

HB

57

SPONSOR STATEMENT

DATE: May 1, 1991

TO: Senator Lloyd Jones, Chairman, Senate Transportation Committee

FROM: Representative Mike Navarre *Mike*

SUBJECT: House Bill 57, An Act relating to leases of state land for fisheries development.

.....

Historically, land plans have been considered important to the proper growth and development of the resources of the State of Alaska. Shore fisheries have developed in some cases without the benefit of a land use/management plan. The Department of Natural Resources (DNR) for a variety of reasons has not completed or in some instances started the planning process. In recent times, applicants have gone through the process and when the end appears to be near the applicant is told that DNR cannot issue the lease because there is no land management plan.

HB 57 provides that DNR may issue setnet leases in lieu of an operable land plan. This bill will expedite the leasing process and at the same time offer protection to the shore fishery user.

HB 57 requires that land management plans in shore fishery areas be completed in a timely manner, specifically January 1, 1997. The bill sunsets the authority of the Director to issue the setnet lease without a land management plan.

HB 57 has a few changes that were made in the House Finance Committee. First, the date for completion of the land use plans was changed from 1995 to 1997. Second, the fiscal note was moved to zero by the House Finance Committee. The Finance Committee concluded that the same personnel that are presently on board and completing the Cook Inlet plan could transfer their energies to the Kodiak land use plan.

HB 57 is widely supported by fishermen and the fishing associations. I know of no opposition to this bill and its intent to protect the fishing industry from potential chaos.



SENATE COMMITTEE REPORT

DATE: 4/29/91

FURTHER:

DATE TURNED INTO OFFICE: 5-13-91

Resources Committee considered CS FOR HOUSE BILL NO. 57 (FINANCE)

"An Act relating to leases of state land for fisheries development; and providing for an effective date."

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB on-;)

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) _____
- appropriation-no fiscal note

APPROVES PREVIOUS:

- fiscal note(s) Dept/Date: _____
- zero fiscal note(s) DNR CS4351 Fin. 4/12/91
- Governor's bill w/fiscal note

SIGNING DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

[Handwritten signature]

Chair: Signature and Recommendation

APRIL 30, 1991
FAIRBANKS, ALASKA

FAX # 465-4565

MEMBERS OF THE RESOURCE COMMITTEE
STATE OF ALASKA LEGISLATURE
(Attn. All Committee Members)
P.O. BOX V
JUNEAU, ALASKA 99811

Dear Sirs and Ladies of the Resource Committee,

I'm writing to enlist your support for the passage of H.B. #57: "AN ACT RELATING TO LEASES OF STATE LAND FOR FISHERIES DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE."

My family and I have fished in the Kodiak Area for the past 22 years. We are set-netters at High Rock Fish Camp on the Southern tip of Kodiak Island in Alitak Bay.

In 1980 we applied for and received ALASKA STATE SHORE LEASES which have successfully protected our fishing sites since that time. As long-time Alaskan fishermen at these sites we have appreciated this measure of stability. Our original shore leases were written for a period of 10 years --with renewal provisions. However, because there is no current issue of a land use plan for Kodiak Island all shore lease renewals have been "put on hold" in this area. As a result of this limbo our family's shore leases expired in the year 1990-91; and--even though we re-applied and paid for renewals several months before the date that it became apparent Kodiak did not have a "land use plan," and--according to law--we have lost our protection. We are now exposed to "claim jumping" by other fishermen who have no time, money, effort nor emotion invested in our sites.

Furthermore, because we were issued shore leases, we moved ahead on the good faith that the State of Alaska would secure and protect our fishing sites--only to find ourselves now in a condition where the state has failed to carry out its responsibility.

As this issue now stands our sites and all the Alitak/Moser Bay sites are open to violation by set-netters from all areas of Kodiak Island. This is a frightening possibility.

My wife and I have contacted the Kodiak Protection Department and they informed us that they "had no intentions of honoring our long-time fishing tradition and history of leases. We are fishing sites that have been fished continuously from the first year of Alaskan Statehood. Without passage of H.B. #57 with its assurance, and as the Regs now read, my wife and I, my son and his wife will have to cover each of our combined eight sites with a boat and crew at precisely the exact moment the fishing season opens in order to be the first fisherman to place a net in the water at each site or we'll run the very definite risk of losing one or more of our long time sites to "claim jumpers." If we are challenged the first hour of the first opening fishing period of the year --the solution by protection officers will be to arrest both parties--which is no solution--and will necessitate a court action before a judge.

To show our intent to be continuous fishermen for these sites let me describe to you some of the efforts and procedures my family and I have put into practice over the past 20 years at High Rock Fish Camp. We have purchased the land on which our cabins are located; we have dug a permanent well on this property; we have built two, family sized dwellings, a bunk house for crew members, a large workshop and storage shed, and a generator house; we have electrified our cabins and the shop providing for electric washers and dryers, lights, power tools, sophisticated welding equipment and other specific tools for aluminum-boat building and maintenance; we have purchased numerous nets and tailored each to its specific location for the most efficient means of harvesting salmon; we have permanent and portable power net washers so that our nets will remain clean and strong. We plan to remain in the fishing business and to pass our holdings on to our children and grandchildren. We are not marauding transients who come by ready to grasp any site available without putting anything of value into the profession or the area.

The passing of H.B. #57 would give ours and all other expired leases the protection, stability and security for the orderly harvest and efficient handling of this state's great fishing resource.

My family and I would like to offer our services in assuring the passage of this bill. Any advice on how we can help would be greatly appreciated.

We appreciate your efforts in dealing with this problem.

Sincerely yours,

Mr. & Mrs. Donald R. Blanc

Mr. and Mrs. Donald R. Blanc
291 Gold ~~Call~~ Avenue
Fairbanks, Alaska
99712
(907)457-7001

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER SOUTHCENTRAL REGION

WALTER J. HICKEL, GOVERNOR

3801 C STREET
BOX 107005
ANCHORAGE, ALASKA 99510-7005

March 6, 1991

Heather Bradner
House Resource Committee

Re: Shore Fishery Leases

Dear Ms. Bradner:

The statistics for Shore Fishery Leases and applications are as follows:

Total issued = 1,083
Total pending = 387

Alaska Peninsula

Issued= 70
Pending= 22

Kodiak

Issued= 106
Pending= 31
Renewal pending (approx)= 21

Cook Inlet

Issued= 393
Pending= 161
Renewal pending (approx)= 20

Kathleen Sheehan Dugan *KSD*
Natural Resource Officer

FIGURE 1.

PLANNING PROCESS

1. Identify Issues

Hold public meetings to identify issues and concerns in the area.

2. Gather Information

Throughout the planning process collect information about natural resources, present and past land use, land ownership, and the local economy.

3. Prepare and Evaluate Land Use Alternatives

Describe possible choices for managing state land based on public interests, local resources, and state policies. Describe the effects of each choice on goals for the management of an area.

4. Public Reviews Alternatives

Hold public meetings to review the land use choices and identify those that people prefer.

5. Prepare Draft Plan

The planning team and advisory board create a draft plan using public and agency comments. The agencies review the first draft and settle any land use conflicts that remain.

6. Public Reviews Draft Plan

Hold public meetings to provide the public the opportunity to comment on the draft plan and identify parts that need to be changed.

7. Prepare Final Plan

Review agency and public comments and revise the plan. The plan is prepared for publication.

8. Approve Plan

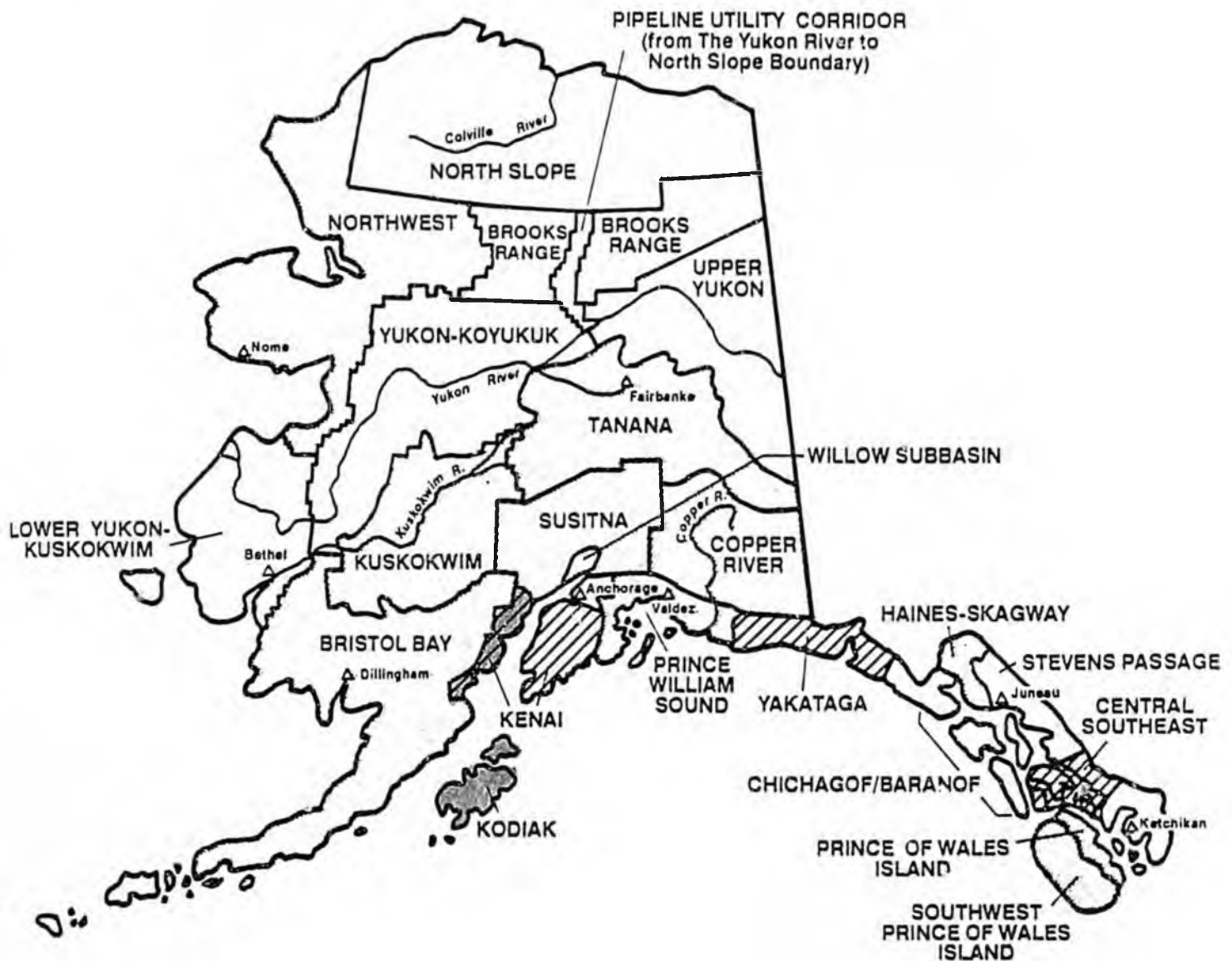
The Commissioner of the Department of Natural Resources approves and signs the plan.

9. Adopt and Implement Plan

The plan guides land management decisions in the planning area.

FIGURE 2.

Alaska Department of Natural Resources AREA PLANS






January 1991



Alaska Department of
**NATURAL
RESOURCES**

AREA PLANNING STATUS

-  Completed area plans
-  Area plans in progress
-  Not scheduled for area plans at this time

ALASKA STATE LEGISLATURE
REPRESENTATIVE MIKE NAVARRE

Co-Chair
House Finance Committee
P.O. Box V
Juneau, Alaska 99811
(907) 465-3779

May 1, 1991

MEMORANDUM

TO: Senator Lloyd Jones, Chairman, Senate Resources Committee

FROM: Representative Mike Navarre 

SUBJECT: House Bill 57, An Act relating to leases of state land for fisheries development.

.....

I would like to request that the Senate Resources Committee schedule House Bill 57 for a hearing at their earliest convenience. HB 57 grants relief to persons seeking to finalize their shore fisheries setnet lease. The passage of this bill into law would reduce potential chaos that will exist if there are no leases in the areas without land management plans, specifically Cook Inlet and Kodiak.

Thank you for your assistance in this matter.



Shore Fishery Leasing

Division of Land & Water Management • May 1990

As manager of most of the state's tidelands out to the three-mile limit, the Department of Natural Resources issues shore fishery (set net) leases. A shore fishery lease gives the leaseholder first priority to use a shore fishery site for commercial salmon set net fishing on state-owned tidelands. This "first priority" applies only when the leaseholder is personally fishing the site.

Is a shore fishery lease required for set net fishing?

No, a shore fishery lease is not required for set net fishing. However, a person holding a valid shore fishery lease may exclude others from set net fishing within his or her lease area.

Who may apply for a shore fishery lease?

An applicant must have a valid limited entry permit or an interim-use salmon set net permit. In addition, the applicant must be a citizen of the United States, and must be at least 18 years of age. A lease for a minor who is at least 10 years old may be issued to a legal trustee until the child reaches age 18. Then the lease is automatically transferred to the child's name.

When may I apply for a shore fishery lease?

New applications may be filed each year between May 1 and September 1.

How do I apply for a shore fishery lease?

First, decide where you want to locate your lease. Then check land status. Generally, if the tidelands are not already leased to another setnetter, you may stake your lease area. After that, you have thirty days to file your application to the Department of Natural Resources at the address shown on the back of this fact sheet. You must also turn in a sketch map with your application and meet the other requirements of 11 AAC 64.260 (part of the Department of Natural Resources shore fishery regulations). Later, you will have to prepare and file a shore fishery diagram.

What fees are charged for a shore fishery lease?

A non-refundable filing fee of \$50 is required with each application. There is a \$75 diagram review fee and rent is \$150 per year. The first year's rent must be paid before the lease is issued. Applicants must also pay the cost of public notice (newspaper ad).

Do I have to stake my site?

Yes. Each site must be staked on the shore above the high tide line before submitting an application. The stake must carry a sign with your name, mailing address, limited entry permit number and date of staking. An application must be filed within 30 days of staking the site.

Does staking give me exclusive use of a site?

No. Staking is part of the application process for a shore fishery lease. It notifies others that you have applied to lease the site. Only after a lease has been issued do you have first priority to fish your site when you are physically set net fishing there.

What areas are open to set net leasing?

Only certain areas in Southcentral Alaska are open. They are located in the Alaska Peninsula area, Bristol Bay, Kodiak Island waters, Cook Inlet, and the Eshamy Bay district in Prince William Sound. These areas are defined in the Board of Fisheries' commercial finfish regulations.

May I locate my site anywhere I wish within the open areas?

No. You must contact the Department of Fish and Game to find out which tide and submerged lands are open to set net fishing on a permanent basis. Set net leases will not be issued in areas that are opened only on a temporary or irregular basis.

Does the state have a list of set net sites available for leasing?

No. You must locate your own site within the open areas.

How long is a shore fishery lease valid?

A lease is issued for up to 10 years. The leaseholder may apply for a renewal at the end of the lease term.

How many set net sites may I lease?

The number varies depending on the commercial finfish regulations for the area, except for Cook Inlet where the maximum is three sites.

Do I have to apply separately for each set net site?

No. Sites that are within a reasonable distance (approximately two miles) of each other may be included in one application.

continued

What is a shore fishery diagram?

It is a detailed map that shows the exact site and location of your site, and its relationship to neighboring sites. It is more detailed than the sketch map that you attached to your application.

Who is responsible for preparing the shore fishery diagram?

You are. However, most people hire a surveyor or drafts-person to do the drawing. After the Division of Land and Water Management approves your lease application, you will be sent a packet with detailed instructions for preparing a diagram. You must submit two copies of the preliminary diagram within 90 days after you receive the packet.

Do I have to survey my set net site?

You do not usually need to survey the set net site. However, under unusual circumstances, such as where shoreline erosion or accretion causes problems in locating the site, or conflicts appear to exist with neighboring sites, you may be required to survey your site.

May I use my shore fishery lease area for purposes other than salmon fishing?

No. A shore fishery lease is issued only for the purpose of commercial salmon set net fishing.

May I put improvements within my shore fishery lease area?

No, you may not put improvements such as a cabin or storage building within your lease area.

Must I fish my site myself?

Yes. You must personally fish each leased site as depicted on your diagram at least every other year, for at least four legal fishing periods during the commercial fishing season. Failure to do so is grounds for lease termination.

May I move my nets within my lease area?

Yes, you may move the nets. However, the nets must remain within the lease area and can be no closer to the boundaries of the lease area than one half the minimum distance allowed between nets by the Board of Fisheries commercial finfish regulations.

May I change the location of my lease site after the lease has been issued?

Yes. We call these changes amendments. Amendments may be applied for between May 1 and September 1 of any year. Most amendment applications require the same fees and steps as a lease application.

May I sublease my set net site?

No. Subleasing is not allowed under the terms of shore fishery leases.

May I assign my shore fishery lease to another person?

Yes, you may assign your lease (transfer all your lease rights) to a person who is qualified to apply for a lease, if the lease is in good standing. The assignment cannot take effect until it is approved by the director, Division of Land and Water Management. Qualifications and procedures for an assignment are described in shore fishery regulations, 11 AAC 64.430.

If my family and I have been fishing the same section of beach for several generations, do we have "grandfather" rights to fish this beach and exclude all others?

No. No one is given exclusive rights to a set net site because of previous use. The length of time a person has fished a certain site is important only when more than one person applies to lease the same site. It is one of the major factors considered when deciding who is most qualified to lease the site.

If I acquire an unleased site from a family member or another setnetter who has fished it for several years, can I claim this time when I apply to lease the site?

No. You must personally fish a site in order to have the time apply.

What precautions should I take before buying a set net site?

Before you buy a site from an individual, it is a good idea to check land ownership records at the Division of Land and Water Management.

For information about shore fishery leases, contact:

Department of Natural Resources
Division of Land and Water Management
Southcentral Region—Shore Fishery
3601 C Street, Suite 1034
P. O. Box 107005
Anchorage, AK 99510-7005
(907) 762-2469

Land & Water Management has seasonal summer offices in Dillingham, Homer and Valdez.

For information about commercial fishing contact:

The Alaska Department of Fish and Game
P. O. Box 3-2000
Juneau, AK 99802
(907) 465-4100

Fish and Game has regional offices in: Anchorage, Cold Bay, Kodiak, Bethel, Dillingham, Sand Point, Chignik, King Salmon and Unalaska.

Cy. to Bruce Steffard, Judy Robinson, and Ridley. etc. to VG

MEMORANDUM

State of Alaska

Department of Law

TO: Gary Gustafson, Director
Division of Land & Water Management
Dept. of Natural Resources

DATE: July 30, 1990

FILE NO.: 993-88-0101

TEL. NO.: 465-3600

SUBJECT: Shore fisheries leasing
amendments



L15

FROM: Larri Irene Spengler
Assistant Attorney General
Natural Resources-Juneau

In two memoranda, dated November 27 and December 1, 1989, you asked nine questions about the November 22, 1989, draft of proposed amendments to the Department of Natural Resources shore fisheries leasing regulations, as well as asking me to simply review the regulations to identify any obvious problems. I appreciate your patience in awaiting a response; shortly after receiving your memorandum, the Alaska Supreme Court ruled the state's subsistence law unconstitutional, and that set off a rather busy period. In this memorandum, I will address each of the nine questions you raised, and then will give some overall comments on the draft regulations.

Please bear in mind that this memorandum is solely an attempt at answering the questions you need addressed in developing these regulations, and is not an informal attorney general's opinion. Thus, it has gone through the Department of Law's internal review, and will not be indexed. Should you believe that any of the questions you posed require a more weighty answer, by way of an informal opinion, a request for such an analysis must be routed from your commissioner's office, through the governor's office, and to the attorney general for assignment. Should you believe that desirable, please note in your inquiry that whatever questions you ask have been at least partially addressed on a less formal basis in this memorandum, in the context of assisting your department in preparing a draft set of regulations.

It may be useful for you to send one more draft of the regulations, which I can review for more detailed, technical, compliance with the rules of "shall" versus "will," and "a" versus "the," etc. I have not done that to any extent in this draft, in part because the draft will probably change somewhat in light of some of my comments.

1. Classification

You have asked whether to remove shore fisheries leasing from the formal land use planning and classification process under

AS 38.04.065, AS 38.05.300 and 11 AAC 55, you can simply amend 11 AAC 64.050 to remove the reference to 11 AAC 55, or whether you must also amend 11 AAC 55.040(i), which lists exceptions to that process. That question is really moot, because we do not believe that you have the authority to remove the shore fisheries leases from the formal classification process. AS 38.05.822(b) states that "the director may classify land as subject to leases for fisheries development." (Emphasis added.) There is nothing in AS 38.05.082 which indicates that the legislature meant something other by the use of the word "classify" than it did in the other statutes cited by you which describe how the classification process is to proceed. Further, there is nothing in the Alaska Supreme Court case interpreting those statutory requirements which would indicate that shore fisheries leases are exempt from the order described in the statutes: planning, classification, and then disposition--especially in light of the use of the word "classify" in the statute. Alaska Survival vs. State, 723 P.2d 1121 (Alaska 1986). Thus, the amendment you propose does not appear consistent with the wording of the statute governing shore fisheries leases, and should not be included in these draft regulations.

2. Assignment procedures

AS 38.05.082(d) provides that subleasing (assignment) of shore fisheries leases are governed by AS 38.05.095. That section gives your division the discretion to issue a permit allowing sublease or assignment, if the division finds that "it is in the best interests of the state to do so." You have asked whether you are correct in assuming that the "finding" mentioned in AS 38.05.095(a) is not the same as the comprehensive "finding" of best interests required by AS 38.05.035(e). That is correct. Shore fisheries leases are specifically excluded from the requirements of AS 38.05.035(e) in paragraph (2) of that subsection. Since that comprehensive finding is not required for the initial disposal--the issuance of a shore fisheries lease--the requirement in AS 38.05.095 for a finding would not logically include the more comprehensive finding.

3. Procedures for issuing a renewal lease

AS 38.05.082(d) states that renewals of shore fishery leases will be governed by AS 38.05.102. That section allows your division to grant a preference right for a new lease at a site to the prior lessee, "upon a finding that it is in the best interest of the state." You point out that a new lease would normally be a disposal of land requiring an AS 38.05.035(e) comprehensive best interest finding. However, you note that since AS 38.05.035(e)(2) exempts shore fisheries leasing from the comprehensive finding, and

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 14, 1991

SUBJECT: Review of Alaska Survival v. State (HB 57)

TO: Representative Mike Navarre

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

Pat Malone of your staff requested a short review of the Alaska Supreme Court case, Alaska Survival v. State, 723 P.2d 1281 (Alaska 1986), also known as the Chase decision. Specifically, Pat wanted to know if this decision supported an interpretation that no leasing of state lands may occur absent a regional or area land use plan or if the decision was only applicable to disposals of state land. I hereby respond as follows.

The Alaska Survival case involved the disposal of agricultural lands by the state. Among other issues presented the court considered whether the Department of Natural Resources violated AS 38.04.065 by classifying the lands in question as agricultural lands before the completion of a regional or area land use plan.

AS 38.04.065 provides:

(a) Except as provided in (d) and (h) of this section, the commissioner shall, with local governmental and public involvement under AS 38.05.-945, adopt, maintain, and, when appropriate, revise regional land use plans that provide for the use and management of state-owned land.

...

(c) The commissioner shall adopt regional land use plans for state land. Each regional land use plan must identify and delineate

(1) areas of settlement and settlement impact, where land must be classified for various private uses, renewable and nonrenewable resource development, and for public recreation, open space, and other public uses desirable in and around settlement; and

(2) areas that must be retained in state ownership and planned and classified for various uses and purposes under AS 38.04.015.

(d) The commissioner may adopt as a land use plan a comprehensive plan adopted by a municipality having planning and zoning powers or

Representative Mike Navarre
February 14, 1991
Page 2

a land management plan adopted by another governmental entity if the commissioner determines that the plan adequately recognizes and protects state interests. A decision to adopt the plan must be preceded by public hearings in affected and interested communities and by a draft decision, available for public review, that describes the state's interests and how the state will implement the plan.

(e) Land shall be classified as provided in AS 38.05.300.

(h) Before the commissioner adopts a regional land use plan, a land classification may be made on the basis of a site-specific land use plan, except a classification for a land disposal under AS 38.05.057, AS 38.08, AS 38.09, or a new commercial agriculture project under AS 38.05.-020(b)(6). After adoption of a regional land use plan, land classifications shall be made under the plan.

In interpreting this statute as it then appeared the court said:

In our view, both the organization of the statutory scheme and the particular language of AS 38.04.065(c) and (d) express an unambiguous intent that regional planning precede land classifications and disposals. . . . To interpret these provisions to allow classification and disposal before regional planning defies logic. It makes little sense to require comprehensive regional planning after the relevant land use decisions already have been made, especially irrevocable disposal decisions. . . . the statute's meaning is plain: it mandates a comprehensive, broad-scale planning process prior to site-specific planning and classification. . . . For these reasons, we conclude that AS 38.04.065 requires regional planning to precede land classification. . . .

Alaska Survival, *supra*, at 1289 - 90.

From this discussion it appears that classification of state lands, for any purpose, may not occur absent a regional or area land use plan adopted under AS 38.04.065, or as provided in subsection (h) of that section. Accordingly, the Attorney General's opinion to you concerning the inability of the state to lease state land for shore fisheries development in any area where the state has not adopted a land use plan, appears to be correct.

And, while the Alaska Survival decision the decision does not limit itself to those situations nor does the language of the statute. Accordingly, I conclude that the decision appears to have a broad application to all classifications of state land.

If you have further questions, please contact me at your convenience.

GPL:pl:gc
91-080.plm

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 15, 1991

SUBJECT: Leases for Shore Fisheries Development (CSHB 57 (Fin))
(Work Order No. 7LS-0334\Y)

TO: Representative Mike Navarre
Attn: Tom Ackerley

FROM: Jerry Luckhaupt *JLg*
Legislative Counsel

You have requested a sectional for the above-referenced version of a committee substitute for HB 57. Preliminarily, please note that a sectional analysis should not be considered an authoritative interpretation of a bill - the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it relates to a particular set of circumstances, please advise.

Section 1 of the bill provides a purpose clause.

Section 2 of the bill amends AS 38.05.082(b), to provide an exception allowing the director of the division of lands of the department of natural resources, to classify lands for shore fisheries development leases, in areas of the state where an area or regional land use plan under AS 38.04.065 has not been completed. An additional change on p. 2, line 10, requested by DNR, provides for a longer appeal period from the director's decisions.

Section 4 of the bill provides that the department of natural resources shall adopt land use plans for those areas of the state with tidelands and which currently do not have land plans. DNR is to accomplish this by January 1, 1997.

Section 6 of the bill provides an effective date making section 1,2, and 4 of the bill effective immediately under AS 01.10.070(c).

Section 3 of the bill reamends AS 38.05.082(b) to remove the exception (other than the extended appeal period requested by DNR) provided by section 2 of the bill.

Representative Mike Navarre
April 15, 1991
Page 2

Section 5 of the bill provides that section 3 of the bill is effective January 1, 1997, the date all the land plans are supposed to be completed under section 4 of the bill, which thereby removes the necessity for the exception.

GPL:pl
91-259.plm

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

post marked 3-12-91

DIVISION OF LAND AND WATER SOUTHCENTRAL REGION

3801 C STREET
BOX 107005
ANCHORAGE, ALASKA 99510-7005

March 11, 1991

Re: Shore Fishery Lease

Dear Shore Fishery Lessee or Applicant:

The purpose of this letter is to inform you about the effect of land classification on your shore fishery lease or application.

Under state law, prior to the disposal of an interest in state land, the land must be "classified". Shore fishery leases are a disposal of interest in state land. On July 30, 1990, the Attorney General's Office informed the division that shore fishery leasing is not exempt from the statutory planning and classification process.

A classification identifies the primary use for which the land will be managed. Classification is based on a regional land use plan, such as the Prince William Sound Area Plan, or by a management plan or land planning report.

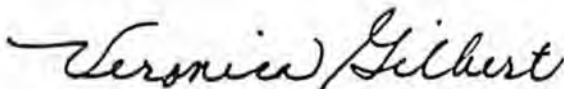
Tide and submerged lands in Cook Inlet, Kodiak and the Alaska Peninsula (outside of those classified by the Bristol Bay Area Plan) have not been classified. Work has recently begun on the Kenai Peninsula Area Plan which will include tide and submerged lands on both sides of Cook Inlet.

However, Representative Navarre has recently introduced legislation that would exempt Shore fishery leases from the land use planning and classification requirement until 1995. If passed, this bill will again enable the department to move forward.

The state considers leases issued in good faith by the department before July 30, 1990, to be valid existing rights. However, until tide and submerged lands have been classified or the law changed, this division will be unable to adjudicate shore fishery leases, applications (including renewals and certain amendments) in Cook Inlet, Kodiak, and the unclassified areas of the Alaska Peninsula. We apologize for any inconvenience this causes.

If you have a question on a pending application or adjudication issue please contact the Shore Fishery Unit at 762-2469.

Cordially,



Veronica Gilbert
Regional Manager

APR 8 1991

JOHNSON SURVEYING
BOX 27 262-5772
CLAM GULCH AK 99568
APRIL 4, 1991

REPRESENTATIVE MIKE NAVARRE
ALASKA LEGISLATURE
JUNEAU AK 99801

R.E: HB 57.

SIR,

WE ARE VITALLY CONCERNED WITH THE PASSAGE OF HB57. WE HAVE APPROXIMATELY TWENTY SHORE FISHERY LEASES PENDING , FOR WHICH THE SOUTH CENTRAL REGION, SHORE FISHERY DEPARTMENT ARE HOLDING THE PLATS WITH ACCOMPANYING LEASE APPLICATIONS. THESE WERE ALL TURNED IN BEFORE THE SEPTEMBER 1, 1990 DEADLINE SET BY THE SHORE FISHERY DEPARTMENT.

THE ENCLOSED LETTER, DATED MARCH 11, 1991, WAS THE FIRST WORD RECEIVED OF THE JULY 30, 1990 ATTORNEY GENERAL'S MORATORIUM ON FISHING LEASES. AMAZING TO NOTE THE ATTACHED LETTER WAS RECEIVED BY AN ALREADY ESTABLISHED LEASE HOLDER. THE SURVEYORS WERE NOT NOTIFIED AT ALL.

WE STRONGLY URGE PASSAGE OF HB 57! *Thank you, especially.*

SINCERELY YOURS,

Henning N. Johnson
Ruth Johnson

cc: L, LEMAN, J. ZAWACKI, G. PHILLIPS, P. FISHER, C. DAVIDSON,
G. LINCOLN, P. CARNEY, D. FINKELSTEIN, B. HUDSON, I. IVAN,
T. MOYER, L. JONES, S. COTTEN, R. ELIASON, S. FRANK,
R. HALFORD, C. MENARD, F. ZHAROFF.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

March 5, 1991

The Honorable Cliff Davidson, Chair
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

Subject: CSHB 57 (Resources), which relates to leases of state land for fisheries development.

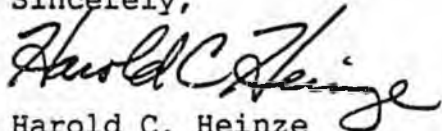
Position: The department supports the House Resources Committee substitute for HB 57.

Background: Currently, DNR cannot issue set net leases without completing the required state land planning and classification process for the area. Potential set net site lessees are concerned that the department cannot act quickly on applications for sites where the land planning and classification process has not been completed.

This bill grants a temporary exemption to DNR from state land planning and classification requirements for set net lease sites in non-planned areas of the state. Until 1995, the department may classify land for set net lease sites in areas without a land plan after issuing a public notice under AS 38.04.065. By January 1, 1995, however, the department is to have completed plans for all state tidelands proposed for set net leases, which will end the need for the set net site planning/classification exemption.

Please let me know if you need additional information about this matter.

Sincerely,



Harold C. Heinze
Commissioner

cc: Committee members
Representative Navarre
Bruce Kendall, Legislative Liaison, Office of the Governor

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 57

Revision Date: 4-Mar-91 Department Affected: Natural Resources
 Title: Lease of State Land for BRU: Land & Water Management
Fisheries Development Components: Land & Water Management
 Sponsor: Representative Navarre
 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		102.7	102.7			
TRAVEL		15.0	15.0			
CONTRACTUAL		14.0	14.0			
SUPPLIES		1.0	1.0			
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	132.7	132.7	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		132.7	132.7			
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	132.7	132.7	0.0	0.0	0.0

POSITIONS:

FULL-TIME		2.0	2.0			
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Ron Swanson Phone: 762-2680
 Division: Land and Water Management Date: 4-Mar-91

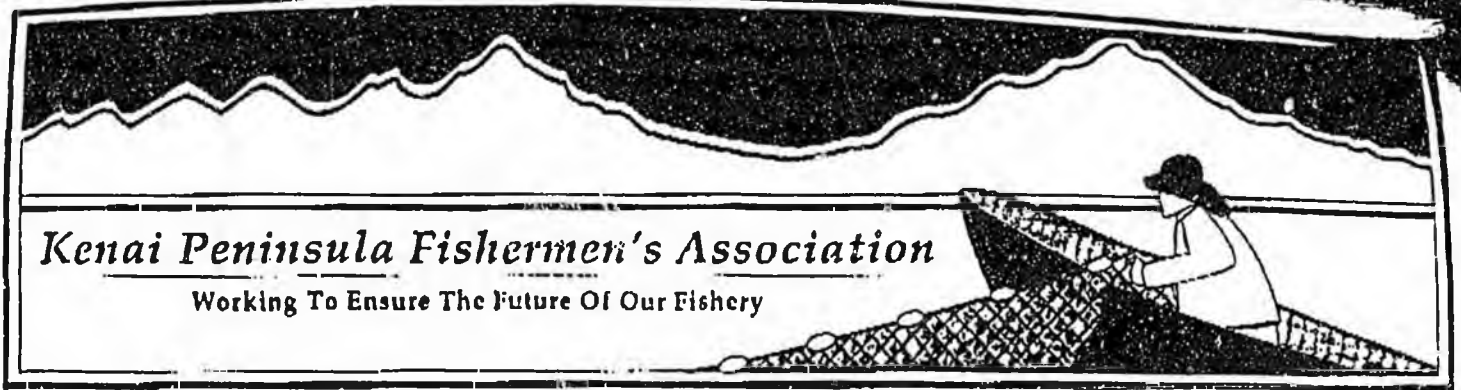
Approved by Commissioner: Harold Heinze Date: 4-Mar-91
 Agency: Department of Natural Resources

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

Fiscal Note for CSHB 57 (Resources), continued

Area plans generally take several years to complete. This plan would not be started until FY 93.

100	<u>Personal Services</u> : NRM I (18A)	\$ 54.6
	NRO II (16A)	48.1
200	<u>Travel</u> : Anch. & Kodiak Planning Team Meetings	5.0
	Public Meetings (8-10 locations)	10.0
300	<u>Contractual</u> : Planning Brochure	2.0
	Copying, Newsletters, Ads.	3.0
	Inventory, Mapping	6.0
	Plan Printing	3.0
400	<u>Supplies</u> : Miscellaneous Supplies	1.0
	Total	\$132.7



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492

March 1, 1991

Representative Mike Navarre
P.O. Box V
Juneau, Alaska 99801

Dear Representative Navarre:

Subject: House Bill No. 57 - An Act relating to leases of State land for fisheries development and providing for an effective date.

The Kenai Peninsula Fishermen's Association supports HB 57. We would like to thank you for introducing this bill and for your efforts to get it passed. As you know our organization primarily represents east side setnetters in Cook Inlet. Many of our members have been affected by the Attorney General's ruling that DNR cannot issue or renew tideland leases until a Land's Use Policy is in place. Our office has received numerous calls from frustrated fishermen who are trying to get their leases. We feel that HB 57 will help to resolve some of the problems associated with shore fishery leases.

We recently wrote to our members asking them to support HB 57. A copy of this letter is enclosed. Our staff will also be listening to the teleconference on Wednesday, March 6, 1991. Please let us know if there is anything else we can do to help get this bill passed.

Sincerely,

Brent Johnson

Brent Johnson
President

enclosure

Soldotna, Ak. 99669
Feb. 20, 1991

Dear Rep. Navarre,

We support your efforts on
HB57.

It is important that renewal
of leases in place go on while
the lands use policy is
being developed

Sincerely
Robert and Lutz Knorr
Box 1163
Soldotna, Ak 99669

Kenai Peninsula Fishermen's Association

P.O. Box 546
Soldotna, Alaska 99669
(907) 262-2492

Dear Mr. Navarre,
I certainly support
your HB 57.

Wendell Honea
Joyce Honea
P.O. Box 533
Kenai, Ak. 99611

Suzanne Haines
Box 3932
Homer, AK 99603-3932
235-8922

Feb 19, 1991

Representative Mike Navarre
PO Box 1
Juneau, AK 99811

Dear Rep. Navarre:

Thank you for sponsoring House Bill 57. I completed my filing materials for my fish site at the Kenai River in May, 1990, and awaited word from the Div. of Shore Fishery Leases at DNR regarding advertising and final closure. It was then I was informed of the quagmire regarding the halting of shore fishery leases because of the lack of a lands use policy. Therefore, I have no legal claim to the sites I have fished for three seasons.

A great deal of my resources and time has gone into these sites, and I am not in a position to ward off site jumpers who could challenge my fishing spot, since - without a lease - I have no legal authority to prevent them from doing so. This potential situation is a threat to my safety and livelihood.

I realize you understand my situation, which is similar to many other Cook Inlet fishermen. I don't believe it is in the best interest of these fishermen who have acted in good faith in accordance with the State of Alaska to penalize us because of a technicality created within the Dept. of Natural Resources.

Thank you, again, for supporting our efforts to follow the state's requirements. Please let me know how I can assist you in getting this piece of legislation through the House and Senate. Best wishes and good luck.

Sincerely,

Suzanne Haines
Suzanne Haines

GEORGE A. MOERLEIN
7300 O'MALLEY ROAD
ANCHORAGE, ALASKA 99516

907-346-3784
February 14, 1991

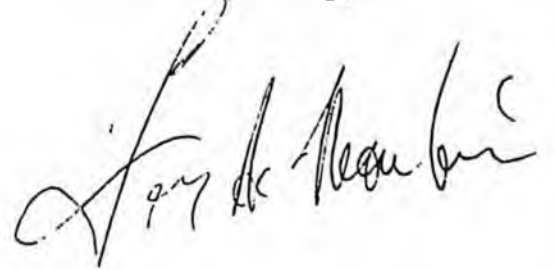
Representative Mike Navarre
P.O. Box V
Juneau, Alaska 99811

Re: HB 57

Dear Mr. Navarre:

I fully support HB 57 which will allow setnet leases to be renewed and new ones issued in Cook Inlet prior to the completion of a Land Use Policy. I urge that this bill be passed this session in order to permit an orderly continuation of the setnet fishing industry in this area.

Yours very truly,



cc - Betty Bruckman
Dave Choquette
Virginia Collins
Rick Halford
Arliss Sturgulewski

LAW OFFICES OF
JENSEN & JENSEN

TELECOPY 907 373 6883

ANCHORAGE
3003 MINNESOTA DR SUITE #301
ANCHORAGE ALASKA 99503
907 563 5811

WASILLA
167 EAST PARK AVENUE
WASILLA ALASKA 99687
907 376 3235

February 1, 1991

Representative Navarre
P.O. Box V
Juneau, Alaska 99881

Attn: Tom Ackerley

Re: House Bill No. 57 - An Act relating to leases of State land for fisheries development and providing for an effective date.

Dear Tom:

Thank you for speaking with me by telephone today about House Bill 57.

Edward E. Crane, President of the Alaska Commercial Fishing & Agriculture Bank, asked that I confirm with you the Bank's support for Bill No. 57 introduced by Representative Navarre. In that regard, the Bank offers any help your office may require with respect to the bill as it moves through the legislative process

Please pass along my thanks to Pat Malone for also discussing this bill with me.

With best regards,

Jensen & Jensen

Cameron Jensen

Cameron Jensen

CJ/pjt

Elizaveta H.C. Shadura
505 N. Franklin
Juneau, Ak., 99801

APR 23 1991
April 23, 1991

The Honorable
Lloyd Jones, Senator
Chairman, Resources Committee
Pouch V
Juneau, Ak., 99801

Subject: HB 57, pertaining to leases on State land for fisheries
development.

Dear Senator Jones:

I am writing this letter to gain your support for a speedy decision on HB 57, dealing with set net leases on State land. I know that now during the last four weeks of the Session many bills will need to be attended to and there are groups of constituents pressing urgently for each one of them. However, I feel, this one can't wait.

HB 57 would bring a temporary solution to a situation created by the "Chase" decision that prohibited the State from issuing leases in areas without a State land management plan and classification.

Many set net fishermen find themselves without a valid lease because the 10-year life of the lease has expired and the State cannot renew them for lack of said plans and classifications. An Area management plan, as planned for the Anchorage - Cook Inlet area, will take four to five years until completion. In the meantime, sites can be jumped and violence may break out in the fight for sites. This is not necessary.

I am the widow of Alexander Shadura, a Kenai fisherman, whom you may have known, and have inherited the set net salmon fishery which has been owned by my late husband since its beginning in the 60s. We held our leases nearly as long. Next month, in the middle of May at the extreme low tide, anchors have to be checked and the marker buoys tied on to the sites. Should there be an attempt of "jumping" sites at that time, I would find myself unable to defend my sites since I work here in Juneau and will not be able to go to the Kenai until the latter part of June. I also find physical effort to defend my sites utterly distasteful and undignified and would not like to have to go through this turmoil for the next five years.

This HB 57 could provide the remedy provided it was passed within the next 2-3 weeks. I urge you, not to let this bill die in committee. The Department of Natural Resources would also welcome

this legislation and I was assured that they could issue new leases at an instant's notice.

So, please, help move this bill along to its passage. You would thus help rectify without any additional cost to the State a court decision, the consequences of which had such and unforeseen effect, and thus, prevent much grief, frustration, and possible violence.

Thank you for your time and effort.

Sincerely yours,

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

Elizaveta H. C. Shadura