

HB 306

SENATE FINANCE COMMITTEE REPORT

DATE: 5/18/91

FURTHER:

DATE TURNED INTO OFFICE: 5-19-91

The Finance Committee considered CS FOR HOUSE BILL NO. 306 (FINANCE)

"An Act establishing a McNeil River State Game Refuge and altering the McNeil River State Game Sanctuary; and providing for an effective date."

and recommended:

[x] replace with 3 CS CSHB 306 (FIN)
[] or adopt CS
[] attached amendment(s)
[] letter of intent adopted

[x] same title
[] new title
[] technical title change (HB only)

[x] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] further referral to

ATTACHES NEW FISCAL NOTE(S):
[] fiscal note(s) Dept/Date:
[] zero fiscal note(s)

APPROVES PREVIOUS:
[] fiscal note(s) Dept/Date:
[x] zero fiscal note(s)
DNR
DFEG

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Handwritten signatures of committee members.

Handwritten recommendations and signatures.

1. Co-Chairs: Signatures and 2. Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No.
Bill Version: CSHB 306 (RES)
(H) Publish Date: 5/6/91

Revision Date: _____ Department Affected: Natural Resources
Title: McNeil River State Game BRU: Land & Water Management
Refuge Components: Land & Water Management
Sponsor: Representative Grussendorf
Requestor: House Resources COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary) Changes in SCS CSHB 306 (RES) have no fiscal impact. This fiscal note is appropriate.
5/18/91 date RT Comte Aide (initial)

Prepared by: Janet Burleson Phone: 465-3400
Division: Land & Water Management Date: 30-Apr-91

Approved by Commissioner: Harold Heinze Date: 30-Apr-91
Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, & Impacted Agency(ies).

REV 10/90

Changes in SCS CSHB 306 (Fin) have no fiscal impact. This fiscal note is appropriate.

5/19/91 date Comte Aide (initial)

COMMITTEE COPY

FISCAL NOTE

No. 1
 Bill Version: CSHB 306 (RES)
 (H) Publish Date: 5/6/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: 5-1-91 Department Affected: Fish and Game
 Title: McNeil River State Game Refuge BRU: Wildlife Conservation
 Component: Wildlife Conservation

Sponsor: Representative Grussendorf
 Requestor: _____

COMPONENT SERIAL NO.

4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	26.0	26.0	26.0	26.0
TRAVEL	0	4.0	4.0	4.0	4.0	4.0
CONTRACTUAL	0	0	10.0	10.0	10.0	10.0
SUPPLIES	0	1.0	4.0	4.0	4.0	4.0
EQUIPMENT	0	0	8.9	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	5.0	52.9	44.0	44.0	44.0

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

GENERAL FUND	0	5.0	52.9	44.0	44.0	44.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	5.0	52.9	44.0	44.0	44.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	2	2	2	2
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Changes in SAC CSHB 306 (Fin) have no fiscal impact. This fiscal note is appropriate.

Changes in CS CSHB 306 (RES) have no fiscal impact. This fiscal note is appropriate.

5/1/91 RT
 date Comte Aide (initial)

5/1/91 mm
 date Comte Aide (initial)

Prepared By: Dave Kelleyhouse, Director Phone: 465-4190
 Division: Division of Wildlife Conservation Date: 5/01/91

Approved by Commissioner: [Signature] Date: 5/1/91
 Agency: Department of Fish and Game

Distribution (by preparer): Legislative Finance Committee, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SENATE CS FOR CS FOR HOUSE BILL NO. 306 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUSSENDORF, Navarre, Jacko, Mackie, Davidson, Boyer, Brown, Ellis, Finkelstein, Gruenberg, Koponen, Kubina, Moyer, Ulmer, B.Davis, Donley

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a McNeil River State Game Refuge and altering the McNeil River
2 State Game Sanctuary; and providing for an effective date."

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

4 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that each of the following is an
5 important use of the McNeil River State Game Refuge established by AS 16.20.41, added by sec. 2 of
6 this Act, and that the management plan for the refuge must address all of these uses:

- 7 (1) the viewing of bears and other uses of fish and wildlife;
- 8 (2) fishing and fish enhancement;
- 9 (3) mineral resource development; and
- 10 (4) traditional, cultural, and historical uses.

11 * Sec. 2. AS 16.20 is amended by adding a new section to read:

12 Sec. 16.20.041. MCNEIL RIVER STATE GAME REFUGE. (a) The following state-
13 owned land and water, including the tidelands but exclusive of marine water and submerged land,
14 lying within the parcels described in this subsection is established as the McNeil River State

L

- 1 Game Refuge:
- 2 Township 10 South, Range 29 West, Seward Meridian
- 3 Section 19: S1/2
- 4 Section 20: SW1/4
- 5 Section 29: W1/2
- 6 Sections 30 - 31
- 7 Township 10 South, Range 30 West, Seward Meridian
- 8 Section 3: SW1/4
- 9 Section 4: SE1/4
- 10 Sections 10 - 11
- 11 Sections 14 - 16
- 12 Section 17: E1/2
- 13 Sections 20 - 23
- 14 Sections 25 - 29
- 15 Section 30: SE1/4
- 16 Section 31: NE1/4, S1/2
- 17 Sections 32 - 36
- 18 Township 11 South, Range 29 West, Seward Meridian
- 19 Sections 1 - 35
- 20 Section 36, except Nordyke Island and its tidelands
- 21 Township 11 South, Range 30 West, Seward Meridian
- 22 Sections 1 - 36
- 23 Township 11 South, Range 31 West, Seward Meridian
- 24 Sections 1 - 36
- 25 Township 11 South, Range 32 West, Seward Meridian
- 26 Sections 1 - 36, except land within Katmai National Park and Preserve
- 27 Township 12 South, Range 31 West, Seward Meridian
- 28 Sections 1 - 36
- 29 Township 12 South, Range 32 West, Seward Meridian
- 30 Sections 1 - 36, except land within Katmai National Park and Preserve
- 31 Township 13 South, Range 33 West, Seward Meridian

1 Section 1, except land within Katmai National Park and Preserve.

2 (b) The McNeil River State Game Refuge is established to

3 (1) provide permanent protection for brown bear and other fish and wildlife
4 populations and their habitats, so that these resources may be preserved for scientific, aesthetic,
5 and educational purposes;

6 (2) manage human use and activities in a way that is compatible with (1) of this
7 subsection and to maintain and enhance the unique bear viewing opportunities in the McNeil
8 River State Game Sanctuary established under AS 16.20.160;

9 (3) provide opportunities that are compatible with (1) of this subsection for
10 wildlife viewing, fisheries enhancement, fishing, hunting, and trapping, for temporary safe
11 anchorage, and for other activities.

12 (c) The Board of Game shall determine whether hunting of brown bears within the
13 McNeil River State Game Refuge should be prohibited.

14 (d) The use and enjoyment of valid rights and interests in mineral claims, including the
15 right of access, within the McNeil River State Game Refuge is protected. This subsection does
16 not affect the power of the commissioner of natural resources to open or close land within the
17 McNeil River State Game Refuge to new mineral entry under AS 38.05.185 - 38.05.275.

18 (e) The department and the Department of Natural Resources

19 (1) may not enter into sales of land within the McNeil River State Game Refuge;

20 (2) may enter into leases within the McNeil River State Game Refuge if the
21 commissioner finds that activity conducted under the lease is compatible with the purposes for
22 which the refuge is established.

23 (f) The commissioner shall report to the legislature by January 30 of each year

24 (1) the status of the brown bears and other fish and wildlife resources within the
25 McNeil River State Game Refuge; and

26 (2) the effect of hunting, fishing, and trapping, fishery enhancement activity, and
27 mineral resource development on these resources.

28 * Sec. 3. AS 16.20.160 is repealed and reenacted to read:

29 Sec. 16.20.160. MCNEIL RIVER STATE GAME SANCTUARY. The following state-
30 owned land and water, including the tidelands but exclusive of marine water and submerged land,
31 lying within the parcels described in this subsection is established as the McNeil River State

1 Game Sanctuary:

2 Township 12 South, Range 29 West, Seward Meridian

3 Sections 1 - 36

4 Township 12 South, Range 30 West, Seward Meridian

5 Sections 1 - 36

6 Township 13 South, Range 29 West, Seward Meridian

7 Sections 5 - 8

8 Sections 17 - 20

9 Sections 29 - 32

10 Township 13 South, Range 30 West, Seward Meridian

11 Sections 1 - 36

12 Township 13 South, Range 31 West, Seward Meridian

13 Sections 1 - 36

14 Township 13 South, Range 32 West, Seward Meridian

15 Sections 1 - 36

16 Township 14 South, Range 32 West, Seward Meridian

17 Sections 1 - 12

18 Sections 15 - 22

19 Sections 27 - 30.

20 * Sec. 4. AS 16.20.170 is repealed and reenacted to read:

21 Sec. 16.20.170. PURPOSE; REGULATIONS. (a) The McNeil River State Game
22 Sanctuary is established to

23 (1) provide permanent protection for brown bear and other fish and wildlife
24 populations and their habitats, so that these resources may be preserved for scientific, aesthetic,
25 and educational purposes;

26 (2) manage human use and activities in a way that is compatible with (1) of this
27 subsection and to maintain and enhance the unique bear viewing opportunities within the
28 sanctuary; and

29 (3) provide opportunities that are compatible with (1) of this subsection for
30 wildlife viewing, fisheries enhancement, and fishing, for temporary safe anchorage, and for other
31 activities.

1 (b) Hunting and trapping within the McNeil River State Game Sanctuary are prohibited.

2 (c) The department and the Department of Natural Resources

3 (1) may not enter into sales of land within the McNeil River State Game
4 Sanctuary;

5 (2) may enter into leases within the McNeil River State Game Sanctuary if the
6 commissioner finds that activity conducted under the lease is compatible with the purposes for
7 which the sanctuary is established.

8 (d) The McNeil River State Game Sanctuary is closed to mineral entry under
9 AS 38.05.185 - 38.05.275.

10 (e) The boards may adopt regulations governing access, entry, development, construction,
11 fishing, and other uses and activities affecting the natural habitat, fish and wildlife, and public
12 use of the McNeil River State Game Sanctuary.

13 (f) The commissioner shall report to the legislature by January 30 of each year

14 (1) the status of the brown bears and other fish and wildlife resources within the
15 McNeil River State Game Sanctuary; and

16 (2) the effects of fishing and fishery enhancement activity on these resources.

17 * Sec. 5. AS 16.20.160 is repealed and reenacted to read:

18 Sec. 16.20.160. SANCTUARY ESTABLISHED. The following described area and
19 adjacent state waters are established as a state game sanctuary to be known as the McNeil River
20 State Game Sanctuary: Beginning at the NE corner of Section 13, T 12 S R 30 W, S.M., westerly
21 along the section lines to the NW corner of Section 18, T 12 S R 30 W, S.M., thence southerly
22 along the township boundary to the SW corner of T 12 S R 30 W, S.M., thence westerly along
23 the north boundary of T 13 S R 31 W, S.M., to the NW corner of T 13 S R 31 W, S.M., thence
24 westerly along the north boundary of T 13 S R 32 W, S.M., to the NW corner of T 13 S R 32
25 W, S.M., thence southerly along the west boundary of T 13 S R 32 W, S.M., to the SW corner
26 of T 13 S R 32 W, S.M., thence southerly along the west boundary of T 14 S R 32 W, S.M., to
27 the SW corner of Section 30, T 14 S R 32 W, S.M., thence easterly along the section lines to the
28 SE corner of Section 27, T 14 S R 32 W, S.M., thence northerly along the section lines to the
29 NE corner of Section 15, T 14 S R 32 W, S.M., thence easterly along the section lines to the east
30 boundary of T 14 S R 32 W, S.M., thence northerly along the east boundary of T 14 S R 32 W,
31 S.M., to the NE corner of T 14 S R 32 W, S.M., thence easterly along the south boundary of T

1 13 S R 31 W, S.M., to the SE corner of T 13 S R 31 W, S.M., thence northerly along the east
2 boundary of T 13 S R 31 W, S.M., to the NE corner of Section 24, T 13 S R 31 W, S.M., thence
3 easterly along the section lines to the SE corner of Section 16, T 13 S R 30 W, S.M., thence
4 northerly along the section lines to the NE corner of Section 4, T 13 S R 30 W, S.M., thence
5 easterly along the south boundary of T 12 S R 30 W, S.M., to the SE corner of T 12 S R 30 W,
6 S.M., thence easterly along the south boundary of T 12 S R 29 W, S.M., to the shoreline of
7 Horseshoe Cove located in Section 32, T 12 S R 29 W, S.M., thence northerly, westerly, and
8 northerly along the line of mean high tide to the point of beginning.

9 * Sec. 6. AS 16.20.170 is repealed and reenacted to read:

10 Sec. 16.20.170. APPLICABILITY OF OTHER LAWS. The provisions of AS 16.20.120
11 - 16.20.140 relating to administration, multiple use and sale and lease of the Walrus Islands State
12 Game Sanctuary apply also with respect to the McNeil River State Game Sanctuary.

13 * Sec. 7. AS 16.20.041 is repealed.

14 * Sec. 8. Sections 2 - 4 of this Act take effect on the date the Paint River fish ladder begins
15 operation. The commissioner of fish and game shall certify to the revisor of statutes the date the fish
16 ladder begins operation.

17 * Sec. 9. Sections 5 - 7 of this Act take effect upon entry of a final order permanently enjoining the
18 operation of the Paint River fish ladder and the expiration of any time for appeal of the order. The
19 commissioner of fish and game shall certify to the revisor of statutes the date determined under this
20 section.

5-19-91
Adapted
for 305(Fix)

HB 306

AMENDMENT 1 BY Hoffman

Add a new section and renumber accordingly:

The Department of Fish and Game ^{shall} ~~must~~ report back to the Legislature by January 30 of each year on the status of the bears and other fish and wildlife within the McNeil River State Game Refuge and the McNeil River State Game Sanctuary, and the impacts of hunting and fishing, fish enhancement, and mineral resource development on these fish and wildlife resources.

REPRESENTATIVE
BEN GRUSSENDORF
1221 HAUBERT POINT ROAD
SITKA, ALASKA 99835
(907) 747-8458

RULES COMMITTEE
LEGISLATIVE COUNCIL

DISTRICT 3
ELFIN COVE
PELICAN
PORT ALEXANDER
SITKA
TENAKEE

Alaska State Legislature



House of Representatives
SPEAKER OF THE HOUSE

WHILE IN JUNEAU
P.O. Box V
JUNEAU, ALASKA 99811
(907) 485-3824
(907) 485-3760

TO: SENATOR POURCHOT, CO-CHAIRMAN
SENATOR KERTTULA, CO-CHAIRMAN
SENATE FINANCE COMMITTEE

FROM: REPRESENTATIVE BEN GRUSSENDORF
SPEAKER OF THE HOUSE

DATE: MAY 18, 1991

SUBJECT CS HB 306 (Finance)
"An Act establishing a McNeil River State Game Refuge
and altering the McNeil River State Game
Sanctuary; and providing for an effective date."

BILL SUMMARY: The bill proposes extending the existing sanctuary to include the lower Paint River and lower Little Kamishak River at the head of the Alaska Peninsula. It also proposes establishing a refuge north of the sanctuary to include drainage areas of the Paint River, and lakes currently stocked with salmon. The areas are proposed to give priority status to brown bear expected to be attracted to the Paint River by new salmon runs following the completion of an enhancement project--fish ladder--on the Paint River. The bill provides protection for bear anticipated to be adversely affected by increased human-bear contact. The current McNeil River State Game Sanctuary is world-renowned for the unique circumstances which allow bears and humans to interact there safely.

FISCAL IMPACT: Zero fiscal note by the Department of Natural Resources; Department of Fish and Game submits zero note in FY 92, 5.0 in FY 93, 52.9 in FY 94, and 44.0 in FY 95-97.

PREVIOUS HOUSE ACTION: Passed House: 30 Yea; 7 Nay; 3 Absent

BILL HISTORY: A lawsuit against the building of the proposed fish ladder at the Paint River has been filed by five different conservation groups. The bill attempts to alleviate some concerns by the various interest groups involved in litigating against the ladder, while also providing economic development in the region for other interest groups.

Conservation aspects of the bill allow for the establishment of the sanctuary to: provide permanent protection for brown bear and other fish and wildlife; manage human use compatible with the protection of the bear;

SENATE FINANCE

page two

May 18, 1991

and maintain and enhance the unique bear viewing opportunities within the sanctuary. The bill prohibits hunting, trapping and mineral entry within the sanctuary. The boards of fish and game may govern access, entry, development, construction, fishing, and other uses and activities through the adoption of regulations.

Fisheries enhancement within the sanctuary allows the construction of a ladder allowing five species of salmon to negotiate a 40 foot waterfall. The Kenai Peninsula Borough Economic Development District, Inc. anticipates the Paint River system to produce more than 1.7 million salmon annually, adding a projected annual commercial fish harvest and processing value in the Lower Cook Inlet of \$11 million and adding new jobs to the regional economy.

The proposed refuge includes river drainage areas also expected to attract bears as salmon run the Paint River and its tributaries. The board of game shall determine whether hunting of brown bear shall be permitted. There are other human uses provided for in the refuge.

The unique effective date of this bill allows the sanctuary extension and the refuge establishment only upon the operation of the fish ladder.

CHANGES IN SCS CS (RES)

The Senate Resources Committee adopted a particular change to the bill which appears in a new legislative findings section. This change was supported by DNR, DF&G, Alaska Outdoor Council, Alaska Miners' Association, Cominco Alaska, American Copper and Nickel Co., as well as myself and is attached to this memo.

The Senate Resources Committee also adopted the deletion of "mineral entry" from page 3, line 3; within in the purposes section of the refuge. The Commissioner of Natural Resources has stated on record that he plans to proceed with the development within the refuge very conservatively, closing the area to mineral entry for approximately five years. This is to allow the study of the brown bear movement after the salmon begin running the Paint River and its tributaries. "Mineral entry" included as a purpose may cause legal difficulties for the commissioner and his authority to close the refuge.

New text was inserted on page 3, line 13 as sub-section (d). This is to protect existing mineral claims.

New sections 4, 5, and 6 are enacted by new section 8. This repeals the refuge and returns the sanctuary to its original boundaries if the ladder is permanently halted by legal action.

Alaska State Legislature



Sen. Lloyd Jones, *Chair*
Sen. Sam Cotten, *Vice-Chair*
Sen. Dick Ellason, *Member*
Sen. Steve Frank, *Member*
Sen. Rick Halford, *Member*
Sen. Curt Menard, *Member*
Sen. Fred Zharoff, *Member*

P.O. Box V
Juneau, AK 99811
907 465-4907
Fax: 907 465-3922

Senate Resources Committee

May 18, 1991

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff - Paula Terrel
SUBJECT: Senate Bill 306

Paula Terrel

HOUSE

HOUSE

A working group met for two hours on consensus language for ~~Senate~~ Bill 306. Included in the group were members of the mining industry, legislative staff from the offices of Representative Grussendorf and of Senators Jones, Zharoff, Frank, Cotten, Menard, representatives from the Departments of Natural Resources and Fish and Game, United Fishermen of Alaska and the Environmental Lobby. Alan Phipps of the Alaska Center for the Environment was included by speaker phone.

The group agreed to include Findings language in the proposed SCS for CS HB 306 (Resources) as follows:

The Legislature finds that:

- 1) the viewing of bears and other uses of fish and wildlife;
- 2) fishing and fish enhancement;
- 3) mineral resource development; *and*
- 4) *TRADITIONAL, HISTORICAL AND CULTURAL USES* are important uses of the McNeil River State Game Refuge. The management plan for the McNeil River State Game Refuge shall address these uses.

Staff has checked with the legislative drafter who confirms that this language in no way prevents the Commissioner of Natural Resources from temporarily or permanently closing an area to new mineral entry by administrative order.



ALASKA OUTDOOR COUNCIL, INC.

P.O. Box 34097
Juneau, AK 99803

May 17, 1991

Senator Lloyd Jones
Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

The Alaska Outdoor Council (AOC) supports the Paint River fishway project and the conservation of other fish and game of the area including the brown bears which frequent the McNeil River drainage. We also support perpetuation of the remarkable bear viewing opportunities at the McNeil River falls. We appreciate the Legislature's interest in the project and related matters, and Representative Grussendorf's and your collective efforts to devise a legislative compromise which reassures the various interested parties that their concerns will be addressed.

We wish to reiterate our basic position that this legislation is not necessary to address and accommodate the various interests. Adequate authority and flexibility is present in existing statutes and regulatory options. But, since this forum focuses on a legislative approach we offer the following recommendations to make the current version of HB 306 acceptable to the AOC.

* The principle purpose of the Refuge should reflect a broad conservation mandate. delete the existing language of 16.20.041(b)(1), and insert language along these lines:

"provide for the conservation of brown bears and of other fish and game populations and their habitats to maintain, enhance, and utilize these resources consistent with the sustained yield principle".

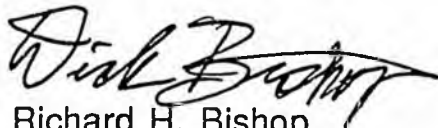
* Delete 16.20.170(b). Determination of hunting and trapping opportunities should be made by the Board of Game.

* Change the designation of the Little Kamishak/Kamishak Rivers Unit of the proposal from sanctuary to refuge, and add the Amakdedori River drainage to the north side of the refuge. This proposal was made at a meeting of interested parties in Anchorage and received wide support.

These changes would be consistent with maintaining the exemplary bear management program in the McNeil River Sanctuary, address concerns related to the fishway project, and help ensure that opportunities for public uses of public fish and game resources are balanced.

We also support the efforts of the Department of Fish and Game and of other interested parties to maintain adequate opportunities and access for other resource uses in the refuge.

Sincerely,



Richard H. Bishop
Legislative Affairs