

S B

107

SENATE COMMITTEE REPORT

DATE: 2/6/91

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

Resources Committee considered SB 107

Regulations of the Board of Fisheries and Board of Game applicable to units of the national park system.

and recommended:

- replace with _____ CS _____ same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chair: Signature and Recommendation

... Resources/ Business ...

State regulations in national park: Sen. Dick Shultz has introduced SB-107, prohibiting the Boards of Fish and Game from adopting regulations applicable to areas within the national park system that are *more* stringent than corresponding regulations of the National Park Service. Exceptions to this rule may be made if either board finds that the more stringent regulations are necessary for the conservation of fish or game. The regulations must also be approved by a 2/3 majority of the appropriate board.

Economic impact of land classifications: The commissioner of Dept. of Natural Resources would be required to submit an *economic analysis* of proposed land classifications and reclassifications along with his regular annual report, under Sen. Dick Shultz' SB-108. The analysis would cover the probable economic effects of the classification or reclassification, including the estimated value of resources on the land, the probable short-term and long-term economic effects, and the types and number of persons affected by the proposed classification or reclassification.

Annual minerals report: Rep. Bert Sharp has introduced a bill requiring the Resources commissioner to submit annual reports detailing lands removed from mining or mineral exploration during the past year. HB-97 would also require that state agencies annually review their policies regarding mineral exploration and development, to identify inconsistencies or deficiencies with the state's mineral policy. This particular provision would be in effect only until the Alaska Minerals Commission sunsets.

Kachemak Bay timber buy-out: A bill to buy out Seldovia Native Association's and the Timber Trading Company's inholdings and timber rights within Kachemak Bay State Park has been introduced by Rep. Mike Navarre. A similar bill failed on reconsideration in the House last year by a vote of 20-20. HB-83 appropriates \$20 million to the Dept. of Natural Resources for the buy out. High cost of the bill is probably the reason that it didn't pass last year. Timber Trading Company, subsidiary of Koncor Forest Products, is in the process of acquiring permits to harvest the timber, and likely will start cutting once permits are in place. Both Seldovia and Koncor would rather sell their rights, if the legislature passes the appropriation.

The new Health Care Cost Containment Task Force report to the legislature is out, and it has a sobering message:

- Health care costs in Alaska are rising at two and three times the inflation rate for all other goods and services. Health care spending in the state during 1990 reached \$1.5 billion, up 300 percent from \$480 million spent in 1979, despite no substantial change in the state's population.

- Over 90,000 Alaskans cannot afford to pay medical bills, are not covered by a group health insurance plan, do not qualify for public assistance programs, and cannot afford to pay individual health insurance premiums.

- If current inflationary trends continue, spending for Alaska health care will reach \$10 billion by the year 2000, and over 25 percent of the state's residents will be uninsured.

- Health care costs are the fastest-growing component of the state budget, accounting for \$385.5 million of the Fiscal Year '90 operating budget. The Task Force estimates that absent immediate action, costs to state government will continue to escalate at the rate of the last ten years and will exceed \$1 billion by FY '95.

- The legislature's action on past Task Force recommendations accounted for savings over \$20 million in the cost of providing health coverage to state employees in FY '90 and '91.

Alaska Railroad extension: Any real work on extension of the Alaska Railroad to the Yukon River would depend on development of a wood industry in the Yukon River Valley. A reassessment, and gathering of current information, on timber resources in the Yukon Valley region will have to be done to produce even a 'probable reserve' estimate.

Princess Hotel in Fairbanks: Railroad officials told the Senate Transportation Committee last week that the Princess Hotel group has backed away from negotiations with ARR to put their proposed new 250-room hotel in Fairbanks on railroad-owned land. Officials say that the problem was not terms, but that the site across the river from the Alaskaland recreation park required considerable expense for extension of utilities across the river. Princess is now looking at a second site. Observers say the added expense was a real factor, but that the ARR site would have had good collateral benefits for the railroad, the city, Princess, and the nearby Alaskaland.



Alaska State Legislature

SENATOR DICK SHULTZ

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Member
Finance Committee
Transportation Committee
Special Committee on Oil & Gas

Senate
District J

MEMORANDUM

District I7

ALCAN BORDER
ANDERSON
BIG DELTA
BOUNDARY
CANTWELL
CHICKEN
CHISTOCHINA
CLEAR
COPPER CENTER
DELTA JUNCTION
DENALI PARK
DOT LAKE
DRY CREEK
EAGLE
EAGLE VILLAGE
GAKONA
GLENNALLEN
GULKANA
HEALY
HEALY LAKE
KENNY LAKE
MENDEL TNA
MENTASTA LAKE
NABESNA
NELCHINA
NENANA
NORTHWAY
PAXSON
SLANA
TANACROSS
TAZLINA
TETLIN
TOK
TOLSONA
TONSINA

District I8

BADGER ROAD
EIELSON/MOOSE CREEK
NEWBY
NORTH POLE
PLACK
RICHARDSON
SALCHA

TO: MEMBERS OF SENATE RESOURCES
FROM: SENATOR DICK SHULTZ *DS*
DATE: APRIL 5, 1991
RE: SB 107

Under the terms of the Alaska National Interest Conservation Act (ANILCA) rural Alaskans were guaranteed the ability to hunt, fish and trap in our National Parks.

Since three of our largest Parks are in my District I am very concerned as I see the National Park Service systematically eliminate these activities guaranteed under ANILCA.

Here is a typical example. Our state boards meet and decide the residents along the Parks Highway in the Cantwell area do not qualify for customary traditional use of fish and game resources because of lack of data to support such a designation. Immediately Park Service revokes the permits they had issued to all rural residents in the area.

In another case, the game board established a regulation which allowed rural residents of game management 13 to hunt moose in either unit 12 or 13, but prohibited unit 12 rural residents from hunting in unit 13. Here again, Park Service adopted these regulations and many hundreds of unit 12 residents were wrongfully denied hunting opportunities. These are but two of many instances in District J.

I know the problems in my District are not unique. In Southeast the Park Service is

eliminating fishing opportunities in Glacier Bay, in the Arctic, Park Service is trying to eliminate traditional access to caribou.

Many of the regulations adopted by our boards have blatantly violated ANILCA, but since our boards passed them Park Service quickly uses this as justification for closures.

Senate seeks to prevent our state boards from doing anything more restrictive than Park Service authority under ANILCA.

Please support this important legislation.

Public Law 96-487
96th Congress

An Act

To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

Dec. 2, 1980

(P.L. 96)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

Alaska National
Interest Lands
Conservation
Act.
16 USC 3101
note.

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TITLE V—NATIONAL FOREST SYSTEM

- Sec. 501. Additions to existing national forests.
- Sec. 502. Mining and mineral leasing on certain national forest lands.
- Sec. 503. Misty Fjords and Admiralty Island National Monuments.
- Sec. 504. Unperfected mining claims in Misty Fjords and Admiralty Island National Monuments.
- Sec. 505. Fisheries on national forest lands in Alaska.
- Sec. 506. Admiralty Island land exchanges.
- Sec. 507. Cooperative fisheries planning.

owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(b) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

(c) Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after the date of enactment of this Act, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

Sec. 201. The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred and seventy-six thousand acres of public lands, as generally depicted on map numbered ANIA-90,005, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for, and populations of, fish and wildlife, including, but not limited to, brown/grizzly bears, moose, caribou, sea lions, seals, and other marine

Publication in
Federal
Register.
Filing with
Speaker of
House and
President of
Senate.

Minor boundary
adjustments,
notification of
Congress.

Administration
by Interior
Secretary.
16 USC 410hh.

Aniakchak
National
Monument.
16 USC 431 note.

and wildlife, including but not limited to caribou, grizzly bears, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

(b) All lands located east of centerline of the main channel of the Noatak River which are—

(1) within

(A) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the village of Noatak, and

43 USC 1601
note.

(B) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph,

43 USC 1610.

(2) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(3) not conveyed to such Village or other Native Corporation before the final conveyance date, shall, on such final conveyance date, be added to and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the preceding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (1).

(9) Wrangell-Saint Elias National Park, containing approximately eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes, and streams, valleys, and coastal landscapes in their natural state; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and to provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII.

Wrangell-Saint
Elias National
Park

Post, p. 2422.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and thirteen thousand acres of public lands, as generally depicted on map numbered YUCH-90,008, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin,

Yukon-Charley
Rivers National
Preserve.



Alaska State Legislature

SENATOR DICK SHULTZ

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Member
Finance Committee
Transportation Committee
Special Committee on Oil & Gas

Senate
District J

MEMORANDUM

MAR 20 1991

District 17

- ALCAN BORDER
- ANDERSON
- BIG DELTA
- BOUNDARY
- CANTWELL
- CHICKEN
- CHISTOCHINA
- CLEAR
- COPPER CENTER
- DELTA JUNCTION
- DENALI PARK
- DOT LAKE
- DRY CREEK
- EAGLE
- EAGLE VILLAGE
- GAKONA
- GLENNALLEN
- GULKANA
- HEALY
- HEALY LAKE
- KENNY LAKE
- MENDELTONA
- MENTASTA LAKE
- NABESNA
- NELCHINA
- NENANA
- NORTHWAY
- PAXSON
- SLANA
- TANACROSS
- TAZLINA
- TETLIN
- TOK
- TOLSONA
- TONSINA

TO: ALL SENATORS

FROM: SENATOR SHULTZ *DS*

DATE: MARCH 12, 1991

RE: PROPOSED REGULATIONS

I am sure it is as difficult for most of you as it is for me to determine which proposed regulations you should comment on. One thing is quite clear, it would be next to impossible to comment on all the ones which cross my desk.

In that light, I have introduced a bill which would require agencies to inform the legislature of the origin of each regulation they propose. It would also require both the initial and annual cost of implementation of each proposed regulation, along with the justification.

This additional information not only would help us determine our feelings about a particular proposed regulation, it might help us predict the size of the coming supplemental budget which undoubtedly covers many of these "after the fact costs" of government.

District 18

- BADGER ROAD
- EIELSON/MOOSE CREEK
- NEWBY
- NORTH POLE
- PLACK
- RICHARDSON
- SALCHA

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No: SB 107

Sponsor: Senator Shultz


Division: Boards

Bill Title: Fish and game regulations in national parks

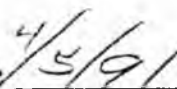
Department Position: SB 107 would restrict the Boards of Fisheries and Game from enacting regulations applicable within a national park that is more restrictive than any corresponding regulation of the National Park Service unless: (1) the board makes a finding that the regulation is necessary for conservation, and (2) the board passes the regulation by two thirds vote of the full membership.

The Department of Fish and Game understands some of the frustrations that led to the introduction of this bill, but believes that passage in its present form would have a number of unintended negative effects. We would be interested in working with the sponsor and a subcommittee appointed by the chairman to address the sponsor's concern.

Commissioner's Signature



Date



FISCAL NOTE

- STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB #107

Revision Date: March 13, 1991 Department Affected: Dept. of Fish and Game
Title: Fish/Game Regulations in Natl. Parks BRU: Division of Boards

Sponsor: Shultz

Component: _____

Requestor: Fish and Game

COMPONENT SERIAL NO.

	4	8	2
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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					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	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					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

No budgetary impact in the immediate future. Should additional Boards of Fisheries and Game meeting days be required for these actions in the future, with passage of SB 107, then additional funding may be required. Not possible to estimate impact at this time for such future occurrences.

Prepared By: Laird Jones, Director, Div. of Boards Phone: 465-4110

Division: Div. of Boards, ADF&G Date: March 13, 1991

Approved by Commissioner: [Signature]

Agency: Fish & Game Date: 4/5/91

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

January 17, 1991

The Honorable Manuel Lujan
Secretary of the Interior
Department of the Interior
18th and C Streets, N.W.
Washington, D.C. 20240

Dear Secretary Lujan:

The federal government has not complied with the U.S. Senate Committee Report that subsistence be permitted in the Glacier Bay. Restricting subsistence to the Hoonah Tlingit Indian clans is denying the cultural existence of the Hoonah people, and their descendents. Enclosed is the Senate Appropriations Committee Report of July 25, 1990.

The Appropriations Committee states, in part:

"Until the matter can be resolved, the Committee strongly discourages the Service from engaging in a policy of prohibiting subsistence activities unless the Service can show that such activities would clearly have a substantial adverse impact on the fish and wildlife resources in the Park."

The National Park Service is denying the Hoonah Tlingits access into the Glacier Bay National Park and Preserve to the detriment of the Tlingit culture, which, up until the creation of the Glacier Bay National monument in 1925, thrived on the uses of fish, wild game, and other resources in the Glacier Bay.

Mr. Secretary, we ask that you direct that subsistence activity occur by the Hoonah Tlingit Indians, and their descendents, as assured by the appropriate references, and for the cultural existence of the Hoonah people.

The actions of the federal government also contravened the Proclamation of President Jimmy Carter, dated December 1, 1978, that expressly directed the Secretary of the Interior to promulgate "such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents."

The Honorable Manuel Lujan

P 2

January 17, 1991

The federal government has been unable to prove that subsistence uses in the Glacier Bay would threaten the natural stability or continued viability of any particular fish, wildlife or plants; or that subsistence uses would create unmanageable administrative problems or create public safety concerns.

Chairman Morris K. Udall, on November 12, 1980, told his colleagues that subsistence uses would occur in all parks and park monuments, except the Kenai Fjords National Park.

The federal government created the Glacier Bay National Monument in 1925. In 1978, the federal government reaffirmed that Proclamation and declared:

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological, and other phenomena enumerated above supports now, as it has in the past, a unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the area added to the Glacier Bay National Monument by this Proclamation.

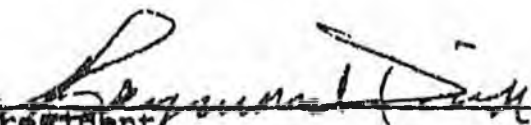
With all of these assurances, we fail to see the resilience of the federal government by denying subsistence opportunity to occur in the Glacier Bay by the Tlingits of Hoonah and others that have customary and traditional standing.

The uses of the Glacier Bay includes that of commercial fishing by Alaska residents, and which also antedates the establishment of the Glacier Bay National Monument. The federal government allows sports fishing in the Glacier Bay for visitors, but restricts commercial fishing and subsistence uses.


We await your immediate reply as the new season is already upon us, and realizing that the prolonged determination and action on your part only serves to frustrate and deteriorate the cultures of our people.

The Honorable Manuel Lujan
Page 3
January 17, 1991

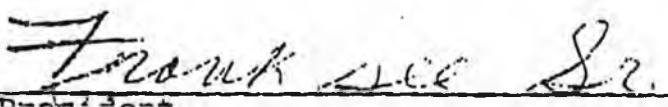
Respectfully submitted,




President
HOONAH INDIAN ASSOCIATION, an IRA



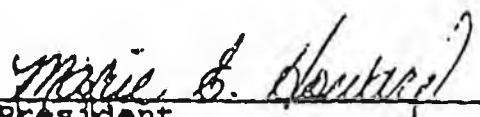
HUNA TRIBAL COUNCIL



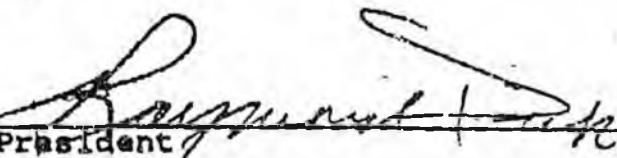
President
TLINGIT AND HAIDA COMMUNITY COUNCIL



President
HUNA TOTEM CORPORATION



President
ALASKA NATIVE SISTERHOOD CAMP #12



President
ALASKA NATIVE BROTHERHOOD CAMP #12

DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS BILL, 1990

JULY 25 (legislative day JANUARY 8), 1989.—Ordered to be printed

Mr. BYRD, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 2788]

The Committee on Appropriations, to which was referred the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended:

AMOUNTS IN NEW BUDGET (OBLIGATIONAL) AUTHORITY, FISCAL
YEAR 1990

Amount of bill passed by House	\$11,063,887,000
Amount of decrease by Senate	- 154,662,000
<hr/>	
Total of bill as reported to Senate	10,909,225,000
Estimates considered by House	8,617,681,000
Estimates considered by Senate	8,741,563,000
Over the budget estimate, 1990	+ 2,167,662,000
Over appropriations, 1989	+ 663,283,000

(1)

ment, research, interpretation, protection, and development of sites of historical significance on Indian lands throughout the Nation. The Committee is particularly interested in the Chaco protection sites on the Navajo Reservation. The Committee directs the National Park Service in consultation with the Bureau of Indian Affairs to investigate and report to the Committee on the funding needs for historic preservation on Indian lands. The report shall be based on direct discussions with Indian tribes and shall be provided to the Committee by March 1990.

It has come to the attention of the Committee that there is a dispute between the State of Alaska and the Federal Government over regulation of the waters in Glacier Bay National Park. As a result, it is unclear to the local Native people whether they are entitled to engage in subsistence fishing activities in the bay.

The Committee directs the Service to begin a dialog with the State and the local Native people to resolve this issue. It shall examine possible solutions, including legislation solutions, and shall submit a report outlining its recommendations to the Committees on Appropriations no later than May 1, 1990. As part of that process it should hold public meetings with affected groups including at least one meeting in the village of Hoonah.

Until the matter can be resolved, the Committee strongly discourages the Service from engaging in a policy of prohibiting subsistence activities unless the Service can show that such activities would clearly have a substantial adverse impact on the fish and wildlife resources in the park.

Informational publications.—The full funding request for informational publications is recommended. The Committee believes that it is inappropriate to reduce funding for park brochures and informational guides at a time when park attendance is increasing. Furthermore, visitors who must pay a fee to use many of the parks have a right to expect basic informational services.

In recognition of the importance of park brochures in attracting overseas tourists to the parks, the Committee commends the Service for its increased emphasis on publishing foreign language park folders.

International park affairs.—For international park affairs the Committee recommends an increase of \$400,000 which consists of \$100,000 for U.S. ICOMOS and \$300,000 for Western Hemisphere technical assistance.

Forest fire suppression and presuppression.—The forest fire suppression and presuppression requirements of the National Park Service are addressed in the new Bureau of Land Management consolidated fire program account.

General management plans.—Within the amount requested for general management plans, the following allowances are directed: \$125,000 for New River Parkway Authority, \$100,000 for expansion alternatives at Pu'uhoonua o Honaunau, \$250,000 for the Gauley River NRA-Bluestone SR, \$100,000 for Jimmy Carter NHS, \$150,000 for Pearson Airpark, \$50,000 for Hagerman Fossil Beds NM, \$25,000 for Natchez NES, up to \$100,000 for Craters of the Moon NM, for the second year of the Spanish colonization study, \$400,000 for design of a scenic byway program, \$100,000 for Georgia O'Keeffe living landscape feasibility study, \$200,000 for an archae-

who has oversight, monitoring control -

(3195-01-M)

Proclamation 4618

December 1, 1978

Enlarging the Glacier Bay National Monument

*By the President of the United States of America***A Proclamation**

Glacier Bay National Monument was created by Presidential Proclamation in 1925 and was enlarged in 1939 and again in 1955. It protects the great tidewater glaciers and a dramatic range of plant communities. The enlargement accomplished by this Proclamation furthers the protection of the array of geological and ecological interests in the area.

This addition includes the northwesterly side of Mount Fairweather, the highest peak in this part of Alaska, and the Grand Plateau Glacier, both significant to students of glaciology.

The Alsek River corridor provides the only pass through the coastal mountain range for 120 miles. This is the route by which large mammals first entered this isolated area and is used by a significant percentage of the Alaska bald eagle population en route to the Klukwan area where they winter.

The addition also protects two botanically significant areas. In the hills flanking Grand Plateau Glacier live the oldest plant communities in southeast Alaska which survive because the area escaped both glaciation and inundation. Also important to the study of ecological succession are the mature aquatic vegetative communities of the pre-neoglacial lakes in the Deception Hills area.

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological, and other phenomena enumerated above supports now, as it has in the past, a unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the area added to the Glacier Bay National Monument by this Proclamation.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved for inclusion in the Glacier Bay National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Enlargement of Glacier Bay National Monument on the map numbered GLBA-90,005 attached to and forming a part of this Proclamation. The area reserved consists of approximately 550,000 acres, and is necessary to ensure the proper

care and management of the objects the monument was established to preserve and those added by this Proclamation. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this addition are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this addition is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act, (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Furthermore, nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close this addition, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.



CONGRESSIONAL RECORD

Mr. Speaker, the subsistence provisions of the bill now before us differs from those in the House bill primarily by the Senate's adoption of a "judicial enforcement" approach to proceedings by the Secretary of the Interior or Secretary of Agriculture, depending upon which lands are involved, to assure the State's implementation of the subsistence preference. In that regard I would point out that it is not my understanding that this section in any way compromises the administrative authorities of the Secretaries, or their legal responsibilities, to protect subsistence uses on the public lands and in the waters of Alaska; otherwise, the section may be unconstitutional.

The judicial enforcement approach was developed by the Senate Energy and Natural Resources Committee during the 95th Congress. Senators Abourezk, Ford, and Durkin were three of the members of that committee who were particularly involved in the development of the Senate subsistence title. Their supplemental views detailing the responsibility and authority of the Secretary to exercise his administrative authority over the public lands and the waters of Alaska to protect subsistence uses in appropriate instances are the basis of my interpretation of the effect of section 806 of the Senate bill. Since section 806 is intended to be the remedy of only the local committees and regional councils, obviously rural residents engaged in subsistence uses and other persons who are directly affected by State implementation of the subsistence preference are entitled to have the Secretary take appropriate action if the State fails to do so, and, consequently, will be entitled to mandamus such action from the appropriate Secretary if he should fail to fulfill his duty to manage the public lands and the waters of Alaska in a manner consistent with the management standards established by the Congress in this legislation.

Lastly, Mr. Speaker, I would like to briefly discuss the manner in which subsistence hunting by local residents is to be managed within new national parks and national park monuments and within the additions to those national parks and national park system monuments which were established prior to December 1, 1978. As you know, hunting of any kind generally is not permitted within national parks in the United States. However, during the development of the Department of the Interior's legislative proposal to the Congress, it became obvious to the Secretary of the Interior and to the National Park Service that much of the acreage within the large parks and monuments desired by the National Park Service included acreage which customarily and traditionally has been used, and is now being used, by Alaska Natives and other rural residents for subsistence hunting. Application of the traditional no hunting policy to these proposed areas would result either in significant disruption of subsistence hunting activities and resultant community hardship, or would require the cutting back of the boundaries of the proposed park units to accommodate subsistence

In recognition of this uniquely Alaskan situation, the Department of the Interior represented to the residents of the affected villages and to Native village and regional corporations representing the same residents, that subsistence hunting within all of the new parks and within the additions to existing parks would be statutorily guaranteed. And it was as a result of this agreement, Mr. Speaker, that most local communities and village and regional corporations have supported, or at least not opposed, the creation of new parks and monuments within their regions.

Mr. Speaker, consistent with their promise to the Native community, since 1977 Secretary Andrus and the National Park Service have consistently recommended to both Houses of the Congress that subsistence hunting by local residents be continued within all parks and monuments established or expanded by this legislation, other than the Kenai Fjords National Park. Consistent with this recommendation, the Antiquities Act proclamations signed by President Carter on December 1, 1979 not only guaranteed the continuation of subsistence hunting by local residents, but specifically recognize subsistence hunting as an important value of each monument, other than the Kenai Fjords.

Consistent with the Secretary's recommendation and the language of the monument proclamations, both the version of H.R. 39 passed by the House in 1978 and the Udall-Anderson bill passed last year establish subsistence uses by local residents, including subsistence hunting, as a purpose of each new park and park monument, other than the Kenai Fjords, and of the additions to parks and monuments established prior to December 1, 1978.

The Alaska Lands bill passed by the Senate (and which we today concur in) statutorily guarantees that subsistence hunting by local residents will be permitted within all of the same areas as are open to such uses in the Udall-Anderson bill, but regrettably does not designate subsistence uses as a purpose of each new area and addition. However, Mr. Speaker, I would note that sections 201 and 202 indicate that the purposes of each new park and addition set forth in the legislation are not intended to be all inclusive. I would strongly suggest that in establishing regulations for the management of each of these areas, the Secretary of the Interior designate subsistence uses by local residents as a specific purpose of each park and park preserve. To do any less would be inconsistent with the longstanding representations which the Secretary, the National Park Service, and the House Interior Committee, have made to the Alaska Native residents of areas within or adjacent to these new areas.