SO THAT WE ARE ALL TALKING ABOUT THE SAME ISSUE, "MIXED STOCK FISHERIES: NEED TO BE DEFINED. GENERALLY SPEAKING WHEN THE BOARD OF FISH & GAME FIRST ADOPTED A POLICY ON MIXED STOCK FISHERIES IN 1976, THEY HAVE INTENDED IT TO MEAN ONLY THOSE STOCKS BETWEEN MAJOR FISHING AREAS, I.E., BETWEEN KODIAK AND CHIGNIK; OR BETWEEN THE ALASKA PENINSULA AND BRISTOL BAY OR AYK.

AS GENERAL AS IT WAS, IT SERVED AS GUIDANCE FOR THE BOARD UNTIL

RECENTLY. RECENTLY VARIOUS BOARD MEMBERS HAVE REDEFINED MIXED STOCKS AS THOSE MIXED DISCRETE STOCKS WITHIN A MAJOR FISHING AREA. RESULTANTLY, THE WHOLE CONCEPT OF MIXED STOCKS HAVE CHANGED AND THUS, CLOUDED.

NOW THAT YOU KNOW WHAT THE ORIGINAL INTENT OF THE POLICY WAS, THAT SAME CONCEPT MUST CONTINUE INTO THE SPIRIT OF HOUSE BILL 541.

THERE ARE TWO OR THREE MAJOR REASONS WHY THE BOARD OF FISHERIES NEED GUIDANCE WHEN ADOPTING REGULATION PERTAINING TO MIXED STOCKS:

1) CURRENTLY THE BOARD IS ON A THREE YEAR CYCLE, IN OTHER WORDS, EACH BOARD MEMBER WILL ONLY HEAR AND ADOPT REGULATIONS FOR ANY PARTICULAR AREA, "ONCE" DURING THEIR TENURE. BEING LAWMAKERS YOURSELVES, I'M SURE YOU REALIZE WHAT IT MEANS TO BE A ROOKIE, OR PUT IT MORE PLAINLY, SOMEONE DETERMINING THE FATE OF FISHERMEN AND NOT AT ALL FAMILIAR WITH THE HISTORY OF THAT FISHERY.

2) IT WILL PUT THE PUBLIC ON NOTICE THAT THERE IS SOME STABILITY AND PREDICTABILITY IN THE PUBLIC HEARING PROCESS. PEOPLE WILL NOT HAVE TO WONDER ABOUT THE FATE OF THEIR EXISTENCE EACH TIME A BOARD MEETING IS SCHEDULED FOR THEIR AREA. EACH TIME AREA M (ALASKA PENINSULA) IS UP FOR REVIEW, FISHERMEN SPEND THOUSANDS OF DOLLARS TO, IF FOR NO OTHER REASON, DEFEND THEIR EXISTENCE.

3) THERE WERE TIMES WHEN THE BOARD WOULD SIT FOR DAYS LISTENING TO 150 PLUS TESTIFIERS TALK ABOUT MIXED STOCKS AND

ALLOCATIONS. I THINK THIS IS UNNECESSARY. GIVE THE BOARD SOME GUIDANCE.

SUMMARY:

I THINK THE HOUSE RESOURCES COMMITTEE OUGHT TO SUPPORT A BILL THAT WOULD ENHANCE STABILITY OF ALASKA FISHERIES, SO THAT KODIAK, PRINCE WILLIAM SOUND, ALASKA PENINSULA, SOUTHEAST, BRISTOL BAY, AYK, AND COOK INLET FISHERMEN COULD SIGH IN RELIEF THAT THEIR FISHERIES WOULD NOT BE PUT OUT OF EXISTENCE, AND AT THE SAME TIME, THOSE PARTICULAR FISHERMEN WHO ARE CATCHING FISH BOUND FOR OTHER MAJOR FISHING AREAS, ARE NOT ALLOWED TO EXPAND THEIR FISHERIES AT THE EXPENSE OF OTHER FISHERMEN AND CONSERVATION.

MY TESTIMONY IS SHORT, BUT I HOPE YOU UNDERSTAND MY MESSAGE I WILL BE HAPPY TO ANSWER ANY QUESTIONS.

THANK YOU REPRESENTATIVE DAVIDSON AND COMMITTEE MEMBERS FOR GIVING ME THIS OPPORTUNITY TO TESTIFY.

ALASKA STATE LEGISLATURE

Representative Georgianna Lincoln

HESS Committee, Co-Chair
Resources Committee, Vice-Chair

Budget Subcommittees
Health and Social Services
Revenue

P.O. Box V
Juneau, Alaska 99811

Phone (907) 465-3732
FAX (907) 465-2652

Alatna
Allakaket
Aniak
Anvik
Arctic Village
Beaver
Bettles
Birch Creek
Chalkyitsik
Chuathbaluk
Crooked Creek
Evansville
Fort Yukon
Galena
Grayling
Holy Cross
Hughes
Huslia
Kalskag
Kaltag
Koyukuk
Lake Minchumina
Lime Village
Lower Kalskag
Manley Hot Springs
Marshall
McGrath
Minto
Mountain Village
Nikolai
Nulato
Pilot Station
Pitkas Point
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Sleetmute
St. Mary's
Stevens Village
Stony River
Takatna
Tanana
Telida
Tuluksak
Tyonek
Venene
Wiseman

HOUSE BILL 541

MANAGEMENT OF MIXED STOCK FISHERIES

SPONSOR STATEMENT

Representative Georgianna Lincoln

The Board of Fisheries has not adopted a mixed stock fishery management policy into regulation. For a number of years, the Board utilized a mixed stock fisheries policy statement as a guideline in their allocation decisions. However, as a result of a 1990 court decision (Gilbert v. State), the Board of Fisheries was advised by the Department of Law the policy must be adopted into regulation under the administrative procedure act in order to be used in their decision making.

The legislature is charged with the development of policy on issues of statewide concern. The management of mixed stock fisheries is of growing concern throughout the state, particularly as the value of various fisheries has increased. There is also a growing concern over the impact of mixed stock fisheries on smaller, weaker stocks.

House Bill 541 provides the Board of Fisheries with legislative direction and guidance in addressing the management of mixed stock fisheries. The legislation directs the board to adopt such a policy into regulation and provides "guiding principals" to be used in developing that policy. The adoption of a mixed stock fisheries management policy into regulation gives the Board a stronger position when it comes to making allocation decisions. More importantly, this policy would provide consistency in decisions relating to the management of mixed stock fisheries. Right now, decisions vary with the make-up of the board and there is no consistency.

The option existed to pursue the development of a mixed stock fisheries management policy in the form of a resolution which would be advisory in nature. There was concern that this approach would not accomplish what is needed. The Board of Fisheries has had the opportunity to adopt this policy into regulation since December 1990. An attempt was made to do that at the board level but the votes weren't there. We feel this issue is important enough to warrant the attention of the legislature to provide policy direction to the Board of Fisheries in this matter.

House Bill 541 does not propose to do away with mixed stock intercept fisheries. Neither would it allow for the expansion of existing mixed stock fisheries or the opening of new mixed stock fisheries when these same stocks can be harvested as more discrete stocks in another fishery. While the Department of Fish and Game can argue there are few, if any, single stock fisheries in the state, it is also supportive of the management of mixed stocks.

The State of Alaska needs a policy that makes sense and is consistent. HB 541 provides policy direction to the Board of Fisheries and complies with the constitution.



BERING STRAITS NATIVE CORPORATION

April 27, 1992

Honorable Georgianna Lincoln
Alaska State Capitol
PO BOX V
Juneau, AK 99811

Dear Representative Lincoln:

The Bering Straits Native Corporation supports House Bill No. 541.

We feel that this proposed bill is fair to the conservation and user needs and will serve in the State's best interests.

Respectfully,

Handwritten signature of Guy Martin

Guy Martin
Land Manager



KAWERAK, INC.

P.O. BOX 948 • NOME, ALASKA 99762

(907) 443-5231

SERVING THE
VILLAGES OF

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SHAKTOOLK

SHISHMAREP

SOLOMON

STEBBINS

ST. MICHAEL

TELLER

UNALAKLET

WALES

WHITE MOUNTAIN

April 27, 1992

Representative Georgianna Lincoln
Alaska State Legislature
PO Box V
Juneau, AK 99811

Dear Representative Lincoln and Members of the House
Resource Committee:

On behalf of Kawerak Incorporated, I would like to express
our support of House Bill 541, "An Act relating to the
management of mixed stock fisheries by the Board of
Fisheries."

This bill is definitely a step in the right direction.
Personally I would like to see the bill language drafted
even more strongly - to prohibit the development of new
mixed stock fisheries and the expansion of existing mixed
stock fisheries.

We need this legislation. If this statute had been in
place previously, it could have prevented the massive
increase in the number of commercial fishermen fishing
False Pass. (In 1976, there were only 122 boats fishing
False Pass. Last year, 390 boats fished.) With the newer
boats and equipment, today's fishermen are much more
efficient at catching fish.

Mixed stock fisheries generally target fish bound for
other areas. Because mixed stock fisheries are comprised
of varying fish stocks, there is the potential that
discrete stocks within the mixed stock fisheries can be
overharvested. We firmly believe this is what happened to
the Norton Sound Chum run.

Mixed stock intercept fisheries should not be allowed to
grow and prosper at the expense of other fishermen further
up the coast (or up the river). If a large run is
projected for any particular year, the increase should be
proportionately allocated among existing users of the
stock, rather than creating new fisheries to fish the same

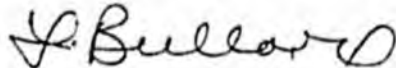
stocks. Once a new fishery is created, it would be difficult to do away with the fishery should the stocks decline.

In correspondence sent to both the Governor and the Board of Fisheries, we advocated very strongly that fishing of stocks should take place close to the river of origin. How else can the State Department of Fish and Game knowledgeably manage fish stocks?

For years, the State of Alaska fought against high seas interception of salmon. It is inconsistent to fight against high seas mixed stock interception and allow the practice to continue, even expand under state management. I applaud you in your efforts to resolve this inconsistency and sincerely hope this legislation gets passed.

Sincerely,

KAWERAK INCORPORATED



Loretta Bullard
President

February 20, 1992

Honorable Senator Lyman Hoffman
Juneau, Alaska 99801

Subject: Senate Bill No. 406

This letter is to support Senate Bill No. 406. "AN ACT RELATING TO THE MANAGEMENT OF MIXED STOCK FISHERIES BY THE BOARD OF FISHERIES".

The board of fisheries does not have a policy nor regulation concerning the management of mixed stock fisheries. The board of fisheries has had in the past used such a policy statement to manage the mixed stock fisheries. This policy has been in the regulation books as a policy statement for a good number of years. In 1989 the board of fish worked over the present mixed fish policy statement. This policy statement is also contained in the 1990-1991 Bristol Bay and westward commercial fishing regulation book. Currently the board of fisheries cannot even mention its mixed fish policy statement because of a judge's ruling. The judge stated, "If the board of fish does not adopt the mixed fish policy statement into a regulation than the board should not use it".


As a past board of fish member I strongly feel that such a policy is vital to the management of our mixed stock fisheries. I have while on the board moved to adopt the mixed fish policy statement into a regulation but to no avail.

The A.G.s office has also urged the board of fish to adopt the mixed stock policy statement into a regulation. The A.G.s office has sent several memos to the board stating if the mixed fish policy statement is not put into regulation then according to the judge's decision and the interpretation of the A.G.s office, the board should refrain from even mentioning it in their deliberations on proposals dealing with mixed stocks of fish.

Senate Bill No. 406 will contain the existing mixed stock fisheries. These fisheries will not be able to expand at the expense of other fisheries that have harvested these stocks in a more terminal fisheries or by fishermen that have traditionally fished for these stocks. A few examples come to mind, presently the Area M fisheries are allocated 8.3% of the forecasted catch of Area T sockeye salmon. This was done by the board of fish. This bill, if passed will not effect that allocation. However, if the Area M fisherman start

harvesting 12.5% of the Area T sockeye, the board of fish will have the tools necessary to curtail that new expansion of that fishery. Another example is the Kodiak-Cook Inlet fisheries. In the last Kodiak fish board cycle the board curtailed the expansion of the Kodiak fisherman on the sockeye stocks bound for Cook Inlet. At the time the board could use its mixed fish policy statement and did. Without this tool no telling what will happen the next time the board of fish takes up Kodiak proposals or other fisheries that are allowed to expand at the expense of other fisheries and fishermen. One thing this bill is not is a discrete stock bill, if it was I would not be supporting it. We have fisheries that are of mixed stocks throughout our state. These are long standing and accepted fisheries by fisherman as well as the board of fish. I again urge the passage of Senate Bill No. 406. This bill will not only help the board of fish to manage mixed stock fisheries but also help the public understand the rules the board of fish plays by and hopefully will elevate some of the turmoil surrounding our fisheries.

Thank You



H. Robin Samuelson Jr.

Box 412

Dillingham, Alaska 99576

MEMORANDUM

State of Alaska
Department of Law

TO Laird Jones
Director, Division of Boards
Department of Fish & Game

DATE December 19, 1990

FILE NO 223-89-0078

TEL NO 465-3600

SUBJECT Mixed stock policy after
Gilbert

FROM Larri Irene Jones
Assistant Attorney General
Natural Resources Section

You requested more explicit guidance on the Board of Fisheries' mixed stock policy in light of Gilbert v. State ___ P.2d ___, Op. No. 3649 (Alaska December 7, 1990). That case declared that the mixed stock policy was in effect a regulation, because it "makes more specific the law enforced or administered" by the board and "affects the public," as outlined in the definition of "regulation" under AS 44.62.640(a)(3). However, the mixed stock policy was never adopted under the administrative procedure act, with notice, comment, codification, etc. Thus, the court ruled that the policy could not be relied upon by the board in any way as a basis for making regulations. This ruling applies not only to the Stepovak commercial allocation at issue in Gilbert, but to any regulations. (This does not mean, however, that any regulations already adopted by the board are necessarily invalid if the board referred to the mixed stock policy in adopting them. In the Gilbert case, for example, although the mixed stock policy had been referred to, the court found ample grounds in the record for the board's action, even if the mixed stock policy was subtracted out.)

This decision leaves the board two options with regard to the mixed stock policy. The first is adopting it as a regulation, in which case the board could rely on it and refer to it in adopting or rejecting proposals in the regulation-making process. In order to accomplish this option, the subject should be properly noticed, and the board might want to publish the existing policy as a proposal for public comment under the appropriate legal notice.

The alternative course of action would be not to adopt the policy as a regulation, and to simply stop referring to it. If the board chooses this course of action, the policy should be removed from the regulation handy dandy book, where I believe it is still reprinted, and should not be referred to in the deliberation process. The board could, however, use the content of the now invalid mixed stock policy in discussing reasons for or against various proposals. For example, the board members could express their concern that historic mixed stock fisheries not be allowed to grow, because of possible conservation concerns, and concern that those who rely on those fisheries should not suddenly have one of

their sources of livelihood closed down. The key to remember, if this course is chosen, is that the mixed stock policy is invalid procedurally, not substantively, and there is nothing wrong with the board discussing the kinds of concerns and goals expressed in the mixed stock policy in deliberating.

One advantage to not adopting the mixed stock policy as a regulation, and rather simply referring to the goals and concerns in discussions, is that it would remove one possible cause of action for law suits. In other words, if the mixed stock policy is adopted as a regulation, then on any given regulatory action affecting mixed stocks, people could allege inconsistency with the policy, whether the action is to increase the level of mixed stock harvest, decrease it, or leave it the same. Prevailing on those allegations would be another matter, but if the policy has not been adopted as regulation and is not referred to by the board, that cause of action will not be available to potential plaintiffs. However, if the board believes there are worthwhile purposes in converting the mixed stock policy into a regulation, the concerns over a potential additional cause of action should not be determinative.

If you have any questions, please let me know.

cc: Don Collinsworth
Commissioner of Fish & Game

Denby Lloyd
Director of Commercial Fisheries Division
Department of Fish and Game

Tom Koester
Steve White
Bonnie Harris
Department of Law

LIS:nl

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 843-5237

MAR - 6 REC'D

March 3, 1992

Representative Georganna Lincoln
Room 112, Capitol
P.O. Box V
Juneau, AK 99811

Dear Representative Lincoln:

I am writing about House Bill 541 "... Relating to the management of mixed stock fisheries by the Board of Fisheries" To begin, thank you for introducing this legislation, it is a most important bill for all terminal river fishermen.

Attached please find a brief fact sheet about mixed stock fishery management, HB 541, and a 3/1/92 Anchorage Daily News "Compass" article by fellow constituent Jay Hammond, that we have prepared for our legislators.

Mr. Nels A. Anderson will be working on behalf of BBNA to effect passage of this legislation. I ask that you work with him toward passage of this bill. On behalf of the BBNA Board of Directors I thank you for taking up this issue.

If we can assist in providing my information or testimony on this issue please call me or Mr. Anderson.

Sincerely
BRISTOL BAY NATIVE ASSOCIATION



Terry Hoeflerle
Executive Director

TH/mc

FACT SHEET HB 541

In 1976 the Board of Fish and Game had adopted a general policy against mixed stock interception fisheries. Under this policy, spawning escapement would be ensured by allowing stocks to return to their natal streams to spawn. Nevertheless some mixed stock intercept fisheries have been allowed because of historical, economic, and social factors.

Since that time, in an effort to conserve and develop fishery resources, the Board of Fish implemented, at different times, regulations limiting the mixed stock intercept fisheries in their total percentage of salmon harvest.

The policy of the Board of Fish, as expressed in 1976 delineated the Board's principals and goals regulating mixed stock fisheries. That policy provided as follows:

"A basic principle of salmon fishing management is that fishing of any salmon stock should not occur until the spawning escapement for that stock is ensured. Run strength and resultant optimum harvest and escapement levels cannot be estimated until discrete stocks have separated themselves from mixed stocks and have arrived in areas near their natal streams. This type of single stock management allows optimum harvest rates on all stocks based on the productivity of individual stocks."

"When developing fisheries management policies, factors other than geological data must be considered. Alaska has historically allowed fishing on certain mixed salmon stocks with the result that fishing fleets and related support activities have developed to harvest those mixed stocks. Thus management policies should also address social and economic factors and weight them accordingly."

The Board then delineated four statements to guide management of mixed stock fisheries to accomplish these principle and goals. They are elaborated in the Board's written policy so I will not repeat them here.

This policy set forth several basic principles of salmon fishery management. It indicated that fishing of salmon stocks should not occur before escapement goals have been met. In order to determine escapement levels, the fishery must be discrete or separated from other mixed stocks. Thus intercept fisheries are discouraged - the board's policy balanced the principles of salmon fishery management with historical, social and economic fishery patterns.

In 1990 the Board adopted a regulation based on this policy. It was addressing Igvak and Stepovak interception of Chignik salmon - this regulation was

challenged in court on the grounds that its adoption was based on an invalid Board policy. (Not formally adopted.)

The Board of Fish voted on whether to enact this policy in regulation and the vote failed.

For 14 years the mixed stock fisheries policy served the Board and the people of Alaska well - it provided guidance to the Boards decision making process. Observers of the Board will agree that even with this policy in place, the Board had many controversial issues of salmon fishery management to engage its attention.

The Board of Fish need guidance from the Legislature on this matter. The proposed legislation establishes in law the essence of the Boards old mixed stock fisheries policy. It is a status quo bill, as you can see but is desperately needed.

Fish board should put fish and Alaska fishermen first

Some commend, others curse me for legislation creating boards of fish and game and education in the early 1960s.

It was the ardent desire of Gov. Bill Egan to eliminate boards. Having somewhat more clout than a freshman House member with no party affiliation (I was one of two independents), Gov. Bill squashed my first bills before they came out of committee so I re-introduced them again ... and again ... and again. Such a pest, did I make of myself, watered down versions were finally permitted to pass.

My hope was to shelter fish and game and education from political manipulation. To do so, respective commissioners would serve at the board's instead of the governor's pleasure. While education was so insulated, fish and game was left exposed.

Nonetheless, as governor I treated both departments alike. Instead of replacing



JAY HAMMOND

Fish and Game Commissioner Brooks with a "politically correct" appointee. I retained a competent professional. Moreover, I refused to pressure the board even when I disputed its actions. That I'd not politically orchestrate fish and game management was applauded by all ... save the faction whose "politics" did not prevail.

While I still believe fish and game boards should be sheltered from politics, shelter should be from within as well as without. Absent state policy guidelines on such things as intercept fisheries and harvest allocations, too often the board's politics fills the policy vacuum.

Even when not the case, if board members have financial interests in management, the public will charge "conflict." Areas and interests not represented will feel shortchanged.

As resource competition increased, so did public dissatisfaction. To alleviate that, I proposed local advisory boards. Later, I toyed with regional boards. Cost and complexity compelled me to shelve them.

Board decisions regarding intercept fisheries (i.e., the False Pass "chum cap"), and allocations seemingly favor-

ing non-resident Alaskans, have prompted Rep. Jerry Mackie of Craig to resurrect the idea of regional boards. However, until policy guidelines are imposed, any board system will be defective.

Who should establish these guidelines? Certainly not the board. For example, would drifters like a fish board on which setnetters to be free to allocate salmon as they saw fit?

State policy should be made by the legislature. By this, I don't mean mucking around with specifics. That's for the board and department. What I do mean is a broad policy directing the board to place "paramount" two considerations when evaluating all regulatory proposals:

1. What's in the best interests of the fish?
2. What's in the best interests of Alaska fishermen? (In other words, does the proposal, if adopted, reduce

Alaska residents' share of the harvest?)

Proposals which would expand interception of intermingled fish stocks and reduce the total share of harvest going to Alaska residents should be thrown out.

Similarly, proposals real-locating harvests between gear types which reduce Alaskans' comparative share should be dumped. Instead the board of fish recently wasted time and incurred outrage by voting on elimination of almost 60 set nets.

That proposal met neither policy objective: More salmon would be caught, which otherwise would escape into their natural streams; if setnetters (who fish only part time) vacated locations into which flooded drifters fishing full time, and;

2. Alaska residents' collective comparative payday would be reduced, since over 90 percent of the bay's setnet-

harvest goes to residents, compared to less than 50 percent for the drift fleet.

Why was this proposal even considered? Politics. Absent state policy better protecting fish and Alaska fishermen, it will ever be so ... or so presumed.

Recently, encouraged by Rep. Georgianna Lincoln of Rampart, I urged the governor to demand his agencies provide data comparing resident vs. non-resident harvest in all fishing districts. Happily, he demanded they do so.

I believe he'll be enlightened, perhaps even shocked. At the least, I hope it will induce him to direct both the board and the department, to place first the best interests of the fish and Alaska fishermen ... no matter whose ox may be gored.

□ Jay Hammond was governor of Alaska from 1974 to 1982.

SELECTED POLICIES OF THE BOARD OF FISHERIES

POLICY STATEMENT ON MANAGEMENT OF MIXED STOCK SALMON FISHERIES

A basic principle of salmon fishery management is that fishing of any salmon stock should not occur until the spawning escapement for that stock is ensured. Run strength and resultant optimum harvest and escapement levels cannot be estimated until discrete stocks have separated themselves from mixed stocks and have arrived in areas near their natal streams. This type of single stock management allows optimum harvest rates on all stocks based on the productivity of individual stocks.

When developing fisheries management policies, factors other than biological data must be considered. Alaska has historically allowed fishing on certain mixed salmon stocks with the result that fishing fleets and related support activities have developed to harvest those stocks. Thus management policies should also address social and economic factors and weigh them accordingly.

In view of the above stated principles, it is the policy of the Board of Fisheries that:

1. In the case of long standing fisheries which fish mixed stocks and for which it may not be feasible for participating fishermen to relocate to fisheries taking more discrete stocks, such fisheries may continue provided that fishing effort on the mixed stocks does not increase and that the harvest rate is not detrimental to the individual stocks.
2. In the case of long standing fisheries which fish mixed stocks and for which it may be feasible for participating fishermen to relocate to fisheries taking more discrete stocks, preference should be given to the fishery that best serves the state's interests.
3. The development or expansion of mixed stock fisheries should be discouraged when the fish that comprise those stocks can be harvested after they have separated into more discrete stocks.
4. This policy does not prevent the board or the department from allowing mixed stock fisheries, particularly when large returns are expected and the allowance of such fisheries would result in a fuller utilization of the harvestable surplus.

In all decisions relating to the regulation and management of mixed stock fisheries, it is the express intent of the board that the conservation of affected salmon stocks be given first priority over economic and social considerations.

The Alaska Board
of Fisheries

Canadian policy was characteri
complex regulations aimed at
providing any unifying overall

Fisheries Management
Alternatives

Most interviewees², including p
believed that the pressure of
the overwhelming mass of propos
for approaching seasons consp
devoting much time to such

Senate Advisory Committee
October 1987

including present and past members, believed that long term
issues are addressed during the normal course of business.
No formal long term management directives exist either in the
form of board regulations or ADFG directives. The
department's area management plans provide a framework by
which -pecific fisheries are managed on present season basis,
but no long term strategy for fisheries exists (Clasby, pers.
com., 1987). The exception to this is the existence, in
regulation, of about 20 district management plans. They
exist only in those districts in which some sort of
allocation problem has been encountered. Some plans, such as
the South Unimak and Shumagin Islands June Salmon Management
Plan are relatively detailed and others are no more than a
single sentence in length. No consistency in purpose or
content is apparent; the plans are merely the formalizing of
board policies responding to specific, discrete cases.

From 1975, when relatively complete records began to be kept
and the Board of Fish and Game split into separate boards, up

²Our field of interviewees was chosen on the basis of
two considerations. The primary goals were to include a
cross-section of industry groups (aiming at a relatively
complete region and gear representation), present and
former board members, and a variety of legal, regulatory,
and scientific professionals. That our research was
conducted during the summer fishing season resulted in
difficulties in contacting everyone we desired to
interview.

to, but not including, the April 1987 meeting, the Board of Fisheries had adopted 125 policies and resolutions with policy implications. Making exception for policy statements that basically update earlier pronouncements, only about ten of these policies (in our judgement) could be considered long term management directives affecting a fishery in general, such as the mixed stock salmon management policy. About a quarter of them address long term issues specific to a particular fishery, for example, affirmations of the portions of Southeast chinook salmon to be allocated to different gear types, but the coverage of such policies is not nearly comprehensive, their sum is not greater than the whole of the parts (some of policies have been formally adopted as district management plans). The remainder are season specific or board procedural statements.

The most important policy developed by the Board of Fisheries is that on the management of mixed stock salmon fisheries. It is the only policy regularly printed in the annual commercial finfish regulations. It states that in terms of conservation of salmon stocks, the best harvest policy is one that allows for adequate spawning escapement. The only way to determine run strength and thus appropriate harvest and escapement levels is on a specific stock level, after mixed stocks have separated and draw near to their natal streams. Despite this, the policy goes on to state, the fact that there are historic mixed stock fisheries, with fleets and support services in place, must also be considered. Social and economic factors, as well as biological, need to be addressed. Thus, the policy specifically allows for the continuance of such fisheries under certain conditions. Most outside fisheries and interception fisheries are targeted on mixed stocks and it is the application of this policy that has given rise to some of the more bitter long term disputes over allocation, such as the False Pass and Southeast net fisheries conflicts. There have been charges that the mixed

FISHERIES MANAGEMENT: COMPLEXITY, SCOPE, AND EXPECTATIONS

stock policy, which has never been adopted as a regulation and thus is not legally enforceable, is applied in a manner that preserves the status quo, simply because the Board wishes to avoid controversy. It obviously has not succeeded in so doing. Does the board follow its own policy? The last sentence of the policy reads:

In all decisions relating to the regulation and management of mixed stock fisheries, it is the express intent of the board that the conservation of affected salmon stocks be given first priority over economic and social considerations.

Those words would seem to indicate that the board should not allow fishing of mixed stocks, despite the wording of the rest of the policy statement. History has proven that while many in the fishing industry may agree that a comprehensive long term policy guiding, with a certain degree of specificity, the development of Alaska's fisheries is necessary, agreement on the direction of that policy may not be achievable if the means of constructing that policy is by an attempt to reach an industry consensus. Too many interests are competing for too few resources.

D) The Evolution of the Industry

The fishing industry, like all other industries, evolves continually in response to competitive and other pressures. In particular, change in the commercial fisheries, in terms of harvest technology and capabilities and species focus is seemingly constant. In some cases, management response time can be critical as the efficiency of the harvest effort improves and its focus is redirected to different stocks or species. Some feel that management capabilities and processes must evolve to keep pace with rapid changes in the

AVCP

Association of Village Council Presidents
P.O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

FROM AVCP 9075433596

04.29.1992 16102

P. 1

STATEMENT TO THE ALASKA STATE LEGISLATURE REGARDING PASSAGE OF HOUSE BILL 541, AN ACT RELATING TO THE MANAGEMENT OF MIXED STOCK FISHERIES BY THE BOARD OF FISHERIES.

SUBMITTED BY: NICHOLAS CHARLES - ECONOMIC DEVELOPMENT PROGRAM

In their November 1991 meeting the Alaska Board of Fisheries increased the chum cap in the June Area M fishery from 600,000 to 900,000. Then after reconsideration during the March 1992 meeting Juneau, the board voted to reduce the chum cap to 700,000 with the provision that measures to cut back and restrict the fishery be imposed on the fishery after 400,000 chum salmon are caught. In spite of this innovation, it is still an increase from 600,000. In 1991 the Area M June fishery over-harvested chums by well over 170,000. The catch of over 700,000 chums in that fishery resulted in severe restrictions and closures on commercial and subsistence fisheries on the Kuskokwim, Yukon, Norton Sound and Kotzebue Sound. The stocks in the Norton Sound area are crashing and commercial and subsistence closures for conservation reasons are expected. In spite of these concerns for conservation and subsistence the board decided to allow the mixed stock fishery at Area M to harvest chums headed to these depressed areas.

AVCP presented information to the board in March that clearly demonstrates a link between the June Area M fishery and the fisheries of AYK. Over the last twenty years, according to commercial catch data, every time the Area M fishery begins to catch over 100,000 chum salmon, one of the AYK fishery catches of chums begin to drop drastically.

On the Kuskokwim the anticipated annual loss to fishermen can range from \$961,200 to \$1,911,500; and \$5,478,800 to \$10,895,800 loss to the local economy. On the lower Yukon the potential loss to fishermen ranges from \$1,741,400 to \$2,239,400; and \$4,353,600 to \$5,598,600 loss to the local economy. To the individual fisherman the potential loss can range from \$1,200 to \$2,400. The average cost of living for a fisherman from the Yukon-Kuskokwim is about \$23,773. The anticipated loss of \$1,200 to \$2,400 to a fisherman on the Kuskokwim and Yukon is drastic. Many of the AYK fishermen depend upon the small cash income they earn from fishing to help support their subsistence hunting and fishing activities for the rest of the year.

For our depressed rural economy, the potential losses are severe, particularly for the fishermen and their families who have limited access to other sources of income. The impact is even greater for the depressed chum salmon stocks in AYK. Without a proper mixed stock policy that provides and protects these resources, the salmon stocks of AYK are highly vulnerable to a stock crash. AVCP urges the legislature to adopt this bill.

AVCP

Association of Village Council Presidents
P.O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

FROM AVCP 9873433596

04.29.1992 10:02

P. 1

Statement of the Association of Village Council Presidents on
H.B. 451 Presented by Vice President Gloria Simeon

The Association of Village Council Presidents is in support of H.B. 451, Representative Lincoln's legislation to finally put into state law limitations on the growth of mixed stock fisheries in state waters.

Without the statutory protection of H.B. 451, AVCP believes that the State's fish allocation system will provoke appeals for Federal management. This year alone, AVCP has witnessed the State's Board of Fish allow two mixed stock intercept fisheries to expand. Both fisheries are detrimental to the conservation of local stocks. The Board has refused to date to put its former mixed stock policy statement into regulation.

Since the Board allowed its mixed-stock policy to lapse two years ago, intercept fisheries throughout the state have been allowed to grow and continue in spite of conservation problems in terminal streams and spawning areas. The Board's conservation problems are directly linked to its own inability to effectively limit mixed-stock intercept fisheries. Even today, the Board is without a regulation governing its action.

In practice, the burden of proof before the Board to curb mixed-stock fisheries is now placed on the *Least capable* class of user: subsistence, small time, commercial, sport; to present the biological evidence to change the status-quo. The burden is never placed on the mixed stock interception fisheries to prove that it is not causing a conservation problem.

At this time, the entire state is focused on the conflicts of allocations that prevents Bush subsistence users a reasonable opportunity to participate in this activity. Yet, the Board of Fish, without a rudder, is pushing through Western Alaska's fisheries exacerbating the problem. The Board sustained the Dutch Harbor food and bait fishery that intercepts herring bound for subsistence harvesters in the Nelson Island area, making it more difficult to increase conservation of herring in Federal waters. The Board also expanded the False Pass salmon intercept fishery in June even though northern Norton Sound residents do not have a reasonable opportunity to subsistence harvest those same fish.

Without force of State law suggested by Representative Lincoln in H.B. 541, we do not believe that the politicized atmosphere and vested interests represented by big time commercial and sports fisheries on the Board will allow the resource and "little guys" to have a reasonable chance to participate in State fisheries.



UCIDA

UNITED COOK INLET DRIFT ASSOCIATION

P.O. Box 389 • Kenai, Alaska 99611 - 0389

(907) 283-3600 • FAX (907) 283-3306

April 29, 1992

Sent by telefax-hardcopy to follow

Rep. Cliff Davidson
Chair, House Resources Committee

Subject: HB 541

Dear Rep. Davidson,

United Cook Inlet Drift Association (UCIDA) represents the 585 salmon drift permit holders in Upper Cook Inlet. Some 350 permit holders are current members of our association. UCIDA is also active at the state and federal levels as a member of the Executive Committee of United Fishermen of Alaska (UFA).

I would like to express UCIDA's opposition to HB 541 regarding management of mixed stock fisheries. I would appreciate it if you would distribute our comments to the other members of the Resources Committee.

At face value this legislation appears to be yet another attempt by those dissatisfied with past decisions by the Board of Fisheries to supply themselves with a legal "tool" to further their ends. We would like to stress that this legislation would pose a threat to all existing mixed stock fisheries statewide.

As participants in a mixed stock fishery, Cook Inlet drift fishermen are well aware of the management complexities and allocative issues that mixed stock fisheries present. However, UCIDA contends that such problems are properly dealt with within the present allocative authority of the Board of Fisheries.

Due to the press of time I will cut short our present comments and send further comments as soon as possible. I appreciate this opportunity to address your committee.

Sincerely,

A handwritten signature in cursive script that reads 'Theo Matthews'.

Theo Matthews
Administrative Assistant

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When developing fisheries management policies, factors other than biological data must be considered. Alaska has historically allowed fishing on certain mixed salmon stocks with the result that fishing fleets and related support activities have developed to harvest those stocks. Thus management policies should also address social and economic factors and weigh them accordingly.

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3. The development or expansion of mixed stock fisheries should be discouraged when the fish that comprise those stocks can be harvested after they have separated into more discrete stocks.
4. This policy does not prevent the board or the department from allowing mixed stock fisheries, particularly when large returns are expected and the allowance of such fisheries would result in a fuller utilization of the harvestable surplus.

In all decisions relating to the regulation and management of mixed stock fisheries, it is the express intent of the board that the conservation of affected salmon stocks be given first priority over economic and social considerations.

(Revised #70-14-FB)

BOARD OF FISHERIES

POLICY STATEMENT ON MANAGEMENT OF MIXED STOCK SALMON FISHERIES

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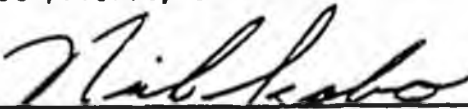
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DATE: January 12, 1980
Anchorage, Alaska


Mick Szabo, Chairman
Alaska Board of Fisheries

VOTE: 7/0

Guiding principle

#76-14-FB
Page 1 of 2

See 80-69

PROVISIONAL
BOARD OF FISH AND GAME
POLICY STATEMENT ON MANAGEMENT OF MIXED STOCK FISHERIES OF
ALASKAN SALMON

An important principle of salmon fishery management is that, insofar as possible, any harvestable surplus produced by a stock of salmon should be taken insofar as is practical after the returning fish of that stock have separated from other stocks with which it may migrate. Mixed stocks may be salmon-bound for various spawning areas, or salmon of different species, or salmon that arrive at the same spawning area at different times.

The preferability of single stock management as compared with mixed stock or multiple stock management stems from the fact that in single stock management optimum harvest rates are more likely to be achieved if they are based on the productivity of each individual stock. The cumulative harvests from individual stocks harvested separately at rates optimum for each stock are greater than the harvest obtained by exposing a number of mixed stocks to some average harvest rate.

Management of certain mixed stock fisheries in Alaska is complicated by the relatively long time that may elapse before salmon passing through these fisheries arrive at their parent stream. This may be due to the distance between the mixed stock fisheries and the parent streams and/or the fact that salmon may mill in the vicinity of the mixed stock fishery prior to resuming migration to parent streams.

Optimal regulation of harvest and escapement requires that the magnitude of the total number of fish returning to a river or stream be estimated prior to the time all of the fish pass through a fishery and become unavailable for harvesting. In most cases the first reliable estimates of run strength are obtained when returning salmon reach areas in or adjacent to their parent river or stream and school in a manner that allows an estimate of run strength.

The inability to assess run strength while salmon are moving through mixed stock fisheries, especially those distant from parent rivers or streams, makes optimum regulation of harvest and escapement of these salmon extremely difficult.

Submission of
Mixed Stock Policy
Ethics

In view of the above stated principles it shall be the policy of the Board of Fish and Game that:

(1) In the case of long standing, historic fisheries which operate to a large degree on mixed stocks and for which it is not feasible for participating fishermen to relocate in more inshore fisheries operating on more discrete stocks, such fisheries may be continued provided that the harvest rate and/or fishing effort on stocks passing through such fisheries does not, on the average, increase and provided that this harvest by these fisheries is not detrimental to the conservation of these stocks.

(2) In the case of long standing, historic fisheries which operate to a large degree on mixed stocks but for which fishermen participating in these fisheries can feasibly participate in the harvest of these same and other stocks in more inshore fisheries operating to a greater degree on discrete stocks, preference shall be given to the fishery that serves the State's best interests.

(3) Development of new fisheries will be discouraged when such fisheries would operate to a great extent on mixed stocks subsequently passing through more inshore fisheries operating to a greater extent on discrete stocks and capable of full utilization of such stocks.

(4) This policy shall not prevent the modification of any fisheries deemed necessary by the Board and the Department of Fish and Game for the full utilization of Alaska's salmon runs, particularly in years when unusually large returns of salmon are expected.

In all decisions relating to the regulation and management of mixed stock fisheries, it is the express intent of the Board that over-riding consideration be given to the conservation of affected salmon stocks when the impact of possible regulations on the conservation of such stocks is in doubt.