

HCR

13

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHCR13 (RES)

1. Page 3, line 3:
INSERT: WHEREAS it is the position of the Alaska State Legislature that ANILCA did not specifically preempt state management nor grant specific authority to the secretaries of Agriculture and Interior to preempt state management of navigable waters and submerged lands.,
resources there in.
2. Page 3, line 9:
INSERT: FURTHER RESOLVED the Alaska State Legislature respectfully requests the U.S. Congress to promptly clarify that ANILCA did not preempt nor diminish state sovereign authorities over its own lands, waters and resources.

0-LS1771AE
Utermohle
4/22/98

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced:
Referred:

A RESOLUTION

1 **Relating to state management of lands and natural resources beneath navigable**
2 **waters.**

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

4 **WHEREAS**, under sec. 8(c) of the Alaska Statehood Act, Alaska was admitted into
5 the Union on an equal footing with the other states in all respects upon the issuance of
6 Presidential Proclamation No. 3269 by President Dwight D. Eisenhower on January 3, 1959;
7 and

8 **WHEREAS** sec. 6(e) of the Alaska Statehood Act provided for the transfer of
9 responsibility for the management of fish and wildlife from the federal government to the
10 State of Alaska with the same measure of administration and jurisdiction over fisheries and
11 wildlife as possessed by all other states; and

12 **WHEREAS** the Secretary of the Interior has certified to the United States Congress
13 that the Alaska State Legislature has made adequate provision for the administration,
14 management, and conservation of fish and wildlife; and

15 **WHEREAS** sec. 6(m) of the Alaska Statehood Act provides that the Submerged Lands
16 Act of 1953 shall apply to the State of Alaska and gives to the State of Alaska the same rights

1 that other states have under the Submerged Lands Act; and

2 **WHEREAS** Executive Order No. 10857 issued by President Eisenhower, entitled
3 "Termination of Federal Functions in Alaska and Transfer of Property Held by the United
4 States," quitclaims any interest owned or held by the federal government in fish and wildlife
5 in Alaska effective December 31, 1959; and

6 **WHEREAS** the Submerged Lands Act quitclaims federal ownership of submerged
7 lands to the State of Alaska, provides that the State of Alaska, like all other states, owns the
8 lands and natural resources beneath navigable waters, and also provides that management of
9 the natural resources beneath the navigable waters of Alaska are subject to state, not federal.
10 law; and

11 **WHEREAS** Justice Thurgood Marshall, writing for the United States Supreme Court
12 in *Kleppe v. New Mexico* (426 U.S. 529 (1976)), said, "Unquestionably, the States have broad
13 trustee and police powers over wild animals within their jurisdictions"; and

14 **WHEREAS** the United State Supreme Court in *Missouri v. Holland* (252 U.S. 416
15 (1920)), said, "No doubt it is true that as between a State and its inhabitants the State may
16 regulate the killing . . . of [wildlife] . . ."; and

17 **WHEREAS** the United States Supreme Court in *Scott v. Sandford* (60 U.S. 393
18 (1856)) said, "Scarcely anything more illogical or extravagant can be imagined than the
19 attempt to deduce from this provision in the Constitution [Property Clause] a power to destroy
20 or in any wise to impair the civil and political rights of the citizens of the United States, and
21 much more so the power to establish inequalities amongst those citizens by creating privileges
22 in one class of those citizens, and by the disenfranchisement of other portions or classes by
23 degrading them from the position they previously occupied"; and

24 **WHEREAS** Justice Sandra Day O'Connor, writing the opinion of the United States
25 Supreme Court in *United States v. Alaska* (___ U.S. ___ (1997)), said, "Ownership of
26 submerged lands -- which carries with it the power to control . . . fishing, and other public
27 uses of water -- is an essential attribute of sovereignty. . . . Under the doctrine of Lessee
28 of *Pollard v. Hagan* . . . , new States are admitted to the Union on an 'equal footing' with
29 the original 13 colonies and succeed to the United States' title to the beds of navigable waters
30 within their boundaries"; and

31 **WHEREAS** Justice William Rehnquist, writing in a separate opinion in *Douglas v.*

1 Seacoast Products, Inc. (431 U.S. 265 (1977)) described the Submerged Lands Act as "a
2 quitclaim of the entire interest held by the Government when the Act was enacted";

3 **BE IT RESOLVED** by the Alaska State Legislature that

4 (1) title and ownership of lands beneath navigable waters and the natural
5 resources in those lands have been confirmed and established in the State of Alaska; and

6 (2) management, administration, leasing, development, and use of lands
7 beneath navigable waters and the natural resources within those lands are subject to the laws
8 of the State of Alaska; and be it

9 **FURTHER RESOLVED** by the Alaska State Legislature that the Secretary of the
10 Interior and the Secretary of Agriculture do not have authority to manage submerged lands
11 and natural resources on those lands in Alaska because the authority to manage lands and
12 natural resources beneath navigable waters of Alaska was given to the State of Alaska through
13 the Submerged Lands Act.