

**HB**

**1988**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 11, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/21/97

The FINANCE Committee considered:

HB 198

HOUSE BILL NO. 198

DIVE FISHERY MANAGEMENT ASSN. & ASSESSMNT

"An Act relating to regional dive fishery development associations and to dive fishery management assessments; and providing for an effective date."

recommends it be replaced with the following committee substitute

CS HB 198 (FIN)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) Fish game 4/10/97

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) REV 4/10/97  
Comm Fishery Entry Com 4/10/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therrault</i>	Therrault			X	
<i>Bob Grussendorf</i>	Grussendorf	X			
<i>J. Kelly</i>	Kelly			✓	
<i>Bob Foster</i>	Foster	X			
<i>Larry Martin</i>	Martin	X			
<i>J. Davies</i>	J. Davies	X			
<i>G. Davis</i>	G. Davis			X	
<i>Ed Moses</i>	Moses			X	

CHAIR'S SIGNATURE

*Gene Therrault*  
Therrault

FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
Title: Dive Fishery Management Assn & Assessment BRU: Revenue Operation  
Sponsor: REP WILLIAMS, Hudson, Kookesh, Grussendorf Component: Income and Excise Audit  
Requestor: (H) FSH COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( GF )</b>	0.0	***	***	***	***	***

FUND SOURCE (Thousands of Dollars)

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
007 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (F:97) cost \$ 0.0

POSITIONS:

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\*\*\* See Attached Analysis

Prepared by: Paul E. Dick  
Division: Income and Excise Audit Division  
Approved by Commissioner: Wilson L. Condon  
Agency: Revenue

Phone: 465-3691  
Date: April 9, 1997  
Date: April 9, 1997

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DEPARTMENT OF REVENUE  
Income and Excise Audit Division

Dive Fishery Management Assn & Assessment  
CSHB 198(FSH)  
April 9, 1997  
Page 2 of 2

**BILL ANALYSIS**

**Section 1** authorizes the formation of qualified regional dive fishery development associations for the purpose of developing dive fisheries in the state.

**Section 2** adds new section to AS 43.76 (Salmon Enhancement and Marketing Taxes) which establishes provisions for an elective dive fishery management assessment. Qualified dive fishery development associations would be authorized to conduct an election to approve, amend or terminate a dive fishery management assessment based on a percentage of the value of the fishery resource. Terms for conducting the election are provided in this section.

Processors would collect applicable dive fishery management assessments from dive fishermen when they acquire or buy dive fishery resources. Processors would be required to file returns and remit assessment collections to Department of Revenue on a quarterly basis. Persons who export dive fisheries from the state would be required to file returns and pay assessments directly to the department on a quarterly basis. Assessment collections would be deposited in the general fund. The legislature may appropriate assessment revenue to the Department of Fish and Game for funding the qualified regional dive fishery association in the area in which the assessments were collected.

**Section 3** provides for an immediate effective date.

**OPERATING EXPENDITURES**

Department of Revenue estimates that less than 40 dive fishery assessment returns would be filed each year. The department could handle collection of the fishery management assessments and processing returns with current resources.

**REVENUE**

It is not feasible to estimate revenue under this bill because the dive fishery assessment is contingent on (1) formation of a qualified dive fishery development association and (2) approval of an assessment and rate by a majority vote of association members. According to Department of Fish and Game, the total estimated value of dive fishery resources for calendar year 1997 will be between \$3.5 and \$4.0 million. Collections would likely begin in FY 1999 because of the time it would take to form associations and conduct an election for approval of an assessment.

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Bill Version: HB 198  
(H) Publish Date: 4/10/97

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Dive Fishery Management and BRU: CFMD  
Assessment Component: Fisheries Management  
 Sponsor: Representative Williams  
 Requester: House Fisheries COMPONENT SERIAL NO. 1941

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES		184.6	184.6	184.6	184.6	184.6
TRAVEL		9.3	9.3	9.3	9.3	9.3
CONTRACTUAL		42.8	42.8	42.8	42.8	42.8
SUPPLIES		5.9	5.9	5.9	5.9	5.9
EQUIPMENT		9.4	9.4	9.4	9.4	9.4
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		50.0	50.0	50.0	50.0	50.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts		301.9	301.9	301.9	301.9	301.9
1037 GF Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>	<b>301.9</b>

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)  
See attached page.

Prepared by: Bob Clasby  
 Division: Commercial Fisheries Management and Development  
 Approved by Commissioner: Frank Rue  
 Agency: Department of Fish and Game

Phone: 465-6143  
 Date: 4/8/97  
 Date: 4/8/97

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COMMITTEE COPY

This fiscal note for ADF&G assumes no cost to the department associated with establishing the dive association.

Pass through funding for the administration of the dive association is estimated at \$50,000. This is shown under miscellaneous on the fiscal note. This portion of the fiscal note is built on the assumption that there is one group formed in Southeast Alaska. Additionally, if budget cuts go through as currently proposed in the Senate, staff associated with this process (Regional Resource Development Biologists) may no longer exist. Under this situation, the fiscal note would increase to cover the cost of a Fisheries Biologist III, at a cost for salary and travel of \$85,000 to reflect the need to hire new staff to administer oversight of dive associations.

This fiscal note does not cover costs associated with enforcement issues that are the purview of the Department of Public Safety.

This fiscal note does not cover costs associated with the Department of Revenue

All expenditures in FY99 through FY03 are anticipated to be recovered by Program Receipts generated by a dive fishery association assessment.

# FISCAL NOTE

No. 1  
 Bill Version: HB 198  
 (H) Publish Date: 4/10/97

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: An Act relating to regional dive fishery development associations and to dive fishery management assessments BRU: Commercial Fisheries (Limited) Entry Commission  
 Sponsor: Williams Component: Limited Entry Program Administration  
 Requester: House Special Committee on Fisheries COMPONENT SERIAL NO. 0471

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

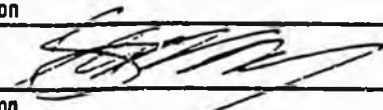
POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared By: Roger Kolden Phone: 789-6160  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/7/98

Approved by Commissioner: Bruce Twomley   
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/7/98

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0-LS0415C  
Utermohle  
4/21/97

ADOPTED N/6 4/21/97

**CS FOR HOUSE BILL NO. 198( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES WILLIAMS, Hudson, Kookesh, Grussendorf, Elton**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to regional dive fishery development associations and to dive  
2 fishery management assessments; and providing for an effective date."

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

4 \* Section 1. AS 16.40 is amended by adding a new section to read:

5 **Article 4. Development of Dive Fisheries.**

6 **Sec. 16.40.240. Regional dive fishery development associations.** (a) The  
7 commissioner shall assist in and encourage the formation of qualified regional dive  
8 fishery development associations for the purpose of developing dive fisheries in  
9 administrative areas of the state in which dive fisheries exist. A regional dive fishery  
10 development association is qualified if the commissioner determines that the regional  
11 association

- 12 (1) is incorporated as a nonprofit corporation under AS 10.20;  
13 (2) represents commercial fishermen who participate in each dive  
14 fishery in the region; and

- 1 (3) possesses a board of directors that  
2 (A) is representative of commercial dive fishermen who fish in  
3 each of the significant commercial dive fishing areas in the administrative area;  
4 (B) has a member who is representative of fish processors who  
5 process dive fishery resources in the administrative area; and  
6 (C) has a member who is representative of municipalities in the  
7 administrative area.

8 (b) In this section, "administrative area" has the meaning given in  
9 AS 43.76.210.

10 \* Sec. 2. AS 43.76 is amended by adding new sections to read:

11 **Article 3. Dive Fishery Management Assessment.**

12 **Sec. 43.76.150. Dive fishery management assessment.** (a) A dive fishery  
13 management assessment on fishery resources taken by dive gear shall be levied on the  
14 value of the fishery resource taken in dive gear fishery. The species of fishery  
15 resources subject to the assessment and the rate of the assessment, as determined under  
16 (b) - (e) of this section, shall be determined by an election under AS 43.76.160.

17 (b) A person holding a limited entry permit for dive gear or an interim-use  
18 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
19 assessment of one percent on a species of fishery resources that is subject to the  
20 assessment as determined by an election under AS 43.76.160, that is taken by dive  
21 gear, and that the person removes from the state or transfers to a buyer in the state.

22 (c) A person holding a limited entry permit for dive gear or an interim-use  
23 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
24 assessment of three percent on a species of fishery resources that is subject to the  
25 assessment as determined by an election under AS 43.76.160, that is taken by dive  
26 gear, and that the person removes from the state or transfers to a buyer in the state.

27 (d) A person holding a limited entry permit for dive gear or an interim-use  
28 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
29 assessment of five percent on a species of fishery resources that is subject to the  
30 assessment as determined by an election under AS 43.76.160, that is taken by dive  
31 gear, and that the person removes from the state or transfers to a buyer in the state.

1 (e) A person holding a limited entry permit for dive gear or an interim-use  
2 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
3 assessment of seven percent on a species of fishery resources that is subject to the  
4 assessment as determined by an election under AS 43.76.160, that is taken by dive  
5 gear, and that the person removes from the state or transfers to a buyer in the state.

6 (f) A dive fishery management assessment may only be levied or collected on  
7 a fishery resource in an administrative area if

8 (1) there exists in that administrative area an association determined by  
9 the commissioner of fish and game to be a qualified regional dive fishery development  
10 association under AS 16.40.240; and

11 (2) the species of fishery resource subject to the dive fishery  
12 management assessment and the rate of the dive fishery management assessment, as  
13 provided under (b) - (e) of this section, is approved by an election under  
14 AS 43.76.160.

15 **Sec. 43.76.160. Election to approve, amend, or terminate dive fishery**  
16 **management assessment.** (a) A qualified regional dive fishery development  
17 association may conduct an election under this section after the commissioner of fish  
18 and game approves

19 (1) the notice to be published by the qualified regional dive fishery  
20 development association; the notice must describe the species of fishery resources  
21 subject to the dive fishery management assessment and the rate of the dive fishery  
22 management assessment to be approved, amended, or terminated at the election;

23 (2) the ballot to be used in the election; and

24 (3) the registration and voting procedure for the approval, amendment,  
25 or termination of the dive fishery management assessment.

26 (b) The dive fishery management assessment is levied under AS 43.76.150(b),  
27 (c), (d), or (e) in an administrative area on the effective date stated on the ballot if

28 (1) the assessment is approved by a majority vote of the eligible  
29 interim-use permit and entry permit holders voting in an election held in the  
30 administrative area under this section; and

31 (2) the election results are certified by the commissioner of fish and

1 game.

2 (c) In conducting an election under this section, a qualified regional dive  
3 fishery development association shall adopt the following procedures:

4 (1) the qualified regional dive fishery development association in the  
5 administrative area shall hold at least one public meeting not less than 30 days before  
6 the date on which ballots must be postmarked to be counted in the election to explain,  
7 as appropriate, the reason for approval or amendment of the proposed dive fishery  
8 management assessment, the reason for the proposed rate of the dive fishery  
9 management assessment, or the reason for termination of the dive fishery management  
10 assessment and to explain the registration and voting procedure to be used in the  
11 election; the qualified regional dive fishery development association shall provide  
12 notice of the meeting by

13 (A) mailing the notice to each eligible interim-use permit and  
14 entry permit holder;

15 (B) posting the notice in at least three public places in the  
16 administrative area; and

17 (C) publishing the notice in at least one newspaper of general  
18 circulation in the administrative area at least once a week for two consecutive  
19 weeks before the meeting;

20 (2) the qualified regional dive fishery development association shall  
21 mail two ballots to each eligible interim-use permit and entry permit holder; the first  
22 ballot shall be mailed not more than 45 days before the date ballots must be  
23 postmarked to be counted in the election; the second ballot shall be mailed not less  
24 than 15 days before the date ballots must be postmarked to be counted in the election;  
25 the qualified regional dive fishery development association shall adopt procedures to  
26 ensure that only one ballot from each eligible interim-use permit and entry permit  
27 holder is counted in the election;

28 (3) the ballot must

29 (A) indicate the species of fishery resources subject to the dive  
30 fishery management assessment;

31 (B) indicate whether the election relates to a dive fishery

1 management assessment under AS 43.76.150(b), (c), (d), or (e);

2 (C) ask the question whether the dive fishery management  
3 assessment on the fishery resources addressed on the ballot shall be approved,  
4 amended, or terminated, as appropriate;

5 (D) indicate the boundaries of the administrative area in which  
6 the dive fishery management assessment will be levied or terminated;

7 (E) provide an effective date for the approval, amendment, or  
8 termination of the dive fishery management assessment; and

9 (F) indicate the date on which returned ballots must be  
10 postmarked in order to be counted;

11 (4) the ballots shall be returned by mail and shall be counted by an  
12 auditor selected by the qualified regional dive fishery development association and  
13 approved by the commissioner of fish and game; the qualified regional dive fishery  
14 development association shall pay the costs of counting the ballots.

15 (d) The commissioner of fish and game shall certify the results of an election  
16 under this section if the commissioner determines that the requirements of (a) and (c)  
17 of this section have been satisfied.

18 (e) A qualified regional dive fishery development association may employ or  
19 contract with another person to administer an election under this section subject to the  
20 supervision of the association.

21 (f) Except as otherwise provided under AS 43.76.170 and 43.76.180, an  
22 election to amend the rate of a dive fishery management assessment or to terminate  
23 a dive fishery management assessment shall be conducted under the same procedures  
24 established under (a), (c), and (d) of this section for an election to approve a dive  
25 fishery management assessment.

26 (g) In this section, "eligible interim-use permit and entry permit holder" means  
27 an individual who, 90 days before the date ballots must be postmarked to be counted  
28 in an election under this section, is listed in the records of the Alaska Commercial  
29 Fisheries Entry Commission as the legal holder of an interim-use permit for dive gear  
30 or an entry permit for dive gear that authorizes the individual to fish commercially in  
31 the administrative area for the species of fishery resource for which the dive fishery

1 management assessment is to be approved, amended, or terminated.

2 **Sec. 43.76.170. Amendment of dive fishery management assessment.** (a)

3 The rate of the dive fishery management assessment levied on a species of fishery  
4 resources under AS 43.76.150(b), (c), (d), or (e) may be amended by the commissioner  
5 of revenue upon majority vote at an election held under AS 43.76.160 in the  
6 administrative area in which the dive fishery management assessment is levied.

7 (b) The commissioner of revenue shall amend the rate of a dive fishery  
8 management assessment under (a) of this section following an election in an  
9 administrative area if

10 (1) a petition, that is signed by at least 25 percent of the number of  
11 persons who voted under AS 43.76.160 in the most recent election approving or  
12 amending the dive fishery management assessment on the species of fishery resources  
13 in the administrative area that are the subject of the petition, is presented to the  
14 commissioner of fish and game requesting amendment of the rate of the dive fishery  
15 management assessment on a species of fishery resources; the petition must state  
16 whether the proposed rate of the dive fishery management assessment is to be levied  
17 under AS 43.76.150(b), (c), (d), or (e); only a person who would be eligible to vote  
18 in an election to amend the rate of the assessment may validly sign the petition;

19 (2) an election is held in accordance with AS 43.76.160; the ballot must  
20 ask the question whether the dive fishery management assessment on a species of  
21 fishery resources taken in the administrative area shall be amended and must state  
22 whether the dive fishery management assessment on the species of fishery resources  
23 is to be levied under AS 43.76.150(b), (c), (d), or (e) if the assessment is amended; the  
24 ballot must be worded so that a "yes" vote is for amendment of the dive fishery  
25 management assessment and a "no" vote is for continuation of the current dive fishery  
26 management assessment;

27 (3) a majority of the eligible interim-use permit and entry permit  
28 holders who vote in the election cast a ballot for the amendment of the dive fishery  
29 management assessment; in this paragraph, "eligible interim-use permit and entry  
30 permit holders" has the meaning given in AS 43.76.160; and

31 (4) the qualified regional dive fishery development association provides

1 notice of the election in accordance with AS 43.76.160 within two months after  
2 receiving notice from the commissioner of fish and game that a valid petition under  
3 (1) of this subsection has been received.

4 **Sec. 43.76.180. Termination of dive fishery management assessment.** (a)  
5 The dive fishery management assessment levied on a species of fishery resources under  
6 AS 43.76.150(b), (c), (d), or (e) shall be terminated by the commissioner of revenue  
7 upon majority vote at an election held under AS 43.76.160 in the administrative area  
8 in which the dive fishery management assessment is levied.

9 (b) The commissioner of revenue shall terminate a dive fishery management  
10 assessment under (a) of this section following an election in an administrative area if

11 (1) a petition, that is signed by at least 25 percent of the number of  
12 persons who voted under AS 43.76.160 in the most recent election approving or  
13 amending the dive fishery management assessment on the species of fishery resources  
14 in the administrative area that are the subject of the petition, is presented to the  
15 commissioner of fish and game requesting termination of the dive fishery management  
16 assessment on a species of fishery resources; only a person who would be eligible to  
17 vote in an election to repeal the assessment may validly sign the petition;

18 (2) an election is held in accordance with AS 43.76.160; the ballot must  
19 ask the question whether the dive fishery management assessment on a species of  
20 fishery resources taken in the administrative area shall be terminated; the ballot must  
21 be worded so that a "yes" vote is for continuation of the dive fishery management  
22 assessment and a "no" vote is for termination of the dive fishery management  
23 assessment;

24 (3) a majority of the eligible interim-use permit and entry permit  
25 holders who vote in the election cast a ballot for the termination of the dive fishery  
26 management assessment; in this paragraph, "eligible interim-use permit and entry  
27 permit holders" has the meaning given in AS 43.76.160; and

28 (4) the qualified regional dive fishery development association provides  
29 notice of the election in accordance with AS 43.76.160 within two months after  
30 receiving notice from the commissioner of fish and game that a valid petition under  
31 (1) of this subsection has been received.

1           **Sec. 43.76.190. Collection of assessment.** (a) A buyer who acquires a fishery  
2 resource that is subject to a dive fishery management assessment levied under  
3 AS 43.76.150(b), (c), (d), or (e) shall collect the dive fishery management assessment  
4 at the time of purchase and shall remit the total dive fishery management assessment  
5 collected during each calendar quarter to the Department of Revenue by the last day  
6 of the month following the end of the calendar quarter. In this subsection, "calendar  
7 quarter" means each of the three-month periods ending March 31, June 30, September  
8 30, and December 31.

9           (b) A buyer who collects the dive fishery management assessment shall  
10 maintain records of the value of each species of fishery resources that is subject to an  
11 assessment that is purchased in each administrative area of the state.

12           (c) The owner of fishery resources removed from the state is liable for  
13 payment of the dive fishery management assessment levied under AS 43.76.150(b), (c),  
14 (d), or (e) if, at the time the fishery resource is removed from the state, the assessment  
15 payable on the fishery resource has not been collected by a buyer. If the owner of the  
16 fishery resource is liable for payment of the dive fishery management assessment under  
17 this subsection, the owner shall comply with the requirements under (a) and (b) of this  
18 section to remit the assessment to the Department of Revenue and to maintain records.

19           (d) The dive fishery management assessment collected under this section shall  
20 be deposited in the general fund.

21           **Sec. 43.76.200. Funding for qualified regional dive fishery development**  
22 **associations.** (a) The legislature may make appropriations of revenue collected under  
23 AS 43.76.190 to the Department of Fish and Game for funding of the qualified  
24 regional dive fishery development association in the administrative area in which the  
25 assessment was collected. Funds received under this section by a qualified regional  
26 dive fishery development association may be expended in accordance with the annual  
27 operating plan developed under (b) of this section.

28           (b) The Department of Fish and Game shall develop an annual operating plan  
29 with the cooperation of the regional dive fishery development association on or before  
30 a date specified by the Department of Fish and Game. The qualified regional dive  
31 fishery development association shall cooperate with the Department of Fish and Game

1 in the development of the annual operating plan. The annual operating plan must  
2 describe the activities for which the funding will be expended, including identification  
3 of species and areas for which bioassessment surveys will be conducted, a description  
4 of management and research activities to be performed, planning for dive fisheries, and  
5 administrative activities of the association. Funds appropriated to the Department of  
6 Fish and Game for funding of qualified regional dive fishery development associations  
7 may not be disbursed by the department or expended by the association, except for  
8 administration of the association, unless the annual operating plan has been approved  
9 by the association and the Department of Fish and Game. If an annual operating plan  
10 has not been approved by the association and the Department of Fish and Game, the  
11 Department of Fish and Game may not disburse and the association may not expend  
12 funds received from the department for administration of the association in an amount  
13 that exceeds the amount of administrative expenses authorized under the annual  
14 operating plan for the prior fiscal year.

15 (c) A qualified regional dive fishery development association receiving funding  
16 under this section shall submit an annual financial report to the Department of Fish and  
17 Game on a form provided by the Department of Fish and Game. The Department of  
18 Fish and Game may, by regulation, require that a qualified regional dive fishery  
19 development association use a uniform system of accounting and may audit the use of  
20 funding received under this section by the association.

21 (d) This section does not establish a dedication of a state tax or license.

22 (e) This section does not restrict or qualify the authority of the Department of  
23 Fish and Game or the Board of Fisheries under AS 16.

24 **Sec. 43.76.210. Definitions.** In AS 43.76.150 - 43.76.210,

25 (1) "administrative area" means an area established by the Alaska  
26 Commercial Fisheries Entry Commission under AS 16.43.200 for regulating and  
27 controlling entry into fisheries using dive gear;

28 (2) "buyer" means a person who acquires possession of a fishery  
29 resource from the person who caught the fishery resource, regardless of whether there  
30 is an actual sale of the fishery resource, but does not include a person engaged solely  
31 in interstate transportation of goods for hire;

1 (3) "fishery resource" means fish, shellfish, or marine invertebrates  
2 taken or landed under the authority of a limited entry permit or interim-use permit  
3 issued under AS 16.43 for dive gear;

4 (4) "qualified regional dive fishery development association" means an  
5 association that is qualified under AS 16.40.240;

6 (5) "value" has the meaning given in AS 43.75.290.

7 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature

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Representative William K. Williams

## SPONSOR STATEMENT

### HOUSE BILL 198

"An Act relating to regional dive fishery development associations and to dive fishery management assessments; and providing for an effective date."

Southeast Alaska dive fishermen have been attempting for the past decade to establish orderly, consistent and stable fisheries capable of providing dependable economic opportunity for themselves, their families and the communities of southeast. The urgency to create an economically viable fishery is highlighted by the recent closure of the region's largest employer and other related negative economic effects on the economy of southeast Alaska.

Substantial untapped dive fishery resources have been identified through diver and ADF&G underwater activities for over a decade. Many of the southeast communities have placed the development of the dive fishery as a priority item in economic development documents and locally developed legislative budget priorities. The dive fishery resources appear to be abundant and diverse throughout the region. The small sea cucumber and geoduck fisheries in southeast have a combined annual ex-vessel value of \$2.0-2.5 million dollars. In California, the urchin fishery has ranged in ex-vessel value from \$16 to \$39 million dollars from 1990-1996. Geoducks range in price from \$6/lb. live to \$3.50/lb. processed. Alaskan waters contain abundant amounts of these fishery resources plus many others not currently harvested. This legislation will encourage the identification and development of these resources. The potential for future jobs for harvesters, processors and support industries is considerable.

The commitment to work together is evidenced in the red sea urchin fishery. In 1996, the Alaska Department of Fish & Game (ADF&G), after a test fishery, was unable to open the red sea urchin fishery because of lack of funding. Based on positive results in the test fishery and a vision to diversify and develop their local economy, the Ketchikan Gateway Borough provided funding to ADF&G to conduct bioassessment surveys needed to open the fishery. The Borough continued in its involvement by facilitating and participating in a local task force comprised of Borough personnel, divers, processors and ADF&G. The resulting plan was for processors to "forward fund" the management costs of the fishery with agreements to recoup their funding through a \$.05/lb. assessment on divers. Thus, in January 1997, a red urchin fishery opened in districts 1 through 4 in the Ketchikan and Craig areas.

Sponsor Statement  
HB 198  
Page Two

This temporary fishery opening is based on a one time source of funding that will expire June 30, 1997. In order to continue this fishery, and to develop the other dive fishery resources, a stable source of funding is necessary.

The August 1996 red urchin management plan states: "Developing a long-term program to fund the costs of stock assessment, research and management remains an outstanding issue. If sufficient funds are not provided to the department each year, the fishery will not open." This is the dilemma divers face and House Bill 198 provides a creative and progressive vehicle to move towards a solution.

House Bill 198 does not mandate but allows the creation of regional dive fishery development associations for the purpose of developing dive fisheries and creates a working relationship between the divers and ADF&G to develop annual operating plans. The legislation is permissive and once a regional association is formed, divers can hold a ballot election of all interim-use permit holders to answer two questions: 1) shall we assess ourselves, and 2) at what rate shall we assess ourselves.

If approved by election, divers would be assessed, the state would collect, and the legislature may appropriate the assessment back to ADF&G. The appropriation will be based on the mutually developed annual operating budget and plan. ADF&G would then fund the specific purposes outlined in the legislation for the regional dive fishery development association and ADF&G.

All the appropriate checks and balances are in place and all parties are held accountable. In addition, all other fisheries business taxes are collected and deposited into the general fund.

House Bill 198 is a positive step forward by the private sector to support economic development and diversification without seeking a general fund appropriation. Time is of the essence. I would appreciate your support of this legislation for passage this session to keep the economic development for southeast moving forward.

DEPARTMENT OF REVENUE  
Income and Excise Audit Division

Dive Fishery Management Assn & Assessment  
CSHB 198(FSH)  
April 9, 1997  
Page 2 of 2

**BILL ANALYSIS**

**Section 1** authorizes the formation of qualified regional dive fishery development associations for the purpose of developing dive fisheries in the state.

**Section 2** adds new section to AS 43.76 (Salmon Enhancement and Marketing Taxes) which establishes provisions for an elective dive fishery management assessment. Qualified dive fishery development associations would be authorized to conduct an election to approve, amend or terminate a dive fishery management assessment based on a percentage of the value of the fishery resource. Terms for conducting the election are provided in this section.

Processors would collect applicable dive fishery management assessments from dive fishermen when they acquire or buy dive fishery resources. Processors would be required to file returns and remit assessment collections to Department of Revenue on a quarterly basis. Persons who export dive fisheries from the state would be required to file returns and pay assessments directly to the department on a quarterly basis. Assessment collections would be deposited in the general fund. The legislature may appropriate assessment revenue to the Department of Fish and Game for funding the qualified regional dive fishery association in the area in which the assessments were collected.

**Section 3** provides for an immediate effective date.

**OPERATING EXPENDITURES**

Department of Revenue estimates that less than 40 dive fishery assessment returns would be filed each year. The department could handle collection of the fishery management assessments and processing returns with current resources.

**REVENUE**

It is not feasible to estimate revenue under this bill because the dive fishery assessment is contingent on (1) formation of a qualified dive fishery development association and (2) approval of an assessment and rate by a majority vote of association members. According to Department of Fish and Game, the total estimated value of dive fishery resources for calendar year 1997 will be between \$3.5 and \$4.0 million. Collections would likely begin in FY 1999 because of the time it would take to form associations and conduct an election for approval of an assessment.

**TO:** House Finance Committee Co-Chairs Hanley and Therriault  
and Committee Members:  
**FROM:** Linda Sliter, Partner of Dive Vessel "Linda Lou":  
Phone: 225-7199 Fax: 225-1348  
**DATE:** April 21, 1997  
**RE:** Overview and Discussion Issues of HB198

The red sea urchin fishery has been in existence now for two years and has proven to be an economic boost to many S.E. communities. At the first public hearings held on this bill before the House Fisheries and House Resource Committees (April 9 & 10) divers, dive group representatives and even a couple of mayors from the S.E. communities stated over and over again how the sea urchin fishery has created hundreds of jobs and dramatically enriched the sagging economy the closing of the pulp mills created in their towns.

We would not be here testifying today if it had not been for a company in California subcontracting to the Alaska Department of Fish & Game to jump start this fishery. Ocean Fresh Seafoods used their own money to setup and run a test fishery and marketed the urchins to pay themselves back. They did not make a huge profit and in fact barely broke even. Fish & Game managed every facet of the operation controlling all of the bio-assessments, stock surveys, and analysis of the data. At no time were they not in total control of the test fishery. The results of the test fishery proved to be a great success. Alaska had a very viable urchin population and our urchins established a place in the Japanese market.

The following year the divers themselves began organizing to keep this fishery going. They hired a consultant who traveled to the S.E communities and convinced community governments to give money from their own budgets to fund the fishery for another year. Several interested processors also put up twenty thousand dollars

each to keep the fishery going. The processors are being reimbursed back their funding through a voluntary 15 self-assessment from the divers on the value of their catch. With the money from communities and the processors the fishery is progressing as I write this.

The House and Senate got involved this year and appropriated \$91,600 from the House Budget and \$171,000 from the Senate budget to keep the fishery going through June 30, 1998. Now it is time for the State of Alaska to do its job.

With the revised version of HB198 no longer allowing for cooperative management between Fish & Game and the divers, the divers will have no say in the management of their fishery as they were led to believe when this bill was first introduced. Now they will only be taxing themselves to pay Fish & Game to manage their fishery. With no other fishery in the state paying for the management of their fishery, this bill will set a new precedence in the fishing industry.

The funding for continuation and management of the urchin fishery should not be on the backs of the divers. No one involved in this fishery is making a financial killing. The divers are eking out a hard earned well-deserved living. Their expenses are the same as with all fisheries: dive, boat and survival equipment, crew wages, boat payments and maintenance, fuel, food, boat moorage and insurance, and federal income tax paid on their net profit if they have one. They also have the same personal expenses as any other wage earner: home mortgages, property tax, car payments, and the feeding, clothing and educating of their children.

If the Commissioner of Fish & Game was to change the status of

the urchin fishery from an emergent fishery to an established fishery it would allow for the State to collect the 3% raw fish tax paid by all the other established fisheries.

We are not asking for special treatment, only equal treatment. The fishing industry is the second largest industry and the largest employer in Alaska. The Governor and this legislature is working hard towards increasing jobs for Alaskans and here they in the waters of S.E. Alaska. For every one of the 537 permitted divers, 5 more jobs are created and that translates to over 3,100 jobs. If any other industry came into Southeast Alaska offering 3,100 jobs there would be cause for celebration.

ADF&G is mandated by the State constitution to provide control and oversight over all fisheries and to manage them under the principles of sustained yield. Please give them the necessary State funding to do their jobs.

To a budget of billions of dollars, the 3-4 hundred thousand dollars it would take to fund the urchin fishery is small in comparison to the economic benefit it would provide to the S.E. Alaskan economy. This fishery has the ability to become one of the highest revenue generating fisheries in the state and not funding it would be economically foolish.

At this point I would like to do a little dissecting of HB198 for discussion purposes. First of all the bill allows for the development of a dive fishery association for the purpose of developing the dive fisheries. Since we already have an established cucumber and geoduck fishery, then we must assume that it is the emergent red sea urchin fishery and any other undeveloped diver-related fishery that this association would target.

The second part of this bill allows for a fishery management tax imposed on the divers to pay Fish & Game to manage their fisheries. Once again, we have to assume that we are talking about the urchin and undeveloped dive fisheries. Unless, of course, the plan is also to displace or delete the line-item funding already established for cucumbers and geoducks. I am unclear on this part of the HB198. In fact I am unclear on the exact mission of this association and I have not seen a proposed budget outlining the distribution of the collected funds. How much will go to run the proposed association? How much will be dedicated to the urchin fishery? How much will be dedicated to developing new fisheries? And just what specific dive fisheries are we talking about?

The formation of this proposed association would require start-up and annual operating costs. These costs would include office rent and equipment to run an office (copying machine, phone system, fax machine, computer, etc.). The association would require a budget for an executive director, a secretary and who knows how many other employees. It would need a hefty budget for travel and at least \$50,000 for a lobbyist to watch-dog the ADF&G budget process every year to make sure that the money collected from the self-imposed tax on the divers will actually go to the dive fisheries. If it does at all since it is prohibited by the state constitution for any funds deposited into the General Fund to be designated for any specific purpose.

For discussion only, lets assume that HB198 is passed and the proposed dive association is formed and an election determining the amount of the assessment is held. It will take at least two years before any of the tax proceeds find there way into the Fish & Game budget. Who will foot the operational expenses of this proposed association in the interim? It has been rumored that this proposed association will be going after the Disaster Fund monies given to the various S.E communities by the federal

government. Convincing these communities to fund an association who's goals are extremely unclear will be a battle all of it's own. I do not believe that it is the job of the communities to fund fishery programs that are now and always will be managed by the State of Alaska Department of Fish & Game. Nor do I believe it is the job of the communities to fund an expensive layer of bureaucracy between the divers and ADF&G which it appears this association will be.

The State of Alaska has the Department of Fish & Game to manage the fisheries and the Department of Natural Resources to research and develop the state's natural resources. I've never seen their mission statements or job descriptions, but based on their titles alone I am led to believe that their main objective is to manage fisheries and renewable resources.

The bare bones of HB198 from my judgement is to provide funding for the dive fisheries. Not all fisheries, just the dive fisheries. This is a precedent setting bill as no other fishery in the State pays for the management of it's fishery through a self-imposed tax.

Divers, their group representatives, processors and mayors have given previous testimony on how the sea urchin fishery has created hundreds of jobs and has dramatically boosted the economy of several S.E communities. The funding for creating this economic boost should come from the state of Alaska, not from taxes imposed on the divers. Many communities and citizens will benefit from these jobs, so why should it be the divers who pay for them?

The great State of Alaska was granted statehood in 1959 based on the condition that it would develop it's abundant natural resources and subsequently support not only itself, but contribute to the economy of the Union of States.

I urge this committee to do the right and equitable thing by mandating State funding for the urchin fishery, and keeping the established State funding in place for the cucumber and geoduck fisheries. I would also urge this committee to redirect the Department of Natural Resources and ADF&G to place concentrated effort into the development of every untapped renewable resource in the State.

Thank you for your time and consideration. I apologize for any redundancy in this testimony.

# Alaska State Legislature

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Representative William K. Williams

## SECTIONAL ANALYSIS

### House Bill 198

**“An Act relating to regional dive fishery development associations and to a dive fishery management assessment; and providing for an effective date.”**

#### Section 1

##### **Sec.16.40.240. Regional dive fishery development associations.**

- Allows the creation of regional dive fishery development associations for the purpose of developing dive fisheries.
- Association becomes qualified if the commissioner of Fish & Game makes the following determinations:
  1. it is incorporated as a nonprofit corporation;
  2. represents commercial divers in the region; and
  3. the board has representation from each of the significant commercial dive areas in the region. The board shall include one representative from processors of the region and one representative from the municipalities of the region.

#### Section 2

##### **Sec.43.76.150. Dive fishery management assessment.**

- Allows the divers to first form an association which then holds an election to determine if they want to assess themselves and at what rate they will assess themselves.
- If the association forms, determines to assess themselves at a certain rate, then this portion of the bill provides for the collection of this assessment by the Department of Revenue.

##### **Sec. 43.76.160. Election to approve, amend, or terminate dive fishery management assessment.**

- This section mirrors other language currently in statute. It outlines the time line, what must appear on the ballot. The commissioner of Fish & Game certifies the results of the election.
- This section also provides the same procedure for amending or terminating an assessment by the regional dive association.

**Sec. 43.76.170. Amendment of dive fishery management assessment.**

- Allows the Department of Revenue to amend a dive fishery management assessment if:
  1. 25% of the number of persons who voted in the original election present a petition to the commissioner of Fish & Game;
  2. an election is held asking the question to amend;
  3. a majority votes to amend; and
  4. the regional association provides proper notice.

**Sec. 43.76.180. Termination of dive fishery management assessment.**

- Allows the Department of Revenue to terminate a dive fishery management assessment if:
  1. 25% of the number of persons who voted in the original election present a petition to the commissioner of Fish & Game;
  2. an election is held asking the question to terminate;
  3. a majority votes to terminate; and
  4. the regional association provides proper notice.

**Sec. 43.76.190. Collection of assessment.** (Follows current method in statute.)

- Requires assessment to be collected at point of sale.
- Requires quarterly remittal to Department of Revenue.
- Requires the maintenance of buyer records.
- Requires the "owner" of the fishery resources to remit the assessment and maintain records if they remove the fishery resource from the state.
- Assessment deposited into general fund.

**Sec. 43.76.200. Funding for qualified regional dive fishery development associations.**

- Provides for appropriation of revenue to ADF&G for funding of qualified regional dive fishery development associations.
- The assessment collected in a particular administrative area will be returned to that administrative area.
- Funds may be expended by regional association for the annual operating plan developed under (b) of the section.

- Requires associations receiving funding to:
  1. cooperate with the ADF&G to develop an annual operating plan;
  2. plan must describe activities for which funds will be spent including:
    - a. identification of species and areas for bioassessment surveys;
    - b. description of management and research activities, planning for dive fisheries, and administrative activities of the association.
- Funds appropriated to ADF&G for the regional association cannot be spent by either the association or ADF&G (except for administration costs of the association) unless both parties have approved the annual operating plan.
- Requires an annual financial report to be submitted by the association to ADF&G.

**Sec. 43.76.210. Definitions.**

Provides definitions for the legislation.

Section 3

The bill will become effective upon passage.

## MEMORANDUM

State of Alaska  
Department of Law

TO: Doug Woodby, Marine Fisheries      DATE: March 27, 1997  
    Research Supervisor  
    Division of Commercial Fisheries      FILE NO.  
    Management and Development  
    Department of Fish & Game      TELEPHONE NO: 465-3600

FROM: *Stephen M. White*  
    Stephen M. White      SUBJECT: Management of Red Sea  
    Assistant Attorney General      Utchan Fishery  
    Natural Resources Section  
    Department of Law

You have asked questions about the Department's management of the red sea urchin fishery in southeast Alaska.

The red sea urchin fishery is governed by a management plan adopted by the Board of Fisheries. 5 AAC 39.145. The plan provides for daily opening and closing times for harvesting sea urchins, and the hours are different for winter than for summer. 5 AAC 39.145(d).

The actual days that the fishery will be open each week are established by emergency orders issued by the Department under Alaska Statute 16.05 050. The Board has directed the Department "to the extent practicable, (to) attempt to manage the fishery so that approximately 25 percent of the guideline harvest level is taken within 30 days of each emergency opening unless the commissioner determines that this will adversely impact conservation, law enforcement, waste reduction, or development of the fishery." 5 AAC 39.145(r).

Currently, the Department opens sea urchin fishing for Sunday through Wednesday of each week. That schedule allows both weekend and weekday harvests. It gives the Department enough time to monitor the harvest rate through fish tickets so that the 25 percent goal will be achieved. Thus, the Department's present schedule serves both development (i.e., making the fishery resource available for maximum use) and conservation (ensuring that the guideline harvest level is not exceeded).

Other Board regulations govern the transport of red sea urchins. For example, before a person may receive a permit allowing him or her to transport unprocessed urchins from Statistical Area A, the Department must sample and inspect the urchins. A person may request urchin sampling and inspection only by contacting the Department's Ketchikan office during normal working hours on weekdays. 5 AAC 39.130(n).

Apparently, a significant amount of red sea urchins are being sold to foreign or out-of-state processors, and this harms local processors in southeast Alaska. It would be advantageous to

Doug Woodby, Marine Fisheries  
Research Supervisor  
Re: Management of the Red Sea Urchin Fishery

March 27, 1997  
Page 2

the local processors if the Department were to schedule weekly openings so that it will be more difficult or impossible for urchins to be sold to their competitors. For example, the schedule could be modified to include both Saturday and Sunday, days when the Department cannot receive requests for sampling and inspection before transport. You have asked whether the Department may legally take such action.

Two legal problems would be raised if the Department were to schedule openings for the sole purpose of benefiting local processors and hindering foreign or out-of-state processors. First, we believe that the Department's ability to issue emergency orders is limited by any parameters and purposes that have been adopted by the Board. That is, the Department may "open and close seasons or areas" or "change weekly closed periods," AS 16.05.060, in ways that are consistent with adopted Board regulations and management plans that apply to that fishery. The following purposes governing Department action can be derived from the red sea urchin management plan: "law enforcement," "management," "conservation," "waste reduction," and "development of the fishery." 5 AAC 38.145(e), (f), (l), (p), and (r).

Missing from the above list is any Board expression that the Department may manage to benefit any type of processors or group of processors. Since any Department action to serve that purpose would be outside of the Board's directions for the red sea urchin fishery, we believe that it would be legally vulnerable.

Even if the Board expressed such a purpose, we would recommend that the Department not take action to accomplish it. The legislature gave the Board power to regulate fishing only for conservation, development, and utilization of fishery resources. AS 16.05.251(a)(12). Allocating fishery resources among processors is neither expressed nor implied in those powers.

Finally, there is a more fundamental reason that the Department should not act to discriminate against out-of-state processors. Under the "negative" Commerce Clause of the United States Constitution, U.S. Const. art. I, sec. 8, cl. 3, a state may not take an action that discriminates against interstate commerce unless the action serves a legitimate local purpose that cannot be achieved in any other way. *Hughee v. Oklahoma*, 441 U.S. 322, 336, (1979).

An example of a state's action that violated the Commerce Clause is Oklahoma's prohibition against the transport of live fish outside of the state. Oklahoma failed to identify a legitimate interest, like conservation, that could not be achieved without discriminating against interstate commerce. *Id.* at 338. Closer to

Doug Woodby, Marine Fisheries  
Research Supervisor  
Re: Management of the Red Sea Urchin Fishery

March 27, 1997  
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home, the U.S. Supreme Court, under the Commerce Clause, struck down a Department of Natural Resources requirement that logs be partially processed within Alaska before they could be exported. *Southcentral Timber Dev. v. Wunnicke*, 467 U.S. 82 (1984).

We believe any action by the Department that hinders the movement of red sea urchins into interstate commerce and does not serve a legitimate state purpose, like conservation, development, or utilization of the resource, would likely be held unconstitutional. For this reason and those mentioned above, we recommend that the Department not take such an action.

EMW:lmc

11/01/97 10:53 AM

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In certain circumstances, the Department may schedule its fishery openings and closings according to the availability of processors. "Utilization of fisheries," AS 16.05.251(12), can be interpreted to mean that if processing is not available at a certain time, commercially-harvested fish cannot be utilized if openings are scheduled then. However, the availability of processing is not the issue here. There appears to be sufficient processors to handle the red sea urchin harvest. The issue is whether some of those processors may be legitimately preferred over others.

# LEGAL SERVICES

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## MEMORANDUM

March 31, 1997

**SUBJECT:** Ban on export of dive fishery resources (HB 198)

**TO:** Representative Bill Williams  
Attn: Kyle Johansen

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the state may ban the export of dive fishery resources. This memorandum is in response to your question.

Presumably your question relates to a ban on export of dive fishery resources after they have been harvested in a commercial fishery.<sup>1</sup> Dive fishery resources, such as sea urchin, geoducks, etc, taken in a commercial fishery are items of commerce because they are intended for sale. A regulation that directly or indirectly affects the movement of an item of commerce may violate the commerce clause of the United State Constitution.

The commerce clause of the federal constitution grants Congress the power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Article I, sec. 8, cl. 3, Constitution of the United States. "Although the Clause speaks in terms of powers bestowed upon Congress, the [U.S. Supreme Court] long has recognized that it also limits the power of the States to erect barriers against interstate trade." Lewis v. BT Investment Managers, Inc., 447 U.S. 27, 35, 64 L.Ed.2d 702, 711 (1980). The limitation imposed by the commerce clause on state regulatory power is by no means absolute, and the states retain authority under their general police powers to regulate matters of legitimate local concern, even though interstate commerce may be affected. Maine v. Taylor, 477 U.S. 131, 138, 91 L.Ed.2d 110, 120 (1986).

"In determining whether a State has overstepped its role in regulating interstate commerce, [the U.S. Supreme Court] has distinguished between state statutes that burden interstate transactions only incidentally, and those that affirmatively discriminate against such transactions. While statutes in

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<sup>1</sup> The state could wholly foreclose the possibility of the export of dive fishery resources by closing the commercial dive fishery for legitimate conservation reasons.

Representative Bill Williams

March 31, 1997

Page 2

the first group violate the Commerce Clause only if the burden they impose on interstate trade are 'clearly excessive in relation to the putative local benefits,' Pike v. Bruce Church, Inc., [397 U.S. 137, 142, 25 L.Ed.2d 174, 178 (1970)], statutes in the second group are subject to more demanding scrutiny. The [U.S. Supreme Court] explained in Hughes v. Oklahoma, [441 U.S. 322, 336, 60 L.Ed.2d 250, 262 (1979)], that once a state law is shown to discriminate against interstate commerce 'either on its face or in practical effect,' the burden falls on the State to demonstrate both that the statute 'serves a legitimate local purpose,' and that this purpose could not be served as well by nondiscriminatory means." Maine, 477 U.S. at 138, 91 L.Ed.2d at 120-21.

Protection of in-state industries from out of state competition is almost never a legitimate local purpose. State laws that amount to economic protectionism are virtually always invalid. Philadelphia v. New Jersey, 437 U.S. 617, 624, 57 L.Ed.2d 475, 481 (1978).

A ban on the export of commercially taken dive fishery resources would discriminate against interstate commerce "on its face". The ban would be judged under the strict requirements of Hughes v. Oklahoma. To survive scrutiny under Hughes v. Oklahoma, the State of Alaska has the burden of proving both that the bill serves a legitimate local purpose and that the purpose is one that cannot be served as well by nondiscriminatory means. The state would have to provide a significant amount of factual data to show that the ban on the export of dive fishery resources is necessary and reasonable. Though a state may pursue a legitimate purpose in restricting the flow of interstate commerce, the state may not pursue such a goal by unnecessarily restrictive means. The state must adopt the means to its end that imposes the least restriction on interstate commerce. If there is a reasonable means by which the state can achieve the same end with less interference with the free flow of interstate commerce, the state must use that means.

In Hughes v. Oklahoma, the United States Supreme Court struck down an Oklahoma law that banned the export of minnows for sale outside of the state. The state argued that the ban was a necessary conservation measure to protect natural populations of minnows. However, the court observed that the state did not place any restrictions on the take of minnows for sale in the state and that the state had chosen the most discriminatory means available to conserve minnows when less discriminatory mechanisms were available. Without more information on which to justify such discriminatory action by the State of Alaska, I suspect that a ban on the export of dive fishery resources would also be struck down as violative of the commerce clause.

A ban on the export of unprocessed dive fishery resources, i.e. an in-state processing requirement, is likely to be equally unsuccessful. An in-state primary processing requirement also discriminates against interstate commerce. The State of Alaska had attempted to impose a primary processing requirement on timber taken from state land. The

Representative Bill Williams

March 31, 1997

Page 3

State's effort was an impermissible burden on interstate and international commerce. Southcentral Timber Development Inc. v. Wunnicke, 467 U.S. 82, 81 L.Ed.2d 71 (1984). The state's case for a primary processing requirement for the timber was much stronger than it would be for fishery resources. The state owned the timber that was being sold and as a market participant (not a regulator) the state has greater leeway under the commerce clause in determining the conditions under which its resources may be sold and to whom they are sold. Nonetheless, the state's primary processing requirement for state timber was inconsistent with the commerce clause. In the context of dive fishery resources, the state's legal position is even less secure because the state does not own the fishery resources<sup>2</sup> and the state is acting as a regulator and not a market participant when it imposes an in-state processing requirement. Also, primary processing requirements are generally found to be economic protectionism that foster local interests to the detriment of interstate commerce. Without substantial information to support a valid reason for favoring local processing over out of state processing, the state would not be able to require in-state processing of dive fishery resources.

If I may be of further assistance, please advise.

GU:pl  
97-078.plm

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<sup>2</sup> The legal theory of state ownership of fish and wildlife (at least for commerce clause purposes) was laid to rest by the United States Supreme Court in Hughes v. Oklahoma.

KETCHIKAN  
GATEWAY  
BOROUGH

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344 Front Street  
Ketchikan, AK 99901-6494  
907-228-6605  
(Fax) 907-247-8439

April 9, 1997

Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Legislators:

The Ketchikan Gateway Borough supports House Bill 198 sponsored by Representative Bill Williams, "An Act relating to regional dive fishery development associations and to a dive fishery management assessment."

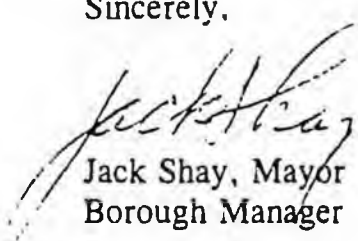
This legislation is part of a broader Dive Fisheries Economic Development Project for Southeast Alaska in which the Ketchikan Gateway Borough is participating. We have appropriated \$20,000 for Phase I of this project as part of a regional effort to develop dive fisheries.

The Ketchikan Gateway Borough has allocated substantial time and money seeking the development of the dive resources. The red sea urchin fishery now open in the Ketchikan management area is due largely to our efforts.

Southeast Alaska dive fishermen have been trying for the last decade to establish an orderly, consistent and stable fishery capable of providing dependable economic opportunity. House Bill 198 is another step in this direction.

The Ketchikan Gateway Borough appreciates your support for economic development and diversification for our region. Thank you for your consideration.

Sincerely,



Jack Shay, Mayor  
Borough Manager



# City and Borough of Sitka

Providing for Today . . . Preparing for Tomorrow  
100 LINCOLN STREET • SITKA, ALASKA 99835

747-1811

March 17, 1997

Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Honorable Legislators:

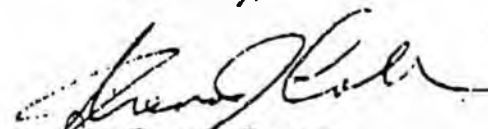
The City and Borough of Sitka supports HB 198 sponsored by Representative Bill Williams. "An Act relating to regional dive fishery development associations and to a dive fishery management assessment."

This legislation is part of a broader Dive Fisheries Economic Development Project for Southeast Alaska in which the City & Borough of Sitka is actively participating. We have allocated \$20,000 for Phase I of this project as part of a regional effort to develop dive fisheries.

Southeast Alaska dive fishermen have been trying for the past decade to establish an orderly, consistent, and stable fishery capable of providing dependable economic opportunity. The urgency to create an economically viable fishery in Southeast is highlighted by the recent reduction in timber harvest and the closure of several forest products manufacturing plants in the region.

The City & Borough of Sitka appreciates your support for economic development and diversification for our region. Thank you for your consideration.

Sincerely,



Gary L. Paxton  
Municipal Administrator

♦♦♦END♦♦♦



ADOPTED AUGUST 1913  
March 17, 1997

# CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1893

PO BOX 621, 99680 (907) 874-2901  
FAX: (907) 874-3952

Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1162

Dear Legislators:

The City of Wrangell supports House Bill 188, sponsored by Representative Bill Williams, "An Act relating to regional dive fishery development associations and to a dive fishery management assessment."

This legislation is part of a broader Dive Fisheries Economic Development Project for Southeast Alaska in which the City of Wrangell is actively participating. We have allocated \$20,000 for Phase I of this project as part of a regional effort to develop dive fisheries.

Southeast Alaska dive fishermen have been trying for the past decade to establish an orderly, consistent and stable fishery capable of providing dependable economic opportunity. The urgency to create an economically viable fishery in Southeast is heightened by the recent reduction in timber harvest and the closure of several forest products manufacturing plants in the region. In fact, in Wrangell we have at least eight displaced timber workers who are now participating in the dive fishery.

The City of Wrangell appreciates your support for economic development and diversification for our region. Thank you for your consideration.

Sincerely,

*Douglas W. Roberts*  
Douglas W. Roberts  
Mayor

DWR:fv



April 7, 1997

Representative Austerman  
Alaska State Legislature  
State Capitol Juneau, Alaska  
99801-1182

Subject: House Bill 198, Regional Dive Fishery Development Associations

Dear Rep. Austerman:

The City of Craig supports House Bill 198 sponsored by Reps. Williams, Grussendorf, Kookesh, Judson and Elton. This bill is entitled "An Act relating to regional dive fishery development associations and to dive fishery management assessments;..."

The city has supported this legislation as part of a broader project called the Dive Fisheries Economic Development Project to which the City of Craig has appropriated \$20,000 of our scarce city resources in support of phase I of this project.

The reason that our city has committed time and money to this project is that the dive fishery is an extremely important part of our community economic activity. The dive fishery produced over 270 jobs in our community just this past year in the following developing fisheries: sea cucumbers, sea urchins and geoducks. These fisheries have a very bright future along with other developing dive fisheries and, with proper resource management, we look to this fishery for many more jobs on a sustainable basis.

As you will note from the bill, management of the fishery pays for itself with an assessment from participating permit holders. Eligible divers vote on the amount that is assessed and placed into the general fund monthly. The legislature may then appropriate an amount to be determined by the legislature based on the amount of assessment received into the general fund. We wish that more programs were self-funding as is this one.

The City of Craig appreciates your consideration of this bill and points out that a vote for this bill is a vote for regional economic development and diversification. Please incorporate this letter into the bill-file for hearings on April 10th & 11th

Sincerely,

A handwritten signature in cursive script that reads "Dennis Watson".

Dennis Watson, Mayor  
City of Craig



United States  
Department of  
Agriculture

Rural Development

210 Seward Street, Suite 101  
Sitka, Alaska 99835  
Phone: (907) 747-5492  
Fax: (907) 747-4965  
FTS: A07AK60019

E-Mail: kperkins@rdasun2.rurdev.usda.gov

*"Partners in helping the people of rural America develop sustainable communities."*

April 11, 1997

Representative Bill Williams, Saxman ✓  
Representative Ben Grussendorf, Sitka  
Representative Al Kookesh, Angoon  
Representative Bill Hudson, Juneau  
Representative Kim Elton, Juneau

RE: HB 198 Dive Fishery Management Association and Assessment

Dear Representatives:

I am writing with regard to this important development on the SE Alaska efforts for a regional dive fishery and your related efforts to enact legislation (HB 198) to assist this development. As I understand it, HB 198 provides for the formation of regional dive associations for the purpose of development and cooperative management of dive fisheries. The associations would be financed by an assessment on the dive catch if it is approved in an election of permit holders.

With this concept in mind, it is a very intriguing one that would be a very welcome development for SE Alaska. We all know that the region is suffering from the downturn in the economy with a dramatic decline in the timber industry as well as the current volatile nature of the fishing economy. Natural Resource extraction is the economy of this region. With a sound development and management plan, I firmly believe that this emerging industry may be able to contribute to the stabilization of the SE Alaska region's economy.

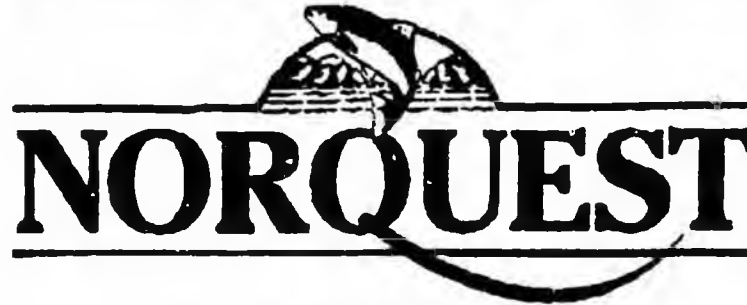
From an agency perspective involved in rural development issues, we would be willing to assist this project along in any fashion that any of our programs may fit. We provide loan guarantees for private sector business development for the individual businesses as well as technical assistance programs for cooperative development issues. While this concept of a cooperative has not evolved yet, we stand ready to assist if this is the desired direction of the region's divers. We recently had a staff person from our Rural Development Cooperative Services Division stop through here (SE Alaska) from Washington, DC. He provided us a copy of the following success story of a related dive fishery development in the State of Oregon that seems to show that there may be some value to cooperative development processes. We have also received additional detailed information on this free technical assistance program for Cooperative Development that Rural Development offers out of the Washington, DC office.

Thank you for allowing this input regarding further development opportunities of this fishery. I believe it will be very beneficial to SE Alaska. All of the programs we offer are accessible to the communities of the region. Should you have any questions regarding our programs, please feel free to call me. Rural Development looks forward to assisting this program in any manner that we have programming available.

Sincerely,

Keith R. Perkins, Manager  
SE Alaska Area

CC: Ernest Brannon, State Director - Rural Development  
Frank Muncy, Director - Rural Business Services, Rural Development



# NORQUEST

Lafayette, Silver Lining Crusader

Phone: 907-826-3334

Fax: 907-826-3353

PO Box 412

Craig, Ak. 99921

---

3-25-97

Alaska State Legislature  
Representative Bill Williams  
Juneau, Alaska

Representative Williams,

Thankyou for introducing H.B. 198. Positive action by the Legislature on this bill will solve the permanant funding of ADF&G management for Red Sea Urchins and clear the path for the development of several other dive fishery resources that we see promising futures in.

Dive fisheries are an important part of our winter program in S.E. Alaska. We currently employ 30-35 people on a full-time basis in each of our facilities in Craig and Ketchikan. We are looking forward to expanding the program to Petersburg when resource becomes available in that area.

I am confident that fisherman are in support of the mechanism put forth in H.B. 198. We have been deducting a .05 cents assessment from fisherman on urchins. To date we have collected \$17,000.00 with only \$380.00 not paid. This current method is temporary. Your bill addresses all of the concerns that I have and I support it. I favor this permanant slution so our company can make investments in these resources with confidence of a future.

Sincerely yours,

*Stephen LaCroy*



# NORQUEST

Lafayette, Silver Lining, Crusader

Phone: 907-826-3334

Fax: 907-826-3353

PO Box 412

Craig, Ak. 99921

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March 26, 1997

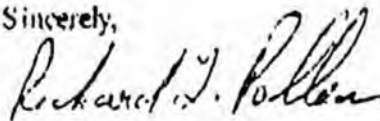
Dear Senator Mackie,

I wish to thank you for your support of House Bill 198. This Bill would set the stage for dive fishery production, which in turn will offer seafood processors the opportunity to operate year round. This would offer employment to many local folks who other wise would not have it at this time of year.

Norquest currently has a payroll of forty-five people which contributes around \$2400.00 daily into the local economy. This fishery has the potential of allowing other, now empty plants to open and operate in these labor intensive fisheries.

Again, your support of House Bill 198 is greatly appreciated.

Sincerely,



Richard L. Pollen  
Plant Manager  
Norquest/Craig



# SEAFOOD PRODUCERS COOPERATIVE

PRODUCERS, PROCESSORS & MARKETERS OF PREMIUM QUALITY SEAFOODS

January 7, 1997

To Alaska Harvest Divers Association:

First of all I would like to thank you for the effort you have put forward concerning the dive fisheries in Southeast Alaska. Individual divers from other major communities in southeast have formed their own associations which have been modeled after yours and there is every indication that this movement will continue and develop into a regional association.

At a time when competition for other species are resulting in limited entry, moratorium, and quota based management systems, resources available to the diving industry remain in abundance and at near historic levels.

Markets for many of these products available in our area have been utilizing production from other coastal areas around the world. How our stocks will compete against these other sources in the marketplace depends on many factors, primarily on our ability to provide a consistent supply, which up until just recently has only been possible with Sea Cucumbers.

The problem is funding. Simply put, without funding to do stock assessments and to manage these fisheries, there will be no new fisheries. Knowing this, ADF&G has (within the last 2 years) been receptive to non legislative funding from the private sector. One example of this has been the Red Urchin fishery which just recently opened. Another is an area opened to Cucumber harvesting in Sea Otter Sound with money put forward by a Seafood Processor. That survey which cost \$15,000 opened an area which provided a 200,000 lb. quota in the first period. Considering an ex-vessel price of \$1.30 p/lb. that is a good first season return on anyones calculator. When you take into account contributions to processing, transportation, equipment and other service related jobs as well as generating raw fish taxes, the benefits are significant. I believe that this is just the beginning.

I encourage you to continue in your efforts to secure ADF&G funding for the purpose of stock assessment surveys, and to explore self funding strategy, so that these new fisheries may be opened.

Sincerely,

Craig Shoemaker  
SEAFOOD PRODUCERS COOPERATIVE



Wrangell FISHERIES INC.

641 SHAKES STREET, P.O. BOX 908, WRANGELL, ALASKA 99929

TEL. (907)874-3346. FAX (907)874-3035

MARCH 6, 1997

To whom it may concern:

Wrangell Fisheries, Inc. supports the dive fishery in S.E. Alaska. The development of this fishery is important to this community as well as to ourselves, to be able to provide an opportunity for employment in this industry during the "off season". Being able to keep a plant operational on a year round basis is dependant on these other fisheries.

Thank you for your consideration on the development of this dive fishery and hope you view it favorably.

Sincerely

Levi Dow  
Plant Manager  
Wrangell Fisheries, Inc.



## Sitka Tribal Enterprises

Mr. Bert Bergman  
Alaska Harvest Divers Association  
PO Box 6423  
Sitka, Alaska 99835

RE: Letter in Support of the Dive Fisheries Development Project

Dear Mr. Bergman:

With this letter, I would like to offer my support for the Dive Fisheries Economic Development Project. Sitka Tribal Enterprises is in the process of developing a fish-waste composting facility. The waste materials generated from this fishery, such as geoduck shells, would be a great additive for our compost. Seafood shells are an excellent source of calcium and would improve the quality of our finished product.

If this fishery project has the opportunity to come to fruition, we would like to offer The Alaska Harvest Divers Association a place for them to take their waste.

The Sitka Tribal Enterprise fish-timber waste composting facility, along with the Dive Fisheries Development Project, will help provide an economic stimulus for the community of Sitka, as well as provide an outlet for environmentally conscious business development within the Native community and the community at large. We look forward to working with the Alaska Harvest Divers Association as they move forward with this project.

Sincerely,

Bobi Rinehart  
Environmental Resources Manager  
Sitka Tribal Enterprises



February 25, 1997

City and Borough of Sitka Assembly  
100 Lincoln Street  
Sitka, AK 99835

Dear Assembly Members:

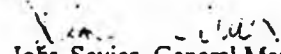
Sitka Sound Seafoods supports the development of the dive species in southeast Alaska. We have shore plants in both Sitka and Yakutat and we presently process sea cucumbers at our plant in Sitka.

The development of the dive species will provide opportunity for our organization to consider additional investment for the processing of these species. Being able to keep a plant operational on a year round basis is dependent on the availability of product.

Many of the dive species require labor intensive processing which affords the opportunity of employment to a broad base.

As the new general manager of Sitka Sound Seafoods, I look forward to getting to know each of you and working with you over the years to come. Thank you for your consideration of the dive fishery development proposal and I hope you will view it favorably.

Sincerely,

  
John Sevier, General Manager  
Sitka Sound Seafoods

(907) 747-6662

FAX (907) 747-6268

FRESH AND FROZEN SALMON, COD, SABLEFISH, HALIBUT, ROCK FISH, CRAB, HERRING



NorQuest Seafoods, Inc.

Processing Plant  
4111 1st Ave.  
PO Box 200  
Petersburg, Alaska 99780

PH: (907) 273-1667

FAX: (907) 273-1667

April 8, 1997

Dear Representative Williams:

Just a brief letter to thank you for your efforts to support the Dive fisheries and progress on House Bill 198. As a full range seafood processor, we depend on resource harvest to survive and prosper in a challenging industry. Consistent work opportunities for our crews as well as earning opportunities for our fishermen are dependent on taking advantage of available viable resources.

House Bill 198 addresses an excellent fisheries development opportunity and provides a funding source that fits our declining State revenues. I hope that with its successful passage, we will be able to provide increased opportunity for our community. Thanks again for all your work.

Sincerely,

*Dave Ohmer*

Dave Ohmer,  
Plant Manager  
Norquest/Petersburg

Post-Net Fax #	7671	Case	41814/1997-1
To	STEVE LACROSS	From	DAVE O
Co Dept			
Phone #		Phone #	
Fax #		Fax #	

# Tenass Pass Shellfish Company

Gourmet Oysters and Clams from Alaska Pure Waters



April 9, 1997

Rep. Bill Williams  
Capitol Building, Room 524  
Juneau, AK 99802-0704

Dear Rep. Williams:

As a small-scale processor just entering the geoduck business, I wish to strongly endorse House Bill 198 as the only apparent option for developing Alaska's great under-utilized clam resources. My company is one of the state's oldest shellfish farms and currently is the leading oyster and clam producer in the state, but we are still struggling to make a profit as we enter our second decade of business on Prince of Wales Island.

We began processing and shipping live geoducks last year, but we were stopped dead in our tracks after only three weeks as shipments began to fail PSP (paralytic shellfish poisoning) tests. We will test a system of purging geoducks of high levels of PSP during the 1997 fishery and fully expect to be able to consistently sell our geoducks on the lucrative live market in Hong Kong by the following year.

Your legislation should allow new geoduck and horse clam beds to open. These large clams can sell for more than \$10 per pound in Asian markets, and Alaska appears to have large quantities of untapped commercial scale resources. Here's the problem: state policies essentially prohibit the opening of new fisheries until there is sufficient research to verify resource strength and the Alaska Department of Fish and Game has the resources to manage a new fishery, but reduced state and federal spending has led to a virtual halt in research into new fisheries and ADF&G's budget is shrinking several sizes each year.

The result is a virtual assurance that no new fisheries will open, at least none under state control, or that only large companies with deep pockets need apply. HB 198 essentially gives the divers the ability to use the resource to help fund stock assessment and provides a method of funding ADF&G management. HB 198 has the potential to break down the existing barriers to development of some of Alaska's highest value seafood resources. It has my full support.

Sincerely,  
  
Rodger Painter

Alaska Harvest Divers Association  
Sitka Branch  
P.O. Box 6423  
Sitka, Alaska 99835  
March 31, 1997

Representative Bill Williams  
Alaska State Legislature  
State Capitol, Room 424  
Juneau, AK 99801-1182

Dear Representative Williams:

The Sitka divers support House Bill 198. We have been working for many years to develop our dive fishery in the Sitka area. Funding for this fishery has been requested as City and Borough priorities for a decade; however, the fishery has not developed because money has not been appropriated for the developing fishery.

In the Sitka area we have some geoduck and sea cucumber dive fisheries which are currently open. These fisheries represent a small portion of the dive resources located adjacent to our city and borough. House Bill 198 is part of a Dive Fisheries Economic Development Project which will begin to move us forward in the development of these resources.

At the same time we are working on several other elements connected with the project. It is our desire to develop these resources for the long-term benefit of our fishermen and community.

The following individuals support House Bill 198. Thank you for your support in this effort and we look forward to our continuing work with you and your staff.

Sincerely

Greg Cushing

William R Arnold 1305 SMC S, Sitka (MANAGER Hidden Falls Hatchery)  
Smithy D White P.O. Box 253 Sitka (S.E. Dive Shop)  
Dan He... 8631 Aurora Circle Anchorage, AK  
... owner/op (F/V MARIE)  
Class Mary 147 Phipps #C Sitka, AK  
Harry W Bradley P.O. Box 1043 Sitka, AK 99835  
Charles M. Hamrick Box 117 Sitka AK 99835 (OWNER LAKE SIDE BOAT)  
Zeny Bradley P.O. Box 2416 Sitka AK 99835  
... 705 HPR SITKA AK 99835 (OWNER Whites + Race Pharmacy)  
Robert Collins 603 HPR SITKA AK 99835 (OWNER ROCK RAY)  
Frank L. ... 617 Kathleen E-33 Sitka, AK 99835

Dawn Neush 3201 HPR SITKA  
Ramon San Pedro HPR  
Rebecca Jaurio 138 Wadford St. SITKA (Owner F/N Jenny Leah)  
Angela N. Bradley P.O. Box 1043 Sitka, AK  
Richard A. Darnell 101B Kuhnke Dr Sitka AK  
Pat Campbell 224 Bakeriew dr. Sitka AK  
Billy Cox 2309 HPR #412 Sitka AK  
Jacqueline Phillips 2103 SMC Sitka, AK  
Bill 2200 SMC Sitka, AK (owner F/N Roshell)  
John Kuhn P.O. Box 6517 Sitka AK (F/N STAMSON) owner  
Toni Coonin P.O. Box 6512 Sitka AK (F/N MAGIC owner)  
Mary McMaster 1722 Edgewood Sitka AK (Owner F/N Dier)  
Edward J. Burt 101 Rudolph Water Ln SITKA, AK (owner F/N)  
Veronica E. Swan 617 Kathleen St. A13 SITKA AK  
Mark J. Kuhn 409 HPR #35 Sitka AK (F/N Puffin)  
Ann V. Li P.O. Box 6342 Sitka AK  
Denise P. Klugher 909 HPR #35 Sitka AK  
Gregory J. Adams P.O. Box 2501 Sitka, AK (owner Pristeen Seabrook)  
Gary J. Kuhn 637 ORBROSE Sitka, AK  
Judene May 1302-27 SMC Sitka AK  
Mark Kuhn 3307 HPR #4 SITKA, AK  
Charles Helton 805 Sustad Sitka, AK  
Idema Phillips PO Box 854 Sitka AK  
Karen Cornacchio P.O. Box 1925 Sitka, AK  
Mitch Cowan 605 DeGraff Sitka, AK (F/N Wild Horses)  
Ken Wain P.O. Box 6343 SITKA AK  
Jerry Fleming 1924 Dodge Circle - Sitka, AK (owner Fleming Patti)  
James Leckrone P.O. Box 541 Sitka AK (F/N)

Richard Stephens PO Box 6358 SITKA AK 99835  
Walter J. Crowl PO Box 6494 SITKA AK 99835  
M. K. Warr Box 6467 SITKA AK 99835 <sup>donor/owner</sup>  
Ward Eldridge Box 6245 SITKA AK 99835 <sup>FN + M. H. W. C.</sup>  
Steve Calder PO Box 252 Sitka, AK 99835 <sup>SN</sup>  
Don Newman 2309-22 HPR, Sitka AK 99835  
Brenda Reynolds 207 Jeff Davis, Sitka, AK 99835  
Camille Hyde Box 6444 Sitka AK 99835  
John Lee Box 6444 Sitka, AK 99835 <sup>FN LOON</sup>  
Kolbe, J. Warren Box 6467 SITKA AK 99835  
Mary J. Gordon Box 1043 Sitka, AK 99835  
Richard G. Urias 612 BICARA Sitka, AK 99835  
Dorothy Gordon 908 HPR# 3 Sitka AK 99835  
George A. Condos 908 H.P.# 3 Sitka AK 99835  
Barbara Box 6923 Sitka, AK 99835 <sup>FN NORMAN J</sup>  
Burke, Barbara Box 277 SITKA, AK 99835 <sup>(SITKA VET CLIN)</sup>

James B. Dennis  
 Box 591  
 Craig, Alaska 99921  
 March 19, 1997

Senator Jerry Mackie  
 Alaska State Legislature  
 Juneau, Alaska 99801-1182

Dear Senator Mackie:

The undersigned divers support House Bill 196 "An Act relating to regional dive fishery development associations and to dive fishery management assessments." We would urge your support of a Senate version of the bill.

A public meeting was held today in Craig and the legislation was reviewed. As you know, we have been attempting to develop the dive fishery resources in southeast for over a decade. This bill will provide a mechanism for moving forward with the development of these resources.

The legislation is part of Dive Fisheries Economic Development Project for southeast and we look forward to its passage which will move this project forward.

Thank you for your consideration.

- ~~James B. Dennis~~ Box 591 Craig, 99921 826-7010
- ~~Bob Bapta~~ Box 384 Craig 99921 826-3047
- ~~Harriet Kelly~~ Box 318 Craig 99921
- ~~Ken [unclear]~~ Box 177 CRAIG 99921 755-2700
- ~~No [unclear]~~ Box 527 CRAIG 826-3476
- ~~Matt [unclear]~~ Box 542 Craig 826 3657
- ~~William [unclear]~~ Box 1131 Craig 99921 254-1179
- ~~Michael F. Bell~~ Box 849 Craig 99921 826-3456
- ~~Rick Summers~~ Box 227 CRAIG 826-2271
- ~~Tracy & Herman~~ Box 260 CRAIG 99921



Alaska Harvest Divers Association  
Sitka Branch  
P.O. Box 6423  
Sitka, Alaska 99835  
March 31, 1997

Representative Bill Williams  
Alaska State Legislature  
State Capitol, Room 424  
Juneau, AK 99801-1182

Dear Representative Williams:

The Sitka divers support House Bill 198. We have been working for many years to develop our dive fishery in the Sitka area. Funding for this fishery has been requested as City and Borough priorities for a decade; however, the fishery has not developed because money has not been appropriated for the developing fishery.

In the Sitka area we have some geoduck and sea cucumber dive fisheries which are currently open. These fisheries represent a small portion of the dive resources located adjacent to our city and borough. House Bill 198 is part of a Dive Fisheries Economic Development Project which will begin to move us forward in the development of these resources.

At the same time we are working on several other elements connected with the project. It is our desire to develop these resources for the long-term benefit of our fishermen and community.

The following individuals support House Bill 198. Thank you for your support in this effort and we look forward to our continuing work with you and your staff.

Sincerely

Greg Cushing

- Chris Shurtz* P.O. Box 2221 Sitka AK Craig Swanson
- John [unclear]* 1311-5 5TH RD Sitka AK
- David [unclear]* 557 KADIAN ST SITKA AK
- Virginia Daigler* 317 Peterson Sitka AK.
- [unclear]* P.O. Box 3204 Sitka AK
- Garry Hailh* P.O. Box 6373 Sitka, AK

Alaska Harvest Divers Association  
Sitka Branch  
P.O. Box 6423  
Sitka, Alaska 99835  
March 31, 1997

Representative Bill Williams  
Alaska State Legislature  
State Capitol, Room 424  
Juneau, AK 99801-1182

Dear Representative Williams:

The Sitka divers support House Bill 198. We have been working for many years to develop our dive fishery in the Sitka area. Funding for this fishery has been requested as City and Borough priorities for a decade; however, the fishery has not developed because money has not been appropriated for the developing fishery.

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At the same time we are working on several other elements connected with the project. It is our desire to develop these resources for the long-term benefit of our fishermen and community.

The following individuals support House Bill 198. Thank you for your support in this effort and we look forward to our continuing work with you and your staff.

Sincerely

Greg Cushing

- Barton Sollars, Sr. 3315 HPR Sitka, AK 99835 (owner trailer)
- Carol A. Sollars 3315-HPR Sitka AK 99835 (owner trailer)
- Jenna Lundvall 313 Lake Sitka AK 99835 (owner ALASKA AUTOMOBILE)
- Ed Smith Dumas 1302 SMC #13 Sitka AK 99835
- Richard A. Lither 313 Lake St Sitka AK 99835 (owner trailer)
- David Hoja PO Box 1285 Sitka, AK 99835



Southeast Alaska Harvest Divers Association  
Ketchikan Chapter  
P.O. Box 6263  
Ketchikan, AK 99901  
March 29, 1997

Representative Bill Williams  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801 1102

Dear Representative Williams:

We would like to thank you for securing funding for the red urchin fishery for the continuation of the fishery after June 30. We understand that it is one year's funding only and that you were able to secure the money because of our initiative in stepping forward in our support of House Bill 198. While the red urchin fishery is important, and many of us participate in it, it is only one small part of what is addressed in House Bill 198 and the Dive Fishery Economic Development Project. We view this legislation as an opportunity to provide economic development for not only Ketchikan, but, for all of southeast. It will allow us to work in a positive manner with the Department of Fish & Game to develop these resources.

The most important fact relating to House Bill 198 is that it provides a level entrance for all the participants in the fishery. The funding mechanism currently in place is voluntary and has caused considerable confusion. House Bill 198 will provide opportunity for stability and accountability which we believe is very important.

The following individuals support House Bill 198 and the development project. We will continue to work in a forward looking manner to ensure the goals of the project are met. Thank you for your vision and support.

Sincerely,

Southeast Alaska Harvest Divers Association

James H. Bray 2134 2nd Ave Ketchikan Alaska 99901  
Dominic P. Pickett 12410 Sanger St Ketchikan AK 99901  
M. Zinnerle P.O. Box 7022 Ketchikan, AK 99901  
Edna Robinson P.O. Box 5322 Ketchikan AK  
Wally Jones 232 Madison St AK 99901  
Sandra Swain 1850 Water Street, Ketchikan, AK 99901

March 29, 1997

~~Russell Schow~~ Russell Schow PO Box 6451 S. Kodiak  
 D. I. Stuart 10437 Kingfisher Rd Ktn AK  
 Nancy Davies Nancy Davies Brn, 8335, Ktn AK  
 Scott Swain SCOTT SWAIN 1050 WATER ST. KTN AK.  
~~James B. Clark~~ James B. Clark PO Box 6335 KTN AK  
~~Mark L. Gatti~~ Mark L. Gatti PO Box 3 Ktn AK  
 Rod Bray Rod Bray 324 Alder St.  
 Dan E. Hestgen Dan E. Hestgen PO Box 23008 KTN  
 James B. Clark 312 Front Ktn  
~~John W. ...~~ PO Box 7801 Ketchikan  
 Nora Bain 334 Front St 11 11  
 Paul McIntosh Paul T. ... PO Box 6412 Ketchikan, AK 99901  
 Greg ... 1340 Sayles St - Ktn AK 99901



THE GREATER SITKA  
**chamber**  
OF COMMERCE

329 Harbor Drive, Suite 209  
Mail: P.O. Box 638 • Sitka, Alaska 99835  
(907) 747-8604 • Fax (907) 747-7413

April 8, 1997

The Honorable Bill Williams  
Alaska House of Representatives  
State Capitol Room 424  
Juneau, AK 99801-1182

Dear Representative Williams:

The Greater Sitka Chamber of Commerce hereby strongly urges passage of HB 198.

Because of the continued lack of State funding for dive fisheries, HB 198 is the only reliable way of developing dive organizations and establishing a means of providing consistent funding to take advantage of the emerging economic opportunities available in these marine resource species.

Developing dive fisheries is one of the few bright spots for the economy of Sitka and the Southeast Alaska region at this time. There are hundreds of fishermen and dozens of seafood processors and their employees who would benefit directly from passage of HB 198.

We applaud and stand behind the efforts of the diver fishermen to take the initiative to make positive steps, without relying on State funds.

Sincerely,

GREATER SITKA CHAMBER OF COMMERCE

Anita VanDyck  
President

March 28, 1997

Representative Bill Williams  
Fax (907) 465-3793

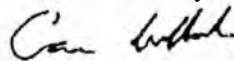
Dear Representative Williams

I support House Bill 198 and the whole concept of developing the dive fishery in southeast.

There are alot of untapped dive resources out there in southeast that Divers can earn their living from.

I believe this dive fisheries will help improve the economy for southeast people who need it, because of reduction in the timber harvest and the closure of several forest products manufacturing plants in southeast.

Sincerely,



Cam Tulloch  
Petersburg Commercial Diver  
Fax (907) 772 2141

March 7 1997

Devin & Bridget Myers  
PO Box 8155  
Ketchikan, AK 99901

Dear Mr Williams:

We appreciate your efforts in trying to create jobs in the community through the dive fisheries. The intent of this letter is to give you a little ammunition in the form of real numbers related to the urchin fishery. We would also like to offer our warm bodies and opinions whenever you think they would be helpful.

We moved to Ketchikan specifically because we believe in the long term viability of the fisheries affected by the moratorium. We attempted to move here in the fall of 1995, but we were forced to reconsider when the cucumber fishery in Southeast ended about three months earlier than projected. We love the area and hope to become a valuable part of the community here.

The following is a bare-bones list of money I (Devin) have spent since the opening of the fishery in the second week of January:

\$1,600	Boyer Barge	\$2,000	Fuel
\$400	Murray Pacific	\$1,100	Gray Marine
\$100	Alaska Dive Svc.	\$345	Service Auto
\$250	Southeast Comm.	\$175	Moorage
\$700 in wages to tenders whom are Ketchikan residents			
\$600 in groceries from local merchants to feed the crew			

This list is by no means comprehensive! Using only these expenses, just one boat is responsible for returning **\$6,225** to Ketchikan. This is in 6 weeks - and the Alaska Department of Fish and Game projected a October 1 - September 30 fishery prior to its opening and in the future.

My wife is also employed full-time, and paying her own share of taxes locally, and we rent an apartment in town. We have several friends who also have made what they hope is a permanent move to Ketchikan. Please do all you can to help us stay, purchase homes, and raise families in this wonderful community.

We ask you to help secure funding to keep the fishery alive. The peak prices for urchin roe are November and December, when we weren't yet

fishing, but we should be in coming years. Also, studies have shown that the quality of urchin roe improves when some "thinning" occurs, and even if there is no increase in catch limits, the dollar return will improve in coming years - IF we have a fishery.

We support local processors and jobs, and are confident that in the years to come, the majority of the product will be processed locally. However, the fact remains that we make more money if there are more potential buyers, and we do not like to see buyers excluded. When fisheries shut down the out-of-state processors last week, it cost us a minimum of \$1500. Please keep the divers at the top of your list when negotiating in the future. They have the least power, particularly because they are out fishing during much of the negotiations, and are taking on the most risk to get this fishery rolling. Fund the fishery, and the processing will follow.

Again, don't hesitate to call us if you need further information, or if you feel our voices can make a difference. We wish you the best of luck in getting the maximum amount of dollars into the community!

Sincerely,

A handwritten signature in cursive script, appearing to read "Devin and Bridget Myers".

Devin and Bridget Myers  
(907) 247-7774

Greg Cushing  
407 Herofock Street  
Sitka AK-99835

April 8, 1997

Representative Alan Austerman  
Chairman Special Committee on Fisheries  
State Capitol  
Juneau AK 99801-1182

Dear Representative Austerman:

I am writing to urge your committee to approve HB 198. This bill is vital to our efforts to conduct an orderly development of our region's dive fisheries.

As a lifelong resident of Sitka and a commercial fisherman and diver for 25 years, I have become very familiar with our area's resources. The potential for region-wide, long-term, stable dive fisheries is great. We have been working hard to establish a survey / assessment program in order to initialize the development of these fisheries.

We have a strong commitment to this development. We are willing to assess ourselves to ensure that future management is funded.

These fisheries will be very important to S E Alaska communities as they will be carried out during the Fall and Winter months, the traditional off-season. This will result in local divers having multi-specie work opportunities for months, rather than for a few days as is currently.

I would have preferred to be at this committee meeting in person, but could not because of family matters.

Thank you for your consideration of H B 198.

Sincerely,

Greg Cushing



# KAKE TRIBAL CORPORATION

April 1997

P.O. Box 263

Kake, Ak. 99830

## COURT RULES AGAINST KTC

Past error haunts Kake Tribal

The Alaska Supreme Court dealt a blow to a majority of Kake Tribal shareholders on February 21, 1997 when it upheld a lower court decision in the Arlene Bell Hanson et. al v. Kake Tribal Corporation. The highest court in Alaska ruled that Kake Tribal must pay 173 shareholders approximately \$98 per share as res-

*Continued on page 2*

## Going After MONY

The only bright lining to the otherwise dark cloud created by the Alaska courts is that Kake Tribal has preserved its right to sue Mutual of New York (MONY), the company responsible for the insurance program that discriminated against certain shareholders.

"There is a wide paper trail that leads directly to Mutual of New York, the insurance company that sold the program to Kake Tribal in 1980," says Gordon Jackson. "It was naive of the board back then to accept a program that was discriminatory, but it was irresponsible for a huge enterprise like Mutual of New York to sell such a life insurance program. Certainly a corporation such as this insurance company should have known about corporate laws, fiduciary responsibilities, and shareholder rights."



The Kake Crew: over 40 residents of Kake are employed processing sea urchin this winter.

## KAKE SEA URCHIN PROJECT

Kake Fisheries produces top quality product

The processing crew at Kake is given credit for producing high quality sea urchin roe that commands top prices at the famed Tsukiji Market in Tokyo, the largest sea food market in the world. Mike Ellis, the sea urchin specialist hired by Larry Cambronero to oversee processing at Kake Fisheries, says the Kake Fisheries' crew is producing a product that sells for a higher average price than that of other Alaskan urchin producers.

"For those who understand the system, the key is the average price you receive," Ellis explains. "The market is an auction, and while

someone else might sell a portion of their product for a higher price, the bragging rights go to whoever gets the best price over-all."

Start-up of the project in January coincided with the low end of the market price for sea urchin. The sales strategy Cambronero and Ellis devised was to enter the market at the low end and to build a demand for the product as prices rise. The strategy appears to be paying off. In the 7th week of producing sea urchin roe the project is making profits.

"This project is labor intensive, and fortunately, we have a good

*Continued on page 2*

## THE 1997 WORK SEASON BEGINS

In 1996 KTC employed over 400 people. Over 500 may work in 1997.

# SEA URCHIN PROCESSING

is the place to be in Kake

The early morning scene at the Kake Cold Storage is unusual only for the time of year. People, mostly young, stream into work, engaging in good natured banter as time cards are punched and rubber gloves and aprons are put on. Within a few minutes after eight in the morning the processing line

and workers talk, gossip and joke with one another.

During coffee break at 10:00 a.m. Carole Jackson, a widow with three children, is seated in the lunch room. She says that were it not for this job, she would be trying to raise money at bake sales to keep her family going.

work here, where all the people are," he says with a grin. "Sea urchin processing is a nice job. It doesn't require heavy lifting like processing halibut and salmon."

When the break ends, Sandra Thomas and Melody Martin, both 19 years old and 1995 graduates of Kake High School, are back at work. Sandra is on the production line using a table spoon to separate the sea urchin roe from the spiny shells. Nearby, Melody sits at the table where the product is packaged. Using a tweezers, she



Dan Vernetti is one of the first to arrive at the plant. He and several other workers set things up so the full crew can go right to work at 8 a.m.



George Skeek, Danny Jackson and David Thomas crack the sea urchin shells with reverse-jaw pliers.

is up and running. For the first time in living memory there is mid-winter seafood production work in Kake.

"People came out of the woodwork for these jobs," says Larry Jackson, employee coordinator for Kake Fisheries. "We are paying good wages: this is the place to be."

Anyone who has ever seen a seafood processing plant in operation would be struck by the high morale of these workers. Rock and roll blasts from a boom box and the only time harsh criticism is voiced occurs when a heavy metal tape is replaced by the easy listening rock favored by management. Even with the music, the noise level is much lower than during the height of the salmon season,

George Skeek, a heavy equipment operator during the logging season, seated across from Carol, says he would be drawing unemployment.

At the end of the table is George's father, Wilfred Skeek,

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"People came out of the woodwork for these jobs."

---

who has regular employment as the driver of the senior services van and works part-time as a long-shoreman whenever a log ship pulls in. The elder Skeek says he doesn't need the check, but he likes the companionship. "Might as well

removes spine and gut fragments before sliding two pounds of product into a styrofoam cup filled with chilled water. Both Sandra and Melody are saving to afford attendance at the colleges of their choice, decisions available to them only with the earnings from winter season processing jobs.

Leonard Johnson, whose present job is to tend the trays of product during the drip-drying phase between extraction and packaging, is one of several people from the nearby village of Angoon who came to Kake last summer for work at the cold storage. The others left after the salmon season ended in September, but Johnson stayed on and has worked steadily ever since. "Sea urchin processing



About 18 people work the roe extraction line including Sandra Thomas, Wilfred Skeek, Ray Kadak, Ella Verneti and others.



Melody Martin and Kari Hale pack the product in styrofoam containers.

is good work. I wouldn't have a job otherwise," says Johnson who was unable to find employment in Angoon after his fourteen year stint with the local National Guard unit ended due to force reductions.

Mike Ellis, hired by Kake Fisheries manager Larry Cambronero to supervise the processing end of the project has been a commercial diver since 1976. He is also a seasoned processor with experience in markets up and down the west coast.

"We are processing red sea

"Sea urchin processing is good work. I wouldn't have a job otherwise."

urchin, which are much larger than green sea urchin. You have to extract the roe of red urchin, unlike green sea urchin which are often shipped whole," says Ellis. Because of the processing requirements for red sea urchin the project is labor intensive. "The beauty of this fishery is that it doesn't require a lot of capital or equipment. Just labor and typical plant facilities."

According to Ellis, the Kake product is receiving high marks

for quality. "We were amazed that the Japanese compare our product favorably to Santa Barbara sea urchin, which has the best reputation for flavor and consistency."

Processing, while mechanically simple, is labor intensive and requires great care, especially once the roe is extracted. If not handled properly, vibrations during shipment will render the roe into a soupy, unmarketable mess.

"There is a learning curve for processing like this," Ellis notes. "Although it's simple work, it is a manual dexterity thing. Like typing: you start out and 20 words a minute seems fast, 70 words per minute impossible." With a start up project like this, Ellis is pleased that everything has gone so smoothly that no product has been lost, and that it is receiving such high marks from the buyers.

## UNI FOR SUSHI

Two to three times a week, a tender pulls into Kake with loads of sea urchins that vary from 12,000 pounds to 20,000 pounds per delivery. The variables are largely weather induced. A bad storm on the coast, and the divers will be unable to work. Really bad storms can keep the tender weather bound; and mild but foggy weather can delay delivery of the valuable, fragile, and quick to spoil processed sea urchin roe from getting to market. Despite a season of quirky weather, no shipment has spoiled, and the reports from Japan have praised the Kake Fisheries' product.

"We were amazed that the Japanese compare our product favorably to Santa Barbara sea urchin, which has the best reputation for flavor and consistency," says Mike Ellis.

The roe, known as uni in Japan where it is usually eaten as sushi, is actually gonads, either male or female, but to the untrained eye uni looks like a thumb-sized golden skein of tiny eggs. Unlike caviar of fin fish, this product does not demand an acquired taste. It has a pleasant tangy sour cream flavor and texture, palatable even to the uninitiated. The Japanese are extremely discriminatory. If the sea urchin roe is off-colored, too small or too large, not firm enough, not fresh enough, it may be rejected out of hand or will barely command any price at all.

**Management Plan for the Harvest of Red Sea Urchins  
in Districts 101-104 of Southeast Alaska**



Regional Information Report <sup>1</sup> NO. 1J96-19

Alaska Department of Fish and Game  
Commercial Fisheries Management and Development Division  
P.O. Box 240020  
Douglas, Alaska 99824

August 1996

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<sup>1</sup> The Regional Information Report Series was established in 1987 to provide an information access system for all unpublished divisional reports. These reports frequently serve diverse ad hoc informational purposes or archive basic uninterpreted data. To accommodate timely reporting of recently collected information, reports in this series undergo only limited internal review and may contain preliminary data, this information may be subsequently finalized and published in the formal literature. Consequently, these reports should not be cited without prior approval of the author or the Commercial Fisheries Management and Development Division.

## INTRODUCTION

Fishers and seafood processors have expressed interest in developing a red sea urchin fishery in southern southeast Alaska since at least the late 1980s. While the department has sought an appropriation from the legislature to develop this fishery for many years, no such appropriation has been provided. In 1994, the department began to explore alternative funding sources to develop this resource.

In late 1994 the department chose test fishing to generate revenue for a stock assessment survey. District 101 was selected because of its large urchin resource and close proximity to Ketchikan (Figure 1). Ocean Fresh Alaska was the sole bidder, paying the department \$139,567 to cover costs of a stock assessment survey and for the costs associated with the monitoring the subsequent year long test fishery. In exchange, Ocean Fresh Alaska was allowed to harvest 3 million pounds of urchins from March 1995 to April 1996. The results of the survey and subsequent test fishery clearly demonstrated the economic potential of a red sea urchin fishery in the Ketchikan area.

In 1996, industry representatives sought legislation that would resolve funding and management issues necessary to begin a fishery. Legislation to resolve these issues did not emerge. The department proposed test fishing be used once again as the source of revenue but this approach met with significant opposition. As an alternative, industry representatives sought funding from the Ketchikan Gateway Borough to conduct stock assessment surveys in Districts 103 and 104 (the west coast of Prince of Wales Island and coasts of Dall and nearby islands to the north) and began discussion of alternative sources of revenue to pay for long term research and fishery management. In May of 1996, when it appeared that the borough would fund the stock assessment in District 103 and 104, a task force formed with the aid of staff of State Representative Williams (Saxman) to address the issues of long term funding and to advise the department on management of the fishery.

Members of the task force included dive fishermen, fish processors, and community representatives. Department staff served as advisors to the task force. The task force held a series of meetings through June 1996 and provided the department with a report that included a list of recommendations for management measures.

The Ketchikan Gateway Borough contracted with the department in July 1996 to conduct a survey of urchin biomass in Districts 103 and 104. These assessments, in addition to those in Districts 101 and 102, are a necessary step to allow the department to establish quotas for a commercial fishery over a wide geographic area.

With information available on stock size, two tasks remain prior to opening a commercial fishery. First, the department must adopt regulations to manage the fishery under the High Impact Emerging Fisheries Regulation (5 AAC 39.210) and the Administrative Procedures Act (AS 44.62.180-290). Second, funding must be provided to the department to cover all management costs and to begin the research program.

While adoption of interim regulations and short term funding will allow the department to open a fishery, successful completion of these steps do not assure a fishery in the longer term, nor

necessarily define how the fishery will be managed after the first year. Developing a long-term program to fund the costs of stock assessment, research and management remains an outstanding issue. If sufficient funds are not provided to the department each year, the fishery will not open. Last, the regulations adopted under the High Impact Emerging Fisheries Regulation are subject to review and change by the Alaska Board of Fisheries at its next regularly scheduled meeting.

In developing this management plan, the department incorporated many of the recommendations of the sea urchin task force. Some recommendations were deemed inappropriate by the department and either modified or eliminated. Significant changes in management from those recommended by the task force are noted and discussed.

STATE OF ALASKA  
 COMMERCIAL FISHERIES ENTRY COMMISSION

13:40 Friday, January 24, 1997

PROJECT NUMBER : 96157  
 PROJECT NAME : Southeast Dive Fisheries

Moratorium Eligibility List For Out Of State Permit Holders

,ADDR,CITY

A CITY	Frequency	Cumulative Frequency
ANCHORAGE	6	6
WANGOON	1	7
AUKE BAY	5	12
BETHEL	1	13
COFFMAN COVE	2	15
CORDOVA	4	19
CRAIG	51	70
DOUGLAS	1	71
EDNA BAY	6	77
GUSTAVUS	1	78
HAINES	4	82
HOMER	2	84
HYDABURG	4	88
JUNEAU	8	96
KENAI	1	97
KETCHIKAN	98	195
KLAWOCK	5	200
METLAKATLA	14	214
MEYERS CHUCK	1	215
PALMER	1	216
PETERSBURG	37	253
PORT ALEXANDER	2	255
SEWARD	2	257
SITKA	116	373
SLANA	1	374
THORNE BAY	16	390
WARD COVE	12	402
WASILLA	2	404
WRANGELL	34	438

Addresses listed are the most current ones on file.

,ADDR,STATE

A_STATE	Frequency	Cumulative Frequency
CA	26	26
CO	1	27
ID	1	28
NM	1	29
NV	1	30
NY	1	31
OR	13	44
WA	74	118
WY	1	119

**S.E. DIVE FISHERIES ELIGIBILITY**  
 (Based on final version of HB 547)

DIVE FISHERY OPTIONS	Number Eligible Participants
<b>Abalone:</b> All persons who harvested abalone in 1994 or 1995 (and) any persons who harvested any of the four species in the five consecutive years 1991-1995.	190
<b>Geoducks:</b> All persons who harvested geoducks in 1994 or 1995 (or) January 1996 (and) any persons who harvested any of the four species in the five consecutive years 1991-1995.	170
<b>Sea Cucumbers:</b> All persons who harvested sea cucumbers in 1994 or 1995 (and) any persons who harvested any of the four species in the five consecutive years 1991-1995.	472
<b>Sea Urchins:</b> All persons who harvested sea urchins in 1992 or 1993, (and) any persons who harvested sea cucumbers in 1994 or 1995, harvested abalone in 1994 or 1995 or harvested geoduck in 1994 or 1995 or January 1996.	559

# program guide

Winter weather lends itself to this month's cozy indoor projects. Eberhard Mueller, executive chef of New York City's renowned Lutèce restaurant, shares some of his signature seafood dishes. Learn to make a tempered chocolate and a coeur à la crème on our special Valentine's Day show. Later in the month, florist Michael George shows us how to construct a Victorian rose bouquet, and because it's time to look forward to spring, we'll build a beehive, and master seedsman Shepherd Ogden will show us how to raise tomatoes from seed.—*Martha Stewart*

EPISODE 421 FEBRUARY 1-2

## Cooking: Seafood with Eberhard

### BLACK SEA BASS WITH CHANTERELLE MUSHROOMS

SERVES 4 AS A FIRST COURSE,  
2 AS A MAIN COURSE

- 1 whole black sea bass, about 2 to 2½ pounds, cleaned and scaled
- 2 tablespoons unsalted butter
- ½ teaspoon coarse or kosher salt
- Freshly ground white pepper to taste
- 1 to 1¼ pounds fresh chanterelle mushrooms, cleaned
- 1½ tablespoons canola oil, for cooking
- 1 shallot, finely chopped
- ½ pound mixed baby field greens, washed
- Sherry Vinaigrette, recipe follows
- 2 tablespoons chives, finely chopped
- Fresh chervil for garnish

1. Fillet the sea bass by making the first cut behind the gills to the backbone; starting at the tail end, cut toward the head along the backbone; remove fillet. Turn fish over; repeat. Trim the thin edges of the fillets for even cooking. Remove pin bones with pliers. Cut each fillet in half for first-course serving; leave whole for main-course serving.
2. Heat oven to 450°. Heat butter, salt, and pepper in a large sauté pan over medium heat. Add mushrooms; toss to coat. Cook until mushrooms release their liquid.
3. Heat an ovenproof sauté pan over medium-high heat. Season both sides of the fillets with salt and pepper. Add canola oil to pan. When oil is hot but not smoking, add fillets skin-side down; remove from heat if too hot. Sear until crisp, golden brown, 1½ to 2 minutes. Place the pan (with the fillets still flesh-side up) in the oven for 2 to 3 minutes.

4. Add shallots to mushrooms, and sauté. Toss greens with three-fourths quantity of Sherry Vinaigrette. Remove mushrooms from heat; add remaining vinaigrette and chives.
5. Drain fillers on paper towel. Distribute dressed greens on plates; top with mushrooms and fillets. Garnish each with chervil.

### Sherry Vinaigrette

- 1 teaspoon Dijon mustard
- ¼ teaspoon coarse or kosher salt
- Freshly ground white pepper to taste
- 1 tablespoon sherry vinegar
- 1 tablespoon red-wine vinegar
- 1½ tablespoons walnut oil
- 1½ tablespoons extra-virgin olive oil

Whisk together mustard, salt, pepper, vinegars, and oils in a small bowl. Adjust seasonings, and set aside.

### BAKED AND RAW SEA URCHINS

#### Baked Sea Urchin with Sea-Urchin Butter

SERVES 2

- 12 sea urchins, in shells
- 1 cup (two sticks) unsalted butter
- Freshly ground white pepper to taste
- 2 tablespoons fish stock
- 1 tablespoon heavy cream
- Pinch of cayenne pepper
- Coarse or kosher salt to taste
- 1 teaspoon fresh lemon juice
- Seaweed for presentation (optional)
- Whole lemon, halved, for garnish

1. Heat oven to 450°. Cut away the flat bottom of the sea-urchin shell with scissors; pour away liquid. Scrape out membrane with the end of a spoon's handle. Set aside the six most attractive urchins in a baking dish.
2. Scoop the flesh out of the remaining six, to yield about ½ cup. Pulse in food processor for 5 to 8 seconds. Add butter, and

blend until thoroughly emulsified; add more butter if necessary. Press the urchin-butter mixture through a sieve with a spatula.

3. Bake the whole sea urchins 4 to 5 minutes.
4. Meanwhile, combine stock, cream, cayenne, salt, and pepper in a small saucepan over medium heat. Add urchin-butter mixture, stirring constantly, until resulting emulsion thickens. Adjust seasoning; add lemon juice.
5. Remove sea urchins from oven. Arrange them on a bed of seaweed, drizzle with Sea-Urchin Butter, and garnish with lemon halves.

#### Raw Sea Urchin with Lemon

SERVES 2

- 6 to 8 sea urchins, in shells
- Seaweed for presentation (optional)
- Crushed ice:
- 1 whole lemon, halved

1. Insert scissors in hole located on domed top of sea urchin. Rotate around top of shell, cutting toward outer edge, exposing flesh.
2. Place a bed of seaweed in a shallow bowl; top with crushed ice. Arrange sea urchins on top of ice; garnish with lemon, and serve.

### PAN-SEARED SEA SCALLOPS WITH FRESH HERB SAUCE

SERVES 4 AS A FIRST COURSE,  
2 AS A MAIN COURSE

- 8 large sea scallops, about ½ pound
- 2 tablespoons unsalted butter
- 2 shallots, finely chopped
- ¼ cup Reisling, or other dry white wine
- 1 tablespoon white vinegar
- ½ cup fish stock
- 2 tablespoons extra-virgin olive oil
- Coarse or kosher salt to taste
- Freshly ground white pepper to taste
- 1 tablespoon vegetable oil for cooking
- 2 tablespoons fresh herbs, such as parsley, chives, and tarragon, finely chopped

1. Remove the tough muscle-like membrane from the side of each scallop.
2. Heat 1 tablespoon butter in a small saucepan over medium heat. Sauté shallots until soft. Add wine and vinegar; reduce until nearly evaporated. Add fish stock, and bring to a gentle boil. Add 1 tablespoon olive oil, and whisk until well blended.
3. Strain the resulting sauce through a fine sieve into a blender; return shallots to saucepan. Add 1 tablespoon butter, and 1 tablespoon olive oil, and blend until emulsified, about 10 seconds. Return liquid to pan.
4. Heat a 10" sauté pan on medium-high heat. Season both sides of scallops with salt and pepper. Add vegetable oil. When hot but not smoking, add scallops and more oil if needed. Cook until golden brown, 2 minutes a side.
5. Add herbs to sauce; blend well. Place scallops on a plate; surround with sauce; serve.

**Sources:** *Special thanks to Eberhard Mueller, executive chef, Lutèce, 249 East 50th Street, New York, NY 10022; 212-712-2221. Whole black sea bass, \$5.95 a pound; sea urchins, \$4.95 a pound (about 4 to 5 urchins); seaweed, available by special order; sea scallops, \$12.95 a pound, all available from Citarella, 2135 Broadway, New York, NY 10028; 212-872-1800 or 800-660-0750. Market prices vary; shipping and handling charges extra for priority overnight mail-order delivery. Catalog available. Global 8" chef's knife, \$12.95, from Lamalle Kitchenware, 36 West 25th Street, New York, NY 10010; 212-242-9750 or 800-660-0750.*

#### EPISODE 422 FEBRUARY 9-10

Cooking: Tempering  
Chocolate with Marzipan

Cooking: Chocolate  
Leaves and Cabbage

#### TEMPERING CHOCOLATE

- Work in a room with low humidity, no warmer than 75°.
- Use couverture chocolate, which contains at least 32% cocoa butter.
- As it melts, dark chocolate should not exceed 120° (110° for milk and white chocolates) or it may lose depth of flavor and burn.
- Leftovers can be remelted several times, but add a few ounces of unmelted chocolate to prevent bloom, a whitish surface cast.
- Water and condensation cause tempering chocolate to "seize," or become unworkable.



- Bittersweet chocolate tempers between 85° and 90°; milk and white chocolates temper between 82° and 85°.

#### INGREDIENTS

- 1 1/2 pounds bittersweet chocolate, such as Callebaut or Valrhona

1. Bring a large saucepan of water to a boil. Coarsely chop chocolate with a cleaver or chocolate fork. Place 1 pound in a metal bowl (make sure bowl fits snugly in saucepan); reserve 1/2 pound.
2. Remove water from heat, and place bowl over saucepan. Stir chocolate with a rubber spatula, periodically measuring temperature with a candy thermometer, until the melted chocolate is between 110° and 120°. If too cool, return pot to heat for a few minutes.
3. Continue stirring, and add reserved chocolate in three stages. Remove bowl, and bring down temperature by stirring constantly until mixture is smooth and drops to 85° to 90°; add more chocolate as necessary. (The bowl will feel slightly warm to the touch, and chocolate will appear smooth and shiny.)
4. To test tempering, dip an offset spatula in the melted chocolate, scrape excess off the back, and refrigerate 5 minutes; properly tempered chocolate will snap off of the spatula. Or dab a spot of melted chocolate on your lip; if it feels just slightly cool, then it's tempered. Use immediately. Keep chocolate over warm water to maintain temperature.

**Sources:** *Special thanks to Marilyn Mueller, proprietor, Cirillo Chocolatier, P.O. Box 2252, Annapolis, MD 21404; 410-757-4338 or fax 410-757-9759. Chocolate fork, \$19.50, from Lamalle Kitchenware, 36 West 25th Street, New York, NY 10010; 212-242-9750 or 800-660-0750. Callebaut bittersweet chocolate (#69-467399), \$10.50 for 17 1/2 ounces, and canning thermometer (#69-1081120), \$27, from Williams-Sonoma, 800-541-2233.*

#### COEUR A LA CREME

SERVES 6

- 4 tablespoons raspberry purée (from about 1 1/2 pint fresh berries or 1 cup frozen berries, thawed)
  - 8 ounces cream cheese
  - 1/2 cup confectioners' sugar
  - 1 teaspoon pure vanilla extract
  - 8 ounces crème fraîche or heavy cream
- Raspberry Coulis, recipe follows  
Fresh raspberries and mint for garnish

1. Cut six rinsed 8"-by-8" squares of cheesecloth, three to four layers thick, for each small mold, or one 16"-by-16" square for a large mold. Line mold with dampened cloth.
2. Make raspberry purée by pressing berries through a fine sieve; discard seeds. Combine cream cheese and sugar in bowl of an electric mixer; blend until smooth. Scrape down sides of bowl. Add vanilla, and combine; add raspberry purée, and mix well.
3. In a large mixing bowl, whip crème fraîche or cream with a balloon whisk until stiff. Fold stiffened cream into raspberry mixture.
4. Fill mold with mixture, and smooth the top surface. Neatly fold edges of cheesecloth over mixture, and place on a plate to catch the draining whey. Chill 24 hours before serving.
5. To serve, unwrap cheesecloth, center a plate on top of mold, and flip plate and mold right-side up. Remove mold; carefully pull away cheesecloth. Pour on Raspberry Coulis, and garnish with berries and mint.

#### Raspberry Coulis

MAKES 1 1/2 CUPS

- 12 ounces raspberries, fresh or frozen
- 1/2 cup sugar

In small saucepan over medium heat, boil raspberries and sugar 10 minutes, or until mixture thickens. Strain through a sieve; add water, a tablespoon at a time, until mixture resembles a sauce. Refrigerate until ready to use.

**Sources:** *Ceramic coeur à la crème mold, \$6.95 for 1/2-cup mold, \$19.95 for 4-cup mold, available from Lamalle Kitchenware, 36 West 25th Street, New York, NY 10010; 212-242-9750 or 800-660-0750.*

#### CHOCOLATE LEAVES AND CABBAGES

##### Chocolate Leaves

- 1 1/2 pounds tempered bittersweet chocolate (see recipe, above)
- Assorted pesticide-free leaves with pronounced veins, such as magnolia, nasturtium, lemon, rose, and holly