

SCOMM

102:11

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

Mr. Frank Rue
Commissioner, ADF&G
P.O. Box 25526
Juneau, Alaska 99802-5526

March 12, 1997

A

Dear Commissioner Rue:

There is a bill being introduced by Representative Bill Williams that establishes a new precedence in the fishing industry. This bill is proposing that the Southeast harvest divers form a regional association and then vote to assess themselves a tax which will be deposited into the general fund and then rerouted back to ADF&G to manage the dive fisheries. Cheryl Sutton of the Sutton Connection received \$80,000 from four S.E. communities to develop a dive fishery association. I have attached a copy of her Scope of Work with the Ketchikan Gateway Borough and a Sectional Analysis of the bill. She has managed to convince not only some of the divers, but also Representative Bill Williams that by self-assessment, the divers will be able to influence ADF&G in management decisions. Decisions such as what areas to assess, open and/or close and which specific species to be targeted.

Most of the fishing associations that I am aware of such as the United Fishermen of Alaska are funded by membership dues, donations and community fund raisers. With an entire arm of government dedicated to the development of natural resources one would think that with the dwindling of the timber industry this agency would be putting concentrated effort into the development of every untapped resource available. The State should put more money and effort into any underdeveloped or undeveloped resource that would economically benefit all Alaskans.

It is my understanding that 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. Will the state constitution have to be amended to allow for self-management of a fishery? I believe that the state regulations and statutes would also have to be changed or amended. Aren't these things usually handled by the Board of Fish.

If this bill is successful and this tax is passed, will the additional money coming into the Fish & Game budget actually be used to perform more bio-assessments? Will it allow for more areas to be opened? Will it provide for the opening of new fisheries, or will it end up displacing the line item money appropriated by the government to the ADF&G budget for the dive fisheries.

It appears that the Sutton Connection is patterning her association after the regional aquaculture associations which as you know are

funded by a 3% assessment by Alaska permit holders to provide enhancement to the salmon fisheries. The difference between her proposed organization and the regional aquaculture associations is that the regional aquaculture associations have nothing to do with management and must defer all management decisions to ADF&G. The regional associations do co-operative agreements with ADF&G but once again it is for stock enhancement, not management.

Several weeks ago, we were told that the intent of the bill was to provide for funding of the urchin fishery past the June 30, 1997 deadline when the money paid by the processors to keep this fishery going would end. We were informed this week by Senator Taylor's office that there is now a very good chance that we will get line item funding for the urchin fishery for continuation past the above deadline. This is not a done deal, and we will not know for certain for a couple of weeks. In spite of the possibility of now having the necessary funding, The Sutton Connection and Representative Williams are continuing with the introduction of the bill because they say the divers want to tax themselves in order to have more control over the management. Not all of the divers in Southeast Alaska feel that this is a prudent way of managing a fishery or any other natural resource for that matter.

Mr. Rue, it is very important for those of us who are against this bill to know if there is any way that by self-assessment, those paying the tax will be able to influence ADF&G management decisions. Public comment on the bill will begin soon, and we need more information from you before our own comments can be formulated. Your expedient response to this letter will be greatly appreciated.

Thank you for your time and consideration.

Sincerely,



Sterling Sliter
Alaska Harvest Divers Association
Ketchikan Chapter, President
428 Hawden
Ketchikan, Ak 99901
Phone: 225-7188 Fax: 225-1348

cc: Robert Clasby, Director, CFMD
Representative Bill Williams
Senator Robin Taylor
Representative Jerry Mackie
Senator Alan Austerman

Exhibit A

**Cheryl Sutton
Box 210975
Auke Bay, AK 99821
907-789-7346**

Scope of Work

for

Dive Fisheries Economic Development Project

Summary Statement

The objectives of the Southeast Dive Fisheries Economic Development Project are to develop underutilized and non-utilized dive species throughout the southeast region to allow year-round harvesting and processing opportunities; to create plans which will capture the highest economic return to the region; to provide opportunities for new employment throughout the region; and, to create opportunities for associated economic development.

Scope of Work

The scope of work which will be performed for the Ketchikan Gateway Borough by Cheryl Sutton for the Dive Fisheries Economic Development Project is as follows:

- Create a regional communication network for reporting and coordination of activity. In Ketchikan, the Borough Manager will receive regular written and oral communications.
- Research, draft and seek introduction and passage during the 1997 legislative session of legislation to tax fishermen (dive) a percentage of the exvessel value of the dive species to be collected by the state for the purposes of management and research of the underdeveloped and developing dive fisheries in southeast Alaska.
- Coordinate the development plan by southeast communities to identify existing research and management; define additional harvest opportunities by species and area; and develop a budget and timetable for survey work by area and species.
- Coordinate with the Alaska Department of Fish & Game in the development of both the research activities and the management plans.
- Coordinate with other state agencies to seek funding and support for associated economic development in southeast communities (e.g. additional shoreside processing, DEC marine toxin testing labs, etc.)
- Examine aquaculture opportunities for dive species and seek incorporation of opportunities.
- Assist in identifying market opportunities and contacts.
- Perform as project leader.

Amy
A

TO: Representative Austerman
FROM: Paul and Melinda West
Ak Harvest Divers Assoc.
Ketchikan Chapter
723-5022 (cell) or 225-7188
DATE: March 18, 1997
RE: Sutton Connection Proposed Bill

We are sending you a list of current divers who are opposed to the Sutton Connection's Tax Bill. We are currently diving and have managed these few signature without effort. It is in our opinion that the consensus of divers is not as presented by Sutton. In fact, many of the divers are not even informed and have not read the bill.

We feel that there was no effort put forward on alternatives and this bill is unconstitutional and discriminatory as currently written. There are many points to this bill we would be happy to discuss with you and would appreciate a return call. We are aware that long term funding needs to be addressed, but this bill is not the answer.


Melinda West

OPPOSITION TO THE SUTTON DRAFT

Support Diving not government!

We the undersigned divers are opposed to a self tax as presented by Cheryl Sutton Work Draft House Bill to be deposited in the State's "General Fund".

Name	Address	Signature
1. Paul West	Box 9493 Ktn	Paul West
2. Melinda West	Box 9493 Ktn	Melinda West
3. Sterling Sitar	PO Box 5501 Ktn	Sterling Sitar
4. Ed Roney Jr.	Bar Harbor	Ship II
5. Dan Roney	Bar Harbor	Ship II
6. Gary Hernandez	Box 23164	Gary Hernandez
7. Gary Hernandez	Box 874	Gary Hernandez
8. Patrick F. Lewis	Box 9220	Patrick F. Lewis
9. Anna L. Evans	Box 9425 Ket AK 99901	Anna L. Evans
10. Michael E. Daulton	Box 9054 Ket AK 99901	Michael E. Daulton
11. James L. Chubb	Box 6583 Ktn AK 99901	James L. Chubb
12. Billie L. Chubb	Box 6583 Ktn AK 99901	Billie L. Chubb
13. Ryan D. Daulton	Box 8164 Ktn AK 99901	Ryan D. Daulton
14.		

OPPOSITION TO THE SUTTON DRAFT

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Name	Address	Metlakatla	Signature
1 Eric Woolfel	P.O. Box 200		<i>[Signature]</i>
2 Dale Stanley	P.O. Box 200		<i>[Signature]</i>
3 Pat Cassin (version H)	Box 109 Met		<i>[Signature]</i>
4 ERIC HAMILTON	Box 5838 KTN		<i>[Signature]</i>
STOM CARRUTH	Box 804 Ketchikan		<i>[Signature]</i>
6 Tom Trumper	Box 654 Metlakatla AK		<i>[Signature]</i>
7 Gary L. Trumper	Box 654 Metlakatla AK		<i>[Signature]</i>
8 Deborah Pieper	BC 23495 Ketchikan		<i>[Signature]</i>
9 M. L. E. Neven	P.O. Box 23498 Ktn		<i>[Signature]</i>
10 LAUREN E ROGERS	P.O. Box 842 WRANGELL AK		<i>[Signature]</i>
11 TONI R. DEPUÉ/ROGERS	Box 842, WRANGELL		<i>[Signature]</i>
12			
13			
14			

TOTAL P.02

TOTAL P.03

APR 11 1997

Opposed to Bill No. 198

My name is Melinda West a harvest diver in S.E. Alaska. I represent myself and my husband Paul West a harvest diver. We stand against Bill No. 198 and have collected 40 signatures of working divers from both local dive associations who also oppose Bill No. 198. We are opposed on the grounds that this Bill is unconstitutional and discriminatory against one user group. I have calculated the numbers on current quota's allocated to the dive fisheries a tax amounting to 14% would be required to manage the fishery, enforce the fishery and support the dive association that is attached to the bill. This has all the makings of special interest money, possibly bribery and racketeering comes to mind. In order to make this a fair playing field then this tax should be across the board such as salmon, halibut, crab etc. There will always be the question; who has the most money gets the attention of Fish and Game. I believe this is why the state has always funded Fish and Game through the raw fish tax, not special interest and should continue to be funded by this method.

The dive fisheries will be paying a 3% raw fish tax this next year. This means we will be paying for management of the fishery twice. If these dive fisheries were to expand and stabilize the 3% raw fish tax would generate more than enough revenue to be self sustaining.

In closing, No consideration should be given to any kind of unproven method of self tax that singles out a certain user group to fund the management of the fishery.

P.O. Box 9493
Ketchikan, AK

Phone 907 7235022

Paul West
Melinda West

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8. Patrick F. Laws	Box 9220	Patrick F. Laws
9. Willis L. Evans	Box 9425 Ket AK 99901	Willis L. Evans
10. Michael E. Daulton	Box 9054 Ket AK 99901	Michael E. Daulton
11. Jim L. Craft	Box 6583 Ktn AK 99901	Jim L. Craft
12. Tim L. Craft	Box 6583 Ktn AK 99901	Tim L. Craft
13. Ryan D. Smith	Box 8164 Ktn AK 99901	Ryan D. Smith
14. James R. Kuntz	P.O. Box 335 Butana, AK 99826	James R. Kuntz

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4 ERIC HAMILTON	Box 5B38 KTN	[Signature]
5 TOM CARRUTH	Box 804 Ketchikan	[Signature]
6 Tom Trumper	Box 654 Metlakatla AK	[Signature]
7 Gary L. Trumper	Box 654 Metlakatla AK	[Signature]
8 Deane W. Pieper	BC 23495 Ketchikan	[Signature]
9 M. L. E. Naxon	P.O. Box 23498 Ktn	[Signature]
10 LAUREN E ROGERS	P.O. Box 842 WRANGELL AK	[Signature]
11 TONI R. DEPUÉ/ROGERS	Box 842, WRANGELL	[Signature]
12 Rob Bruce	P.O. 291 Sterling AK 99672	262-6565 [Signature]
13 Doug Mark	4517 Mt Angeles	[Signature]
14		

OPPOSITION TO THE SUTTON DRAFT

Support Diving not government!

We the undersigned divers are opposed to a self tax as presented by Cheryl Sutton Work Draft House Bill to be deposited in the State's "General Fund".

Name	Address	Signature
1. Elzbieta Kundt	P.O. Box 335 Gustavus AK 99836	
2. Ogdie Casey	P.O. Box 382 Sitka AK 99835	David Kelly
3. Robert H. Waloff	GEN DEL SITKA ALASKA 99835	
4. Russell S. Sabow	P.O. Box 6451 Sitka AK 99835	David Kelly
5. John Malout	620 Bill St. Anch. AK 99515	
6. Jas. Littlefield	"	David Kelly
7. Brett Stillwaugh	P.O. Box 1552 WRANGELL, AK 99929	David Kelly
8. ~~Alena~~ Jannicus	P.O. Box 7262 Ketchikan AK 99901	
9. ~~David Kelly~~	David Kelly P.O. 7262 Ketchikan 99901	
10. ~~Elle~~ ZEKI KELLY	P.O. BOX 23502 KTN.	
11. Tim Foley	Box 200 Metheka Ha AK 99826	
12. ~~David Kelly~~ Dan Wrightington	Box 23422 Ketchikan	
13. ~~David Kelly~~ Box 1335	WY AK 99921	
14.		

In Opposition to House Bill 198

This bill puts the burden of funding Red Urchins in crucial developmental stage on a small group of divers with few resources. If this bill is put into law you are recognizing one association as the spokesperson for all interested parties. That is an association with no by laws no rules. We could have an association that by virtue of this bill subjects us all to belong whether we agree or not. It also allows them the right to use this tax revenue for their expenses which at this point are not known to anyone. This sounds like socialism to me. Take from the poorest to fund a management program that was the responsibility of the state (our) tax dollars, not private money.

When the financial backing for this Bill comes from the cities it begins to sound like the city does not want responsibility insuring it's population has alternative employment. Had the same amount of money and energies been spent on funding this fishery instead of taxing the lowest end of the market. We would have another year of fishing as well as a potential source of jobs. The resource moneys seems to be saved for jobs other than this dive fishery.

Since 1989 this diving in Alaska has been pretty much self serve -the ADFG has not gone out of its way to help expand it because there was not much money in it. Still , as it has the potential of developing into a more valuable industry, we are held at **political gun point** to tax ourselves to guarantee a dive fishery. So: 1- Does this mean ADFG answer to the association or to the state of Alaska? 2- Is this conflict of interest?

P.O Box 23498
Ketchikan AK
FIV Ostrich

Don Pieper
permitter
Mken Nelson
Diver Tender

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,

Handwritten signatures of Devin and Bridget Myers in cursive script.

Devin and Bridget Myers
(907) 247-7774

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 99801-1132

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
Dennis M. Pettell 12410 Seafar Dr Ketchikan AK 99901
H. Zimmelle P.O.B 7022 Ketchikan, AK 99901
George Pohlman P.O. Box 5322 KTN AK
Barry Bray 232 Madison St. AK 99901
Sandra Swain 1850 Water Street, KTN, AK 99901

March 29, 1997

~~Russell Schow~~ Russell Schow PO Box 6451 S. H. Adk
~~Bill Shurt~~ Bill Shurt 10437 Kingfisher Rd Ktn AK
~~Nancy Davies~~ Nancy Davies Box 8335 Ktn AK
~~Scott Swain~~ Scott Swain 1050 Water St. Ktn AK.
~~James B. Davis~~ James B. Davis 312 Front Ktn
~~John W. McIntosh~~ John W. McIntosh PO Box 7301 Ketchikan
~~Mark L. Gatti~~ Mark L. Gatti 316 Shoreline B 3 Ktn AK
~~Rod Bray~~ Rod Bray 324 Alder St.
~~Don E. Harky~~ Don E. Harky PO Box 23008 Ktn.
~~James B. Davis~~ James B. Davis 312 Front Ktn
~~John W. McIntosh~~ John W. McIntosh PO Box 7301 Ketchikan
~~Nora Bain~~ Nora Bain 334 Front St 11 11
~~Paul McIntosh~~ Paul McIntosh PO Box 6412 Ketchikan, AK 99901
~~Fred Ditt~~ Fred Ditt 1740 Sayles St. Ktn AK 99901

FOR: TELCONFERENCE ON DIVE FISHERY DEVELOPMENT & MANAGEMENT
ASSESSMENT--SPONSORED BY THE HOUSE SPECIAL COMMITTEE ON
FISHERIES

BY: STERLING SLITER, PRESIDENT

ALASKA HARVEST DIVERS ASSOCIATION, KETCHIKAN CHAPTER

DATE: APRIL 9, 1997

I AM OPPOSED TO HB198 BECAUSE I BELIEVE THAT THE STATE OF ALASKA
SHOULD FUND THE DIVE FISHERIES IN THE SAME WAY THAT IT FUNDS ALL
OTHER FISHERIES IN ALASKA.

I HAVE HEARD THAT THE SENATE WILL PROPOSE SUBSTITUTE LANGUAGE
TO THE ORIGINAL BILL AS WRITTEN TO DELETE THE WORD
"COOPERATIVE" FROM THE PHRASE "COOPERATIVE MANAGEMENT" WHICH
IS USED OVER 50 TIMES IN THE BILL. IF THIS REVISED VERSION OF THE BILL
IS PASSED, IT WILL MEAN THAT THE DIVERS WILL HAVE NO SAY IN THE
MANAGEMENT OF THEIR DIVE FISHERIES WHICH THEY WERE LED TO
BELIEVE THIS TAX WOULD ALLOW. THEY WOULD SIMPLY BE TAXING
THEMSELVES TO FUND A FISHERY THAT SHOULD BE FUNDED BY THE STATE
OF ALASKA THROUGH THE FISH & GAME BUDGET PROCESS.

I SPOKE TO REPRESENTATIVE BILL WILLIAM'S OFFICE THIS MORNING AND
FOUND OUT THAT THE HOUSE BUDGET INCLUDED \$170,000 FOR
MANAGEMENT OF THE SEA URCHIN FISHERY FOR THIS NEXT SEASON. THE
HOUSE PASSED THEIR BUDGET LAST WEEK AND IT WAS SENT ON TO THE
SENATE. I SPOKE TO SENATOR TAYLOR'S OFFICE YESTERDAY AND THEY
HAVE ALSO LINE ITEMED \$91,600 OF THE SENATE BUDGET TO MANAGE THE
URCHIN FISHERY FOR THIS NEXT SEASON. THESE BUDGETS HAVE NOT BEEN
PASSED, BUT IT DOES LOOK HOPEFUL THAT THE STATE WILL FUND THIS
FISHERY FOR THIS NEXT YEAR.

ONCE THE LEGISLATURE AND THE GOVERNOR REALIZES THE ECONOMIC

BOOST THIS MULTI-MILLION DOLLAR FISHERY WILL BRING TO THE STATE OF ALASKA, I BELIEVE THAT THE COMMISSIONER OF FISH & GAME WILL MOVE THE URCHIN FISHERY FROM AN EMERGENT FISHERY TO AN ESTABLISHED FISHERY IN THE NEXT YEAR OR TWO.

HOWEVER, WE NEED THE HELP OF ALL DIVERS TO SHOW A UNITED FRONT BY GETTING BEHIND THE NEED FOR STATE FUNDING, NOT SELF-TAXING. LETTERS, PHONE CALLS, OR FAXES NEED TO BE SENT TO OUR REPRESENTATIVES AND SENATORS AND TO THE GOVERNOR LETTING THEM KNOW THAT OVER 530 DIVERS AND THE HUNDREDS OF JOBS THEY CREATE IS ECONOMICALLY GOOD FOR SOUTHEAST ALASKA. WITH THE CLOSING OF THE MILLS IN SITKA, WRANGELL AND NOW KETCHIKAN, THESE JOBS ARE IMPORTANT. THESE ARE JOBS THAT DON'T NEED TO BE CREATED--THESE ARE JOBS THAT ARE HERE NOW THEY ONLY LACK APPROPRIATE FUNDING. AND THAT FUNDING SHOULD COME FROM THE STATE OF ALASKA NOT FROM A SELF-IMPOSED TAX PAID BY THE DIVERS.

I ALSO BELIEVE THAT A SELF IMPOSED TAX PAID BY THE DIVERS TO MANAGE THEIR FISHERY WHEN NO OTHER FISHERY IS PAYING A MANAGEMENT TAX WOULD BE UNCONSTITUTIONAL.



329 Katlian Street

Sitka, Alaska 99835



February 25, 1997

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

Dear Assembly Members:

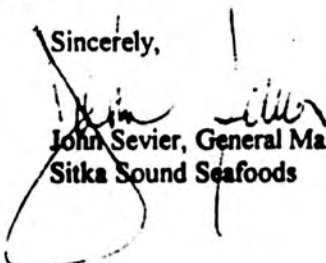
Sitka Sound Seafoods supports the development of the dive species in southeast Alaska. We have shore plants in both Sitka and Yakutat and we presently process sea cucumbers at our plant in Sitka.

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





THE 1 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

Am
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RECEIVED
APR 12 1997
Ans'd.....

April 8, 1997

**The Honorable Alan Austerman
Alaska House of Representatives
State Capitol Room 434
Juneau, AK 99801-1182**

Dear Representative Austerman:

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**



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

OFFICE: 2675 ROEDER AVE. • BELLINGHAM, WA 98225
PHONE (360) 733-0120 • FAX (360) 733-0513

PLANT: 907 KATLIAN • SITKA, ALASKA 99836
PHONE (907) 747-3811 • FAX (907) 747-3206

Greg Cushing
407 Hemlock 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



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

Greg Cushing P.O. Box 6423 Sitka, Alaska 99835
1311-B 5th St Sitka AK
James Gable 507 KATHIAN ST SITKA AK
Viggo Daiglen 317 Patterson, Sitka, AK
Ray Hill P.O. Box 3204 Sitka AK
Gerry Hill 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.

In the Sitka area we have some gaxluck 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

Barton Sollars, Jr. 3315 HPR Sitka, AK 99835 (owner 50 hrs trailer)
Carol A. Sollars 3315-HPR Sitka AK 99835
Greg Lindvall 313 Lake Sitka AK 99835 (owner 10 hrs)
Edith DeLancey 1322 SMC #13 Sitka, AK 99835
Sibyl E. Pether 313 Lake St. Sitka, AK 99835 (owner 10 hrs)
David Boye PO Box 1285 Sitka, AK 99835 (owner 10 hrs)

Representative Bill Williams
Page 2
March 31, 1997

Sherry M. Aitken 814 Charles St. Sitka, AK
Mary Winger 720 A. Gustaf Sitka AK.
Gregory Johnstone 501 Venetian Sitka, Ak.
George Elson 102 Kukuk Dr. Sitka, AK.
E. LAWRIE 138 WOLFF SITKA AK.
Mike Elson 102 Kukuk Dr. Sitka, AK



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

Dear Legislators:

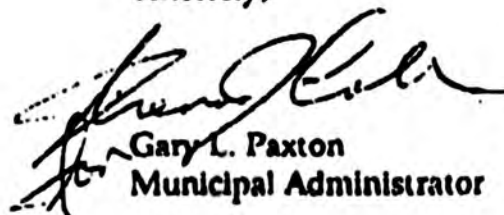
The City and Borough of Sitka supports HB 198 sponsored by Representative Bill Williams, "An Act relating to regional dive fishery development associations and to a dive fishery management assessment."

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...



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

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 1308 S. 11th St. Sitka (Manager
Hibdon Falls
Hatchery)
Trinity D. White P.O. Box 253 Sitka (S.E. Dive Shop)
John H. [unclear] 8631 Aurora Circle, Anchorage, AK
Edward J. [unclear] 1111 C. Price St. Sitka, AK owner/op (F/V MARIE)
Norma [unclear] 147 Price St. Sitka, AK
Harry [unclear] P.O. Box 1093 Sitka, AK 99835
Charles M. Hammond Box 117 Sitka, AK 99835 (owner
Lakeside Bro.
Jeff [unclear] P.O. Box 2416 Sitka AK 99835
John [unclear] 705 HPR Sitka AK 99835 (owner Whites + Race Pham)
Robert [unclear] 603 HPR SITKA AK 99835 (owner Rock Rock)
Paul [unclear] 617 Kathen E. 33 Sitka, AK 99835

Dawn Deuth 3201 HPR Sitka
Ramon San Pedro HPR
Rebecca Jauri 138 Wd A Dr Sitka AK (owner f/v Jenny Leah)
Angela n: Bradley P.O. Box 1043 Sitka, AK
Rick A. Dargatz 101 B Kuhnke Dr Sitka AK
P. J. J. J. J. 224 Katanien Dr. Sitka AK
Billy J. J. 2309 HPR #42 Sitka AK
Jerry Phillips 2103 SMC Sitka AK
Eric 2208 SMC Sitka AK (owner f/v Roshell)
Josh K. J. P.O. Box 6517 Sitka AK, (f/v S. J. J. J. J.)
Tori G. J. P.O. Box 6512 Sitka AK (f/v Magic owner)
Mary McMeester 1722 Edgewood S. H. A. AK (owner f/v J. J. J.)
Edward J. J. 101 Rudolph Nelson Cir Sitka, AK (owner f/v)
Jordan E. J. 617 Kullien St A13 Sitka AK
M. J. J. 4109 HPR #35 Sitka AK (f/v Puffin)
Mary V. J. P.O. Box 6342 Sitka AK
Denise P. J. 909 HPR #35 Sitka AK
Gregory J. J. P.O. Box 2301 Sitka, AK (owner Pritchen Sabar)
Greg J. J. 637 Oronoff Sitka, AK
Darlene J. J. 1302-27 SMC Sitka AK
Mark J. J. 3307 HPR #4 Sitka, AK
Charles J. J. 805 Sukstad Sitka, AK
Idema Phillips P.O. Box 854 Sitka AK
Karen Cornacchio P.O. Box 1925 Sitka, AK
Mitch Cowan 605 DeGoff Sitka, AK (f/v Wild Horses)
Kan Wei P.O. Box 6343 Sitka AK
Jerry Fleming 1924 Dodge Cir Sitka, AK (owner Fleming)
James LeCrone P.O. Box 591 Sitka AK (f/v)

Representative Bill Williams

Page 2

March 31, 1997

Richard D. Stephens PO Box 6358 SITKA AK 99835

William J. Carroll PO Box 6484 SITKA AK 99835

M. K. L. L. L. Box 6467 SITKA AK 99835 ^{amw/qua} FN INTRIN

Ward Eldridge Box 6245 SITKA AK 99835 SHIPWRIGHT

Don Calder PO Box 252 SITKA AK 99835 SN

Don Newman 2309-22 HPR, SITKA AK 99835-

Brenda Reynolds 207 Jeff Davis, SITKA AK 99835

Camelia Hyde Box 6444 SITKA, AK 99835

Chelle Box 6444 SITKA, AK 99835 FNL OON

Kelly Warren Box 6467 SITKA AK 99835

Marie J. Gordon Box 1043 SITKA, AK 99835

Richard G. Urias 612 BIORKA SITKA, AK 99835

Dorothy Gordon 908 HPR#3 SITKA AK 99835

George A. Carlos 908 HPR#3 SITKA AK 99835

Barbara Box 6423 SITKA, AK 99835 F/NORMAS

Burke Box 277 SITKA, AK 99835 (SITKA VETCL)



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, Hudson 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,

Dennis Watson, Mayor
City of Craig

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

Senator Jerry Mackie
Alaska State Legislature
Juneau, Alaska 99801-1102

Dear Senator Mackie:

The undersigned divers support House Bill 198 "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

Brian B. B. B. Box 384 Craig 99921 826-3047

Harriet K. Kelly Box 318 Craig 99921

Edmund B. B. B. Box 177 Craig 99921 826-2700

Bob K. K. K. Box 527 Craig 826-3476

Mike K. K. K. Box 542 Craig 826-3657

William M. M. M. Box 1131 Craig 99921 254-1179

Michael F. Bell Box 844 Craig 99921 826-3456

Rick Summers Box 227 CRAIG 826-2271

Tracy S. S. S. Box 260 CRAIG 99921

Senator Jerry Mackie

Page 2

March 19, 1997

~~Dana B. Ostrom Box 325 Craig AK 826-3192~~~~Don Swett Box 333 Craig AK 254-1179~~~~MITCH COWAN 605 DEFOFF SITKA 747-7416~~~~James Leccane P.O. Box 541 SITKA 747-7792~~~~JORGE IGNACIO MOLINA-SALAS P.O. Box 1922 SITKA AK 907-966-2246~~~~Craig Sempert Box 796 Craig 826-3481~~~~Carl C. Dinger Box 104 Craig 826-3501 (Corky)~~~~Jay Clifton 231 KATELAN 248 SITKA 747-7323~~~~Josh Stuke 704 Shawn SeeT Craig 826-2340~~~~Jim Stuke 5th Spruce Craig 826-2340~~



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 solution so our company can make investments in these resources with confidence of a future.

Sincerely yours,

Stephen LaCroux



NORQUEST

Lafayette, Silver Lining, Crusader
Phone: 907-826-3334
Fax: 907-826-3353
PO Box 412
Craig Ak. 99921

March 26, 1997

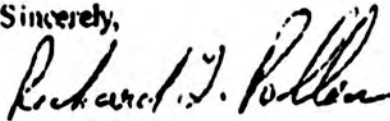
Dear Senator Mackie,

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



ADOPTED AUGUST 1973
March 17, 1997

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 18, 1993

BOX 631, 99900 (907) 874-2201
FAX (907) 874-3952

Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

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 highlighted 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:lv



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.**

March 28, 1997

Representative Bill Williams
Fax (907) 465-3793

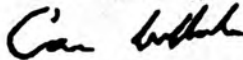
Dear Representative Williams

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

HB 198: An Act Relating to Regional Dive Fishery Development Associations

To: Southeast Alaska Mayors

Re: HB 198

From: Gordon Jackson, President/CEO of Kake Tribal Corporation

Gordon Jackson

Hearing date: House Fisheries Committee, Wednesday, April 9th, 5p.m. to 7 p.m.

Contact: Rep. Alan Austerman, Chairman, 465-2487

This winter, Kake Fisheries, a division of Kake Tribal Corporation, conducted an experimental sea urchin processing operation that proved to us the viability, under certain conditions, of employing over 40 villagers during a time of year when there has been few if any employment opportunities for rural residents. There is no evidence that HB 198 will meet the employment needs of rural, or urban residents, nor does it appear to be the right vehicle for encouraging the development of emerging fisheries.

- HB 198 empowers a select group of fishermen (divers) with the right to levy assessments on natural resources establishes a conflict of interest. Resources such as urchins, geoducks, and other types of shellfish may be subject to other types of harvesting methods. Limiting assessment decisions to one gear group is not in keeping with our system of equal representation. (If salmon fishing was undeveloped, would we empower trollers the right to levy assessments for the management of the entire fishery and for funding their association?)
- Legislation is not needed to create a dive fishery association. Like any other group of fishermen, divers can create their own association. HB 198 provides for an undisclosed percentage of the assessment to be used for funding the operation of the association. It is well known that the backers of this bill estimate that the annual operating expense for such an association would be in excess of \$500,000.
- HB 198 may be in conflict with the goal of creating regional economic development opportunities. The objective of divers is like that of any other harvester of a resource: assuring themselves the greatest number of buyers so they can sell their product for the highest possible price. They have no compelling economic reason to foster in-state processing.
- What if this was legislation creating local school boards, limiting the electorate to only those people with teaching certificates, and allowing the board, composed only of teachers, to determine the property tax necessary to support schools. Effectively, this bill does the same with valuable state resources.
- This bill does not address the dive fishery moratorium. There are no commercial divers living in Kake, or many other Southeast communities. The type of association that would be created by HB 198 would likely work against opening the fisheries to new divers.

Suggested Amendments

We encourage amendments to this bill that would create a board for the purpose of encouraging the development of emerging fisheries and that would provide for an interim funding mechanism to manage such resources. Such an organization should be composed of fishermen representing various gear types (including divers), as well as processors and citizens. Such a board would be much less expensive to operate than the association that HB 198 would create. We also recommend a sunset provision in anticipation of the creation of a Community Development Quota (CDQ) program for such emerging fisheries resources.

A learning curve

Divers, processors learn as they go in new urchin fishery

By SCOTT BOWLEN
Daily News Staff Writer

Rock n' roll pounded the cold air in a Ketchikan fish processing plant Thursday as gloved workers sorted the catch.

Another day on the slime line? Not hardly.

Rather of slicing up thousands of pounds of salmon in a frenzy of motion, these crew members stood almost still, each staring into a small plastic mesh basket in which they painstakingly gleaned mere ounces of roe from sea urchins.

Eleven days into Southeast Alaska's new sea urchin fishery, work has commenced slowly, with most participants just starting what could be a lengthy education.

Yet progress is being made, and hope remains that the red sea urchin fishery will become a major boost to the Ketchikan and area economies.

"I'm reasonably satisfied with the progress," said Craig Priebe, plant manager for Silver Lining/NorQuest Seafoods in Ketchikan.

"... It's going to be a long learning curve. But the divers are learning and getting better. We're learning, and getting better."

Few people believed at this time last year that an open commercial sea urchin fishery would happen in Southeast Alaska any time soon.

But through a concerted effort by harvest divers and processors — as well as the state and Ketchikan Gateway Borough governments — the fishery opened Jan. 6 in southern Southeast.

The seven-day-a-week fishery was blessed by favorable weather until Thursday. As of Friday, a total of 86 divers had landed about 185,000 pounds of sea urchins.

That's about 4 percent of the approximately 4.6 million pound overall quota.

Most of the effort has been in District 1 near Ketchikan, where divers have harvested about 123,000 pounds.

Local processors involved include NorQuest/Silver Lining, which is buying in Ketchikan and Craig; E.C. Phillips & Son in Ketchikan; and Coastal Fisheries in Metlakatla.

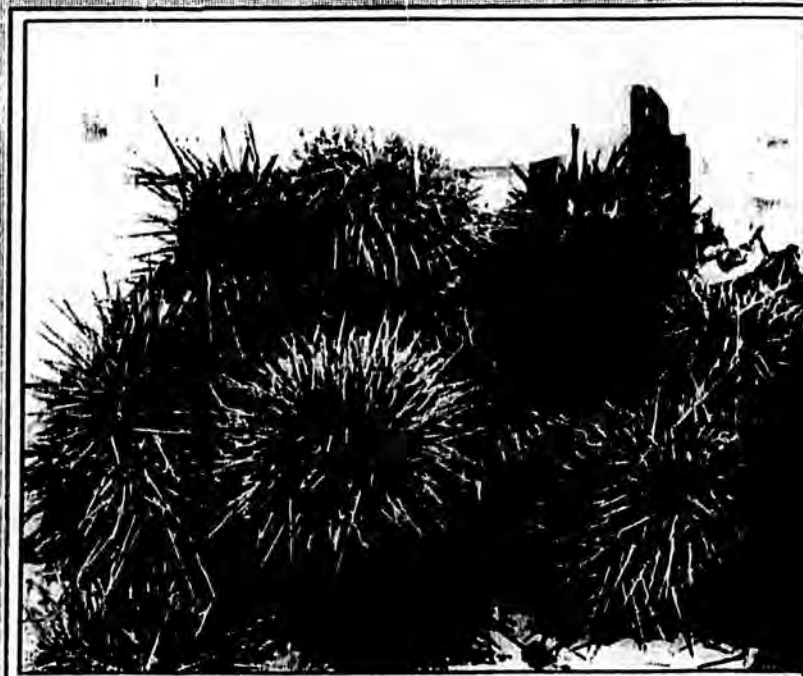
Kake Tribal Fisheries and the Crystal Bay Co. have also bought urchins, said Jim Minicucci, sea urchin project leader with the state Department of Fish and Game.

Most of the primary processing is being done locally before the product is sent to reproprocessors, said Minicucci.

The reproprocessors, which have market expertise and established brands, package the urchin roe for auction. The major market for urchin roe is Japan.

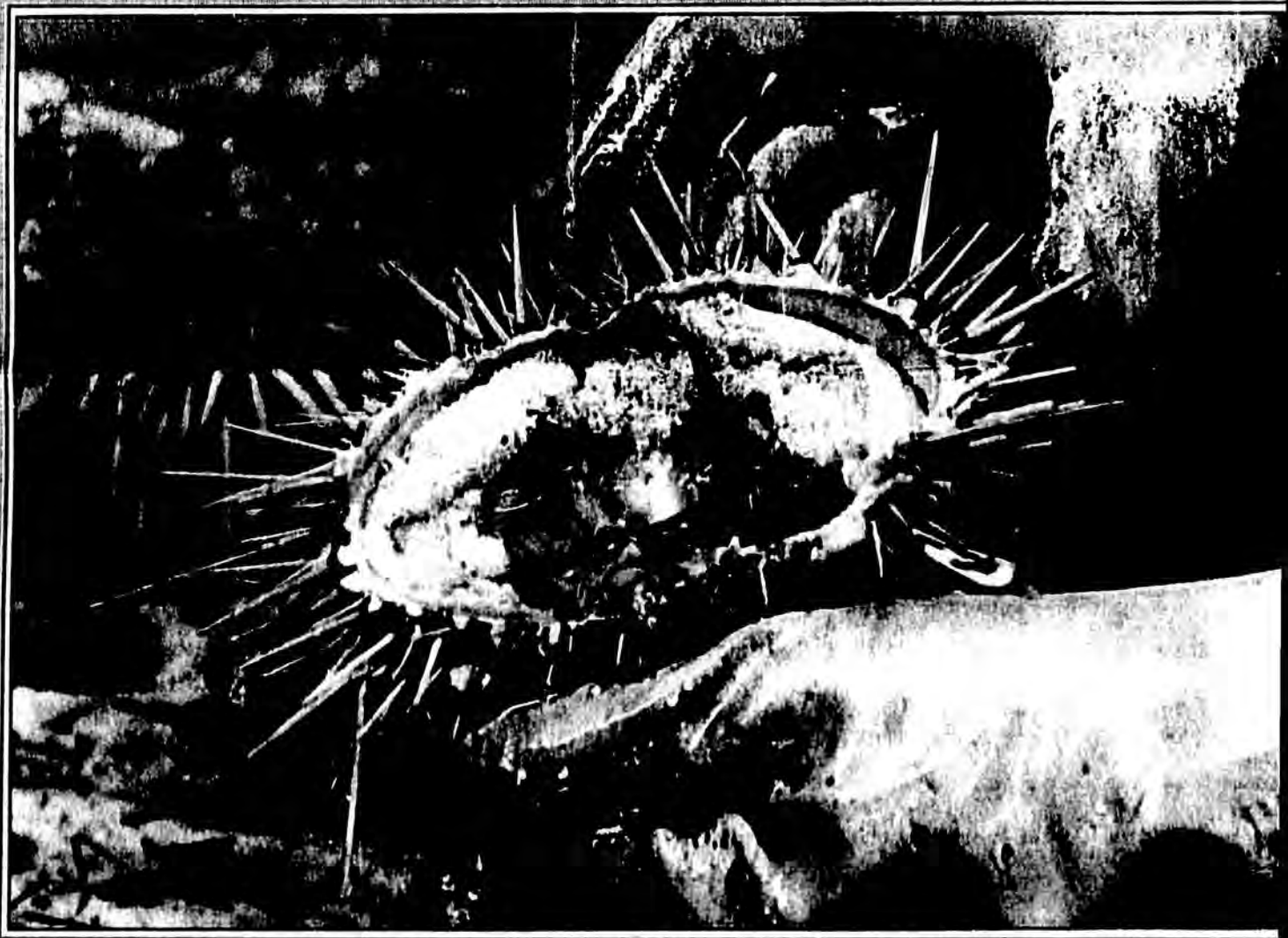
Prices will become known in the next week as product reaches the market.

See 'Sea urchins,' page A-3



The oval-shaped, prickly sea urchins in a pile at E.C. Phillips being cracked open for their roe.

Staff photos by Hall Ar



Sea urchin roe lines the inside perimeter of a sea urchin which has been split open at E.C. Phillips on Thursday. The urchins are harvested for their roe, which is in big demand by the Japanese.

Saturday-Sunday, Jan. 18-19, 1997

Sea urchins

Here in Ketchikan, the early talk is about the learning curve.

"We're running a fishery, but it's actually a training session," said Steve LaCroix, dive fleet manager for Silver Lining/NorQuest.

For one, "fishing on a recovery basis is a whole new concept for divers," Priebe said.

Unlike other fisheries where they deliver product and get paid immediately, urchin divers must wait days or weeks before they know what they're going to be paid.

An individual diver's product is tracked until it's sold at auction. The price information filters back through the system and the diver is paid accordingly.

The key factor for prices is quality. Quality is the key factor in prices. Divers soon learn it doesn't pay to deliver junk to the dock, but even experienced divers say it's not easy to pick good quality urchins.

"The guys are finding out it's pretty

tough to find a perfect urchin," said Sterling Sliter, president of the Alaska Harvest Divers Association chapter in Ketchikan. "There's a lot of urchins out there, but not a lot of good ones."

Learning to successfully harvest the spiny critters takes patience and time, he said.

This represents the other change for the fishermen who perhaps are more used to quickly picking up whatever sea cucumbers or geoduck clams might be in the area.

But for urchins, "you have to be totally conscious and paying attention" in the water, Sliter said. "You can't be daydreaming."

Priebe said many of NorQuest's new divers are on trip limits while they learn. Other buyers also have trip limits in place.

The importance of quality was made clear Wednesday when top officials of the Canadian firms Grand Hale Ltd. and Hi-To Fisheries Ltd. met with divers in Ketchikan.

With the officials were trays of urchins they'd received from Southeast Alaska, said Minicucci.

"Overall, they were not impressed by the quality," he said. "Only one delivery was grade A. ... They were concerned about getting a consistent product on the market."

The processors are learning too.

As the processing techniques are new to the mostly locally hired crews, technicians from reproducers are being brought in to help teach proper methods.

"Right now we're putting out more pounds of paperwork than we are of product," Priebe said.

It's a loss-making proposition at the moment, processors say, but there's promise of a potentially profitable fishery down the road.

Mike Timmerman, assistant plant manager at E.C. Phillips, said his company is working with urchins to support the local divers and keep a steady crew working in the plant until other winter fisheries such as herring come on line.

"And ultimately, make a little money," he said.

Most observers expect some partici-

pants will get out of the fishery at some point.

Minicucci spoke of one incident that the department does not want to see repeated, however.

Apparently, an approximately 3,000-pound load of urchins that had been rejected by a processor or processors was dumped in Tongass Narrows on Wednesday night, said Minicucci.

The dumping was a bad idea, made worse because it's likely that the load was not recorded on a fish ticket and taken off the quota, he said.

Minicucci said the department would not look kindly on future dumping of urchins.

"We'll shut the fishery down," he said.

Overall, Minicucci said the fishery was starting to pick up speed in the second week, and likened the learning speed of divers and processors in this fishery to the 1995 test fishery.

He expects the fishery to last at least through April and possibly longer.

Sliter, who participated in the test fishery also, said it's too early to tell how things will be for divers this season.

"I'm cautiously optimistic," he said.

Public record

DISTRICT COURT SENTENCING Jan. 3

Sean Wear pleaded no contest to fourth-degree assault and received 60 days suspended.

Harry L. Grant pleaded no contest to drunk on licensed premises and received 30 days suspended and a \$500 suspended fine.

James E. Gefeller pleaded no contest to driving while intoxicated and received 30 days, 27 suspended and a \$500 fine, \$250 suspended.

Dennis Escalona pleaded no contest to one count of third-degree misconduct involving a controlled substance and received a suspended imposition of sentence, a \$1,000 fine and was ordered to pay \$260 restitution.

Sean C. Dedolph, 27, pleaded no contest to third-degree misconduct involving a controlled substance. Dedolph was caught selling cocaine to an undercover police officer in September, according to court records. Assistant District Attorney Trevor Stephens opposed

Happy 50th Birthday!



Thanks!!!

**You people
are why I
remain in
and love**

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
ANGOON	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.

PROJECT 96157 - Southeast Dive Fisheries Eligibility Lists & Labels.

13:40 Friday, January 2 .

,ADDR,STATE

A_STATE	Frequency	Cumulative Frequency
CA	26	26
CO	1	27
ID	1	28
NH	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
Abalone: 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
Geoducks: 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
Sea Cucumbers: 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
Sea Urchins: 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



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 3

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.

PRESIDENT'S REPORT

Dear Shareholders:

One of the most difficult decisions I have had to make as President of Kake Tribal was to terminate the Shareholder Security Plan. Many elders, widows, single parents, and other needy shareholders depended on the monthly payments they received as beneficiaries of the plan. It was a tough decision, but it was the right thing to do.

Rather than blame our earlier leaders for adopting the Shareholder Security Plan, we should look to the company that sold this to our Board of Directors back in 1980. At that time, Kake Tribal was a young corporation, and our directors were inexperienced with the laws regulating corporations. The Board relied on the assurances by Mutual of New York, a company long experienced in the ways of corporations, that the proposed Shareholder Security Plan was legal.

The Board was motivated by good intentions when they adopted the plan. They wanted to provide shareholders with the security of life insurance and "living benefits" for those elders who could not qualify for such insurance. Providing monthly payments to elders was a way to give them their fair share of the Alaska Native Claims Settlement Act before they passed on.

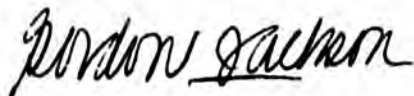
Unfortunately, the program set up a situation that became ever more discriminatory as time passed by. More and more people became shareholders through inheritance, and because they were not original shareholders they were not eligible to participate in the Security Plan. Knowing what we do now of corporate law, we would never seriously consider adopting such a plan. In hindsight, these matters always seem clear.

Now we have a decision by the Alaska Supreme Court that only compounds the unfairness. The "remedy", as the court describes it, will hurt the corporation, and by extension, all shareholders including the plaintiffs (see the list on page 6). Many business opportunities have slipped by since we received the ruling, and our ability to build on the success of our operating businesses is hampered by financial uncertainties. The consequences of the Supreme Court's ruling will be with us for years to come.

We have few options in this matter since our only recourse is to appeal the case to the U.S. Supreme Court which would be an expensive, very long and probably hopeless process.

But we should not let this bad news distract our attention from other, more positive developments. It appears our transition from timber harvesting to construction will begin in earnest this year; we have received strong indications of support for our new initiative to get a land trade for our properties in the Gunnuk Creek watershed; we'll soon be opening a new value-added seafood venture in Kake; and fisheries operations are gearing up for what may well be our best season ever.

Best regards,



Continued from front page

source of labor in the village of Kake," says Ellis. "I'm very impressed with the enthusiasm of the workers, their willingness to learn, and their ability to rapidly improve the rate of production."

Several times during the last few months Cambronero and Ellis have relied on Larry Jackson to run the entire operation in their absence. "Larry has gone well beyond his duties of employee coordinator during this project," says Cambronero. "He has a real knack for management."

On March 5th, Kake Fisheries received 18,000 pounds of sea urchins, its largest delivery of sea urchins to date, nearly double normal deliveries. "We have achieved a new level of production efficiency," says Ellis. "Our Kake workers are really catching on. Their skills are one of the most important ingredients to the success of this project."

KAKE TRIBAL CORPORATION BOARD OF DIRECTORS

Gordon Jackson, President/CEO
Bertha Cavanaugh, Vice President
Sam Jackson, Treasurer
Henrich Kadake, Secretary
Stanley Adams
Wilbur Brown
Morris Grant
Pete Martin
Calvin Wilson

SUPERVISORY STAFF

Ron Hawk
Business Manager/Controller
Pat Joensuu
V.P. Timber & Construction
Larry Cambronero
V.P. Kake Fisheries
Rusty Roessler
Manager Pelican Seafoods
Donald James
Manager Kake Tribal Fuel
Kake Tribal Corporation

Lawsuit: Supreme Court

Continued from front page

titution because they were unable to or did not participate in the "Kake Financial Security Plan."

The Security Plan was a life insurance program adopted almost 17 years ago and terminated in

Only those shareholders listed as "Kake Class Members" are eligible to receive any money.

1993. The court found the Security Plan to be illegal since it discriminated against shareholders who did not hold 100 original shares. Only those shareholders who held 100 shares of original Kake Tribal stock were eligible to enroll in the plan.

The Security Plan provided monthly cash payments to survivors of deceased shareholders and also provided "living benefits" — monthly payments — to elderly shareholders who were not eligible for life insurance.

The court's "remedy" for shareholders who could not participate in the life insurance program is a cash payment. Most of the shareholders who will receive money as a result of the court's decision are eligible for \$98 per share, which is equivalent to the \$9,800 retroactive payment received by 10 elderly shareholders in 1989.

Only those shareholders who are listed on the "Kake Class Members" are eligible to receive any money as a result of the Supreme Court's decision. The actual dispersal of cash is unlikely to occur until mid-summer or later.

The Kake Class Members include those shareholders who were unable to enroll in the plan be-

cause they did not own 100 original shares of Kake Tribal stock, did not receive any cash benefits as heirs of deceased shareholders who were enrolled in the plan, and those who were eligible for the plan but never enrolled. Shareholders who joined the plan only months before it was terminated lost the opportunity to participate in the suit as "Kake Class Members". In other words, a few months of life insurance may have cost them thousands of dollars.

Peace of mind was the only benefit most shareholders could expect from the plan, since one had to die for the insurance to produce any cash benefits.

"The only thing I agree with in the majority's decision is that the security plan was not, strictly speaking, legal," says Gordon Jackson. "The intention of providing life insurance policies to shareholders was admirable, but the execution of the plan was flawed. I

believe the court erred in making an award. To right the wrong of discrimination, the court discriminates by awarding some shareholders at the expense of many."

According to documents provided by Kake Tribal as evidence in the trial, the Board of Directors, in 1980, were led to believe such a

Most shareholders had to die before they could expect cash benefits under the plan.

plan would be legal by representatives of Mutual of New York (MONY), the insurance company that sold the life insurance policies. Several years ago, Jackson directed corporate attorneys to sue MONY to preserve Kake Tribal's right to recover damages.

CHRONOLOGY

October 15, 1980	Security Plan adopted; qualified elders each begin receiving \$100/month.
October 1982	Security Plan monthly payments of \$100 in "living benefits" to each elder suspended.
1985	Changed insurance company.
January 12, 1989	Each surviving elder paid \$100/month retroactive to October 1982 (except estates which received \$100 for each month post-October 1982 until time of death).
1989	Basic program modified, living benefits terminated.
August 31, 1990	Plaintiffs filed suit.
March 1, 1993	Security plan terminated
Spring 1993	Parties filed motions for summary judgement
June 1993	Judge Carpeneti ruled that security plan payments were dividends.
June 28, 1993	Trial began.
Post trial	Superior Court rules that Kake must pay damages to shareholders who did not benefit from or participate in the Security Plan.
February 21, 1997	Supreme Court rules in favor of plaintiffs.

LAWSUIT QUESTION & ANSWER

In the discussion below the Shareholder Security Plan is often referred to as "the plan", and the people on the "Kake Class Member" list, are referred to collectively as "the list."

Can I get on the list of shareholders who will get money because of the lawsuit?

Only those shareholders who are "Kake Class Members" on the "court certified list" are eligible to receive money. Unless it can be proved there was a clerical mistake, it is unlikely that any new names will be added to the list.

Why wasn't I included on the list?

Under the court's ruling, if you were enrolled in the Kake Tribal Security Plan or you received death benefits from a deceased shareholder who was enrolled in the plan.

I don't recall having life insurance? I should be on the list.

Most shareholders enrolled in the plan back in the early 1980s, and for many it was just another corporate paper that was signed and may be difficult to remember. If you are not on the list it is because the records indicate you were enrolled in the life insurance plan, or you received benefits from a deceased shareholder who was enrolled.

I know of shareholder families in which some brothers and sisters are on the list and others are not. How can that be?

There are some examples in which an original shareholder who was enrolled in the plan passed on, and willed his benefits to some but not all of his children. Assuming none of the children held 100 original shares, the children who received cash benefits would be excluded from the list, the ones who did not receive benefits would be on the list.

I never received any cash benefits, why should the people on the list receive any?

Most shareholders who were enrolled in the security plan received no tangible benefits, only the "peace of mind" of having life insurance. In fact, to realize any cash benefits from the life insurance policy, a shareholder had to die. Only the people named as beneficiaries of deceased shareholders received cash benefits from the life insurance policies.

How did the court decide on \$98 per share?

First, it is not certain shareholders will receive this amount of money. It could be considerably less. But the court did cite \$98 per share as the award for damages that most people on the list will receive. Anyone on the list born after August 31, 1970 is suppose to receive \$121 per share.

Why is there a difference in the award?

The court looked at the "living benefits", which provided \$100 per month in cash to shareholders who were 69 or older. In the first two years of the program, elders received 23 monthly payments of \$100, or \$2,300 each. The payments were suspended in October 1982. In 1989, ten surviving elders who had enrolled in the living benefits program were awarded 98 retroactive monthly payments, for a total of \$9,800 each. The living benefits were then terminated. In total, a few shareholders received \$12,100 each ($\$2,300 + \$9,800 = \$12,100 = \$121/\text{share}$).

Then why isn't the award \$121 per share.

It is for those shareholders on the "Kake Class Members" list who were born after August 31, 1970. These people were minors when the living benefits were distributed. Even though a six year statute of limitations was invoked, putting the first two years of the living benefits program out of reach of most shareholders on the list, those shareholders who were minors when the "living benefits" were awarded are eligible for the full award.

Some shareholders enrolled in the life insurance plan just a few months before it was terminated in 1993. Why are they not on the list?

There is nothing fair about the list. Some shareholders were excluded even though they had received only a few payments as beneficiaries of deceased shareholders who were covered by life insurance, and there are several shareholders who were excluded from the list even though they had enrolled in the plan only a few months before it was terminated.

What about those people who could not be insured?

About a dozen people who held original shares and were not elders were uninsurable for physical reasons, a few because they were in prison — as long as these people did not receive any cash benefits, they are on the list.

When will people on the list get their money?

A plan has to be worked out with the court. It is unlikely any money will be paid to the plaintiffs before mid-summer. It is possible the money will be paid over a period of time. It is also possible that no money will be paid out because it will cause undue hardship for the corporation.

**IF YOU HAVE REASON TO BELIEVE THAT YOU BELONG ON THE LIST
PLEASE CALL ERIC PETER AT DILLON & FINDLEY (907-586-4000).**

SUPREME INJUSTICE

THE HIGH COST OF PREMIUMS

Several people signed up for The Plan* only months before it was terminated in March 1993. Those few months of life insurance cost them the opportunity to be on The List.**

EXPENSIVE BENEFITS

Any shareholder, even those who would have otherwise qualified to be on The List, were excluded if they received any cash benefits from The Plan, even one monthly payment.

CRIME PAYS

About a dozen shareholders who held original shares were disqualified to enroll in The Plan because they were "uninsurable," mostly because of medical conditions. At least one shareholder was uninsurable because of incarceration in prison — that shareholder is now on The List.

WITH INSURANCE LIKE THIS...

The life insurance policies purchased from MONY provided cash benefits to survivors, not to the shareholders who were insured. In many cases the beneficiaries were non-shareholders. For most shareholders, cash benefits were received only if someone who named them as an heir died.

WHY GET INVOLVED?

Some of the people on The List are there because they never participate in the corporation. Many could have enrolled in The Plan, but were completely unaware that it existed.

***The Plan:** the life insurance program purchased from Mutual of New York in 1980.

****The List:** those shareholders certified by the court as plaintiffs who are to receive the court ordered award of damages.

JUSTICE FABE'S DISSENT

Justice Dana Fabe's dissent is excerpted below. We have taken the liberty of placing explanatory notes in brackets, and correcting misspellings and typos that were noted by Justice Fabe in the cited quotations.

I dissent from the opinion of the court because I disagree with its decision to allow plaintiffs to bring a direct rather than a derivative action. [In this case, a direct action allowed a group of shareholders — the plaintiffs — to recover damages, while a derivative action would have required the corporation to seek damages from those who caused the problem. *Editors note*] The gravamen of the plaintiffs' complaint is wrong to the corporation as a whole. Basic principles of corporation law therefore require the plaintiffs to bring a derivative shareholder action to remedy that wrong. **The court's failure to adhere to this well-established rule leads it to adopt a result that rather than remedying the discriminatory plan, continues it** (emphasis added). Under the court's decision, shareholders who are as innocent of wrongdoing as the plaintiffs will be forced to pay for a recovery that bears little relationship to any harm the plaintiffs actually suffered.

...Kake (Tribal Corporation) chose the structure of the plan at the suggestion of Mutual Life Insurance Company of New York (MONY), which then sold Kake the insurance to fund it. MONY assured Kake's president that the plan would "fit into the provisions of the Alaska Native Claims Settlement Act" and "protect both Kake Tribal Corporation and Mutual of New York from not only dissatisfied shareholders, but eager attorneys and the Internal Revenue Service as well."

The Board of directors adopted the plan and publicized it "for the welfare of our people who were retired or for the welfare of those whom they left behind when they died." Clarence Jackson, the president of Kake and a member of the board of directors when the plan was adopted, stated that the board "feared that ANCSA meant that various welfare programs of the United States for Alaska Natives might be phased out leaving it to the corporations to provide for the security of these people."

...The plan, while untenable for a traditional business corporation, was in line with ANCSA's purposes and similar to the programs approved by Congress in the 1988 amendments to ANCSA and recently upheld by the Ninth Circuit.

JUSTICE FABE CONCLUDED...

Kake erred in adopting its financial security plan. **This mistake injured not only the plaintiffs, but all of those who own shares in the corporation** (emphasis added). These individuals, who became corporate shareholders by Congressional action rather than through individual investment decisions, have a tremendous stake in the success of their corporation. Allowing plaintiffs to recover directly from the corporation is not only unfair to the rest of the shareholders, it is inconsistent with the principles of corporation law. Ironically, this same body of law that has so often been a stumbling block for Native corporations should, in this case, have worked in Kake's favor. Therefore, I respectfully dissent.

THE COURT CERTIFIED LIST OF KAKE CLASS MEMBERS

The following unofficial list may contain errors or omissions. It was copied from the list certified by the Alaska Superior Court in 1993. Some names have changed through marriage (as indicated); some shareholders listed may be deceased; and some may have since gifted their shares. The court certified that each shareholder on this list had not benefited by the security plan for one or more of the following reasons: 1) they were not eligible to enroll; 2) they were eligible but never enrolled; 3) they were never the beneficiary of a deceased shareholder who had enrolled. **Mid-summer of this year would be the earliest likely date damages will be paid.**

Frances Abeyta (now Brown)
Franklin Abeyta
Jason Aceveda
Lloyd Aceveda
Clinton J. Adams
Connie J. Adams
Lawrence S. Adams
Matthew Robert Adams
Situk Cecil Adams
Thomas H. Adams
Peter Adams Jr.
Karen Jean Adams (now Lerma)
Phyllis Ahlen
Evelyn L. Anderson (now Stanger)
Shelly E. Andrew
Jonna Dawn Ashenfelter
Penny Jo Ashenfelter
Antonia Anna Ballardo
Catherine Rose Ballardo
Nancy Barton
Paula J. Bayou
Janice April Bean
Mabel Leanne Bean
Valerie Dawn Bean
Patrick Elliott Bean Jr.
Jodeen Sylvia Bean (now Miller)
Adrienne V. Bean (now O'Sullivan)
Adeline Belden
Cherilyn Bell
Richard Stanley Bell Jr.
Katherine Blandov
Duane F. Brown
Rudolph Allen Brown
Ruthann Helen Brown
Ronald Boyd Brown Jr.
Wesley Allen Brown Jr.
Jeannette Casimir
Eugene Fred Cavanaugh
Roderick Dale Cavanaugh
Ethel Christoperson (Williams)
Brent Ormal Connelley
Dion Adair Connelley
Jon David Connelley
Nora Cortez
Michael Edward Dalton
Nicholas J. Davis
Victor Carl Davis Jr.
Amos Demmert
Bernice Demmert
Clifford Phillip Demmert
Dale Lee Demmert
Kathy M. Demmert
Lena Marie Demmert
Donald Demmert Jr.
Sheree Lynn DeWitt (now) Eicher
Donald Dugaqua
Gilbert Eugene Dugaqua
Kurt Keith Dugaqua

Stuart Dugaqua
Eunice Duncan
Patricia Ann Erfurt
Karen Louise Eskilida
Mona Irene Evan
Donald Eugene Evans
Joseph Verle Evans
Alexis Paige Fay
Paul D. Fay
Jonathan Allen Feldpausch
Darren David Friday
Roger Leigh Friday
Wayne Friday
Brian Garza
Bruce A. Gentry III
Carlene Joyce Grant
Cassandra Jeanette Grant
Margaret E. Grant
Michael Edward Grant
Janell Marie (Black) Guidry
Lavina Hallingstad
Karen M. Hanlon
Arlene Jean Hanson
Rosemary Hanson
Stuart Dale Hemstock
Carlos Roberto Huff
Jeffery Dean Hulse
Vonnie Rae Hulse
Karen L. Inman
Burt Lee Jackson
Dale Sherman Jackson
Dawn Jackson
Benjamin R Jackson Sr.
Angela James
Anita Mary Johnson
Colleen Johnson
Florence L. Johnson
Geraldine Johnson
Jessica Rosalind Johnson
Laura Louise Johnson
Marla Johnson
Penny S. Johnson
Starina Bella Johnson
Sidney Elmer Johnson Jr.
Valena Johnson-Noot
Margaret Kahklen
Myrna Jean Lambert
Marilyn Elizabeth Loney
August Wilbur Martin
Melody H. Martin
Mylene D. Martin
Mylo G. Martin
Robert P. Martin
Tamara Martin
William George Martin
George Louis Martin Jr.
Christi Renee McHenry
Laura L. McHenry

Duane Edward McLean
Sapphire D Mills
Zachary M Mills
Delrene Angela (Pearson) Morgan
Elena Marie Morley
Kenneth L. Nannauck
Fredrick Charles Nauska Jr.
Mary Ann (Abeyta) Nells
Calvin Oakleaf
Tyrone Paul
David Benson Perrin
Thelma Betty Phillips
Lynnette Denise Pinkerton
Michelle J. Pinkerton
April Leeann Polk
Sam Polk
Melody F. Price
Wayne G. Price
Barbara Jean Rose
Bertram Rose
Brian G. Rose
Dorothy Gail Rose
Stephanie Rose
David Frank Rose III
Christopher Sargent
Jennifer Sargent
Jerry Sargent
Darryle Allen Shaquanie
Natalie Sue Shaquanie
Tiffany Ann Shaquanie
Kenneth Willis Shaquanie Jr.
Mable J. Shaquanie (now Mohr)
Victoria Lee Martin Sheets
Lawrence Wayne Shields II
Jean M. Smith
Katherine Smith
Clifford R. Tagaban
Johanna C. Tibon
Ella Verneti
Carrie May Wallace
Darryl James Wallace
Monica Renee Wallace
Robert Paul Watson
Dawn R. Wellington
Delores L. (Dugaqua) Wheaton
Joleen B. Wheeland
Mary Ann (Dugaqua) Whip
Jordan Williams
Ole Carl Williams
Raven Williams
David George Williams Jr.
Donald Richard Williams Jr.
David George Williams Sr.
Dan James Willis
Caroline Wooton
Michelle Denise Wright
Inez Wyrostek

WHO'S IN, WHO'S OUT

The Kake Financial Security Plan, adopted in October 1980, allowed eligible shareholders to enroll in a life insurance program. To be eligible, a shareholder had to be 21 years of age, be an original shareholder (that is, one whose shares came directly from ANCSA rather than through inheritance of someone else's shares), and be insurable. Young shareholders holding original shares became eligible to enroll in the life insurance program when they attained the age of 21.

A total of 173 people are "Kake Class Members", the group of shareholders the Supreme Court ruled is entitled to be paid damages. These people were ineligible to enroll in the plan (because they did not hold 100 original shares, or because they could not be insured); they chose not to enroll; and/or they never received any benefits.

Any shareholder who received security plan benefits (monthly cash payments) as heirs to another shareholder was automatically excluded from the list because:

"It was, after all, the payment of benefits on behalf of some, but not all, shareholders, which gave rise to this action in the first place. Thus, even though a beneficiary might also be a non-original shareholder and thus otherwise qualified for membership in the class, that person would be excluded from the class."

August 9, 1993, Findings of Fact, Alaska Superior Court, First Judicial District

Kake Tribal Corporation

SEA URCHIN PROCESSING

It's 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 Verneti 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,

"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 Kadake, 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.

VALUE-ADDED VENTURE

KTC & City of Kake cooperate to bring jobs home

Salmon bits, salmon jerky and other forms of dried fish products suitable for human consumption will soon be rolling off the production line in Kake, as will millions of "salmon ears", a pet food made of dried salmon skin, under a plan developed by Kake Tribal Corporation and the City of Kake.

The City of Kake has agreed to loan the dried fish venture, which will be owned in part by the Kake Non-profit Fisheries Corporation, up to half a million dollars to purchase the equipment necessary for producing dried fish products. According to Mayor Lonnie Anderson, the money will come from the Tongass Impact funds, which communities throughout Southeast Alaska are receiving as a result of

the economic consequences of changes in the management of the Tongass National Forest.

In addition to the dried fish project, Health Sea, Inc. will also set up shop in Kake as a result of a reorganization plan now being implemented.

Health Sea, which produces and markets salmon ham and salmon sausage, has shut down its Arlington, Washington plant in preparation for the move to Kake.

"This reorganization represents both a cost-cutting and strategic change," says Gordon Jackson, Chairman of the Health Sea Board of Directors. "The sales revenue simply did not cover the overhead costs. Over the last several weeks, the board and staff

went through an intensive reexamination of the financial accounts, sales projections, and various cost-cutting scenarios. The conclusion was to come full circle and implement the plan we have had from the beginning: produce the products in Kake."

The centerpiece of the new plan is to create a dried fish facility in the value-added wing of the Kake Cold Storage, which will also produce Health Sea's Keta brand products. The project will be under the over-all supervision of Larry Cambronero and the direct supervision of Duff Mitchell.

"Duff Mitchell just returned from Taiwan where he was marketing our products with the Chinese," says Gordon Jackson. "This is a good example of the change in strategy we are implementing."

Former Health Sea CEO, Tom Tipps, had attempted to introduce the Keta brand of products to the American public through major grocery chains, but that effort failed to produce the sales necessary to maintain the overhead costs of mainstream marketing.

"There is probably no more difficult decision in business than to say we took the wrong direction, but absent a major capital infusion by other investors, that road was leading to ruin," Jackson admits. "With the opening of the Kake plant, we'll be bringing home jobs and at the same time reducing the operational costs of this venture."

Tipps and his sales force were let go, and the Arlington plant was closed, at the end of February.

The most encouraging new development is the enthusiasm a pet food marketing firm has shown for the new salmon ears product. The idea for the product came from pigs ears, a popular and relatively expensive treat for pet dogs. The facility in Kake will start up with a standing order for several million pieces.

FISHING SEASON BEGINS

Fair price, fresh bait, fine ice, full service

Pelican Seafoods, a division of Kake Tribal Corporation, opened on March 15th, and Kake Fisheries expects to open the first week of April.

"We're getting a lot of calls from fishermen," says Larry Cambronero, who heads Kake Tribal's fisheries program. "They know we are opening for business, and there's a lot of interest in our operations."

Both Cambronero and Rusty Roessler, manager of the Pelican operation, say they are ready to match the prices of other major buyers. "The way we do business is to offer a fair, competitive price for the fish, and to provide fishermen with better service than any other fish buyer," Cambronero says. "We have some of the best tender operators in Southeast Alaska working for us. I'm always

hearing good comments from fishermen about the quality of service they receive at our tenders as well as from our dockside employees."

Roessler says that fishermen appreciate the attitude of the Pelican Seafood workers. "The fishermen like consistency, like to see the same faces, and they appreciate being treated like human beings."

As an example, Roessler says that one of the winter projects at Pelican Seafoods was the rebuilding of the fishermen's bathrooms.

"I've requested my staff to clean the bathrooms and showers twice a day," Roessler explains. "It may seem like a small thing, but fishermen really appreciate these kind of courtesies. Treat fishermen right, and they keep coming back."

ALL ABOUT SHAREHOLDERS



Marc Duncan, son of shareholder Carol Aceveda.

Law school is next for Duncan

Senator Jim Duncan and Kake Tribal shareholder Carol Jean Aceveda announce the graduation of their son, Marc Rory Duncan on June 15, 1997 with a Bachelors Degree in Political Science, from the University of California, Davis. Marc recently graduated from Foothill College, located in Mountain View, California, with a Pre-Law Degree. He played with the college football team in the position of receiver. Marc plans to earn a Corporate Law Degree and return to Alaska to work for his people.

Jackson elected vice-chair of ASMI

Gordon Jackson, who was appointed to the Alaska Seafood Marketing Institute two years ago, was recently elected by the ASMI board as vice-chairman. John Severe of Sitka Sound Seafood was elected chairman. Jackson said the new leadership reflects an emphasis on marketing value-added seafood products.

Whittaker Honored

KTC corporate attorney Dick Whittaker was recently named a lifetime member of ANB Camp #14 of Ketchikan. Whittaker joined the Camp 28 years ago.

Anyone looking for a tall teacher?

Jon Martin Berkeley graduated from Boise State University on December 7, 1996 with a Bachelor of Arts Degree in Elementary Education. Jon is the son of Kake Tribal shareholder Dennis and Darlene Berkely. Jon, who is 6'4", loves to play basketball and would like to get a teaching job in Southeast Alaska, but says he would not rule out teaching in another part of the state. Jon returned to Alaska from Boise, Idaho in January to start filling out applications for a teaching position.



Jon Martin Berkeley

Master of Arts

On November 28, 1996, Thanksgiving Day, Dawn S. Jackson received her Master of Arts degree in Anthropology from the University of British Columbia in Vancouver, B.C., Canada. Dawn is the daughter of Mike and Edna Jackson, and the granddaughter of Henry Davis (deceased) and Claribel Davis, and Thomas L. Jackson Sr. (deceased) and Mona K. Jackson. Dawn's parents and grandmothers, and cousins Mona Evan and Nathalie Austin, all attended the graduation ceremony.

Dawn credits her extended family, specifically her grandparents, who were educators in Kake and always emphasized the need for an education outside of Kake with the hopes of a return. Dawn also mentioned Delores Churchill, a well known Haida basket weaver, as her mentor who has inspired her studies.



Dawn Jackson with grandmothers Mona Jackson and Claribel Davis in Vancouver.

OVK opens business-friendly lodge in Kake

The Keex' Kwaan Lodge opened in December. Strategically located near the entrance to the airport road, and midway between town and



Alaska Marine Highway System dock, the new 12-room lodge is managed by Paulette Jackson. The facility features such amenities as a restaurant and extra telephone lines in each room for Internet hook ups. For reservations call 785-3434.

Kake Tribal Corporation

Gold Medal action

Kake Tribal Corporation helped raise several thousand dollars for two teams to participate in the 51st Annual Gold Medal Tournament in Juneau at the end of February.

In the "Mighty B Bracket" Kake Tribal's team marched through preliminary games with a string of victories. Defeating Yakutat ANB 94 to 81, the KTC team met the Juneau ANB team, coached by Bob Beierly, handing them a 107-85 defeat. Squaring off against the undefeated Hoonah ANB on Thursday, Kake won 98-92 in an exciting, down to the last minute game. Hoonah came back on Friday, defeating long time rival Hydaburg ANB in a hold-your-breath finish of 86-84, then met Kake in the championship game. Hoonah's defense shut down Kake's outside game, allowing for only a few 3-pointers, and Kake's offense never completely developed. The results below tell the full story:

The Mighty B Bracket

Kake Tribal 94 — Yakutat ANB 61
Kake Tribal 107 — Juneau ANB 85
Kake Tribal 98 — Hoonah ANB 92
Hoonah ANB 99 — Kake Tribal 80

The Legendary C Bracket

Kake ANB 87 — Metlakatla Masters 72
Kake ANB 80 — Hoonah Oldtimers 57
Yakutat ANS 85 — Kake ANB 77
Juneau Gallery 87 — Kake ANB 60

The biggest buck of all

John Ashenfelter of Kake won the 1996 Big Buck contest held by Western Auto of Juneau. John won a Winchester Model 70 Classic rifle with a Pentax Lightseeker scope, and the rack of antlers will be mounted free of charge. John has been a long time resident of Kake, his wife Donna is a Kake Tribal shareholder, and he works for the City of Kake in the Public Works Department.

Good shooting, John!



Mighty B Bracket:
Kake Tribal's team won the Silver Medal (2nd place) in the 51st Annual Gold Medal Tournament: back row from left to right, Michael Martin, Mike Smith, Glenn Padgett (with his daughter Kalen), Lloyd Davis. Front row, Rod Cavanaugh, Rudy Bean, Myron Martin and Jay Peterson.

GOLD MEDAL CONTRIBUTORS

Key Bank \$500
Elgee Rehfeld & Funk \$500
Richard Whittaker \$350
Alaska Management \$350

City of Kake	\$200	Dapcevich Accounting ...	\$150
N. Pacific Steel Erectors .	\$150	R&M Engineering, Inc....	\$150
Smith, Bayliss, LeResche .	\$150	Middleton & Timme	\$150

KAKE TRIBAL HERITAGE FOUNDATION

NEW OFFICERS ELECTED

A reorganization meeting was held on January 15-16, 1997. The officers elected were:

President, Henrich Kadake, Sr.; Vice President, Cheryl Evan; Treasurer, Beverly Anderson; Secretary, Pauline James. Board members include Ruth Demmert, Sam Jackson, Alberta Shaquanie, John Ashenfelter, Stanley Adams, and Wilbur Brown, Sr.

EMERGENCY MEDICAL & SCHOLARSHIP PROGRAMS

For shareholders and their descendants who have unmet needs generated by major illnesses, may apply for Emergency Medical grants of up to \$250. By limiting the amount of the donation to \$250, the foundation is able to provide grants to a greater number of shareholders with the limited funds available.

The Heritage Foundation also provides scholarships to shareholders and their descendants who wish to continue their post-secondary education, or to acquire new skills through certified vocational institutions. Consideration for scholarship is given only to those who plan on attending school on a full-time basis. For more information on the guidelines of the scholarship and medical emergency programs, please contact the offices of Kake Tribal Corporation.

Note: KTHF now has a gaming permit issued by the State of Alaska.



Kake Tribal Corporation

P.O. Box 263
Kake, AK 99830

WORKERS WANTED! Call Larry Jackson at Kake Fisheries (907-785-3311). For other employment opportunities call our offices at : (907) 785-3221/ (FAX) 785-6407/ (in Alaska) 1-800-478-7853

TIMBER & CONSTRUCTION

The 1997 season could be the busiest ever

By Pat Joensuu
V.P., Kake Tribal Timber & Construction

I'm proud to report that we received the "1996 Safety Award" as best large logging company from the Alaska Timber Insurance Exchange. This is an award everyone who works for Kake Tribal Timber & Logging helped earn.

The 1997 season is in full swing now. Our roads division is busy building nearly 5 miles of road for the U.S. Forest Service. This \$1.35 million contract is the first major project we've negotiated under terms of the SBA 8(a) program.

Our construction plate is pretty full this year.

Although a late snow fall combined with a recent cold snap to make critical parts of our road network too icy, delaying our log hauling efforts, the weather hasn't stopped us from cutting, road construction and shovel logging, all of which is now underway.

The Organized Village of Kake (OVK) recently notified us that

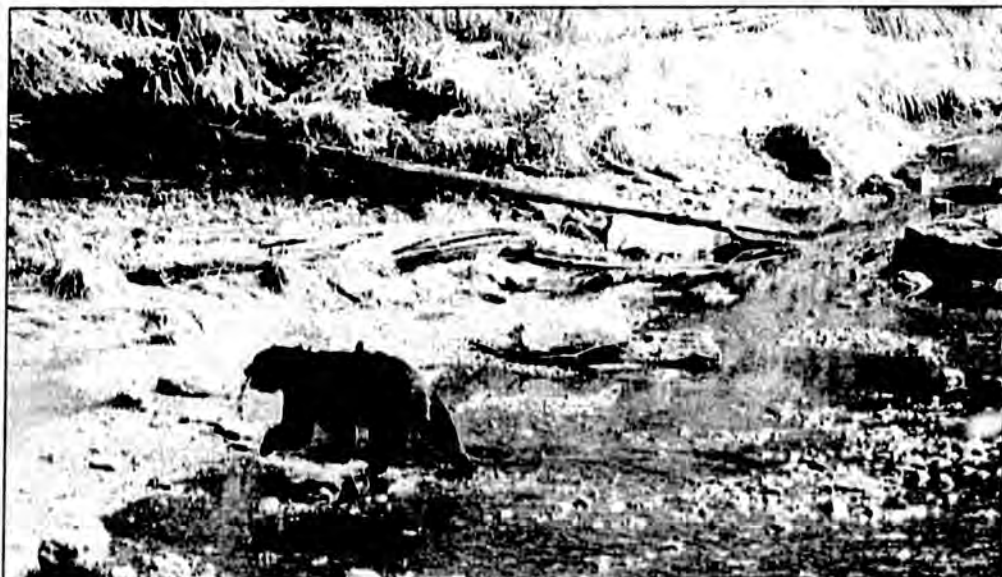
they will get the entire \$2.5 million in funding for the Kake road paving project. We have been working with OVK to secure this funding through the Bureau of Indian Affairs' ISTEA (pronounced "ice tea") program. We expect to begin this project soon, which will provide critical access to a HUD housing project, and will greatly improve the condition and safety of roads in Kake.

The Corps of Engineers breakwater project for the Kake boat harbor is scheduled for a Notice to

Proceed on July 15. The breakwater job involves hauling many thousands of cubic yards of rock.

As you can see, our construction plate is pretty full this year. We are still waiting to hear about another project we bid on in the Anchorage area, which could amount to a considerable contract.

I have staff assigned to refine aspects of the Gunnuk Creek Land Exchange to reflect a value-for-value basis. I believe the lands we have selected to trade into provide an excellent alternative to the watershed lands. The challenge is to find selections that will not diminish our total acreage, and at the same time, not result in a trade that is less than value-for-value.



Gunnuk Creek: The land exchange proposal, which would allow Kake Tribal to trade the Gunnuk Creek Watershed for less environmentally sensitive land, is receiving a positive reception in Washington, D.C. By permanently protecting the habitat of black bears that are often seen downstream of the Gunnuk Creek Hatchery, the tourism potential of Kake will be greatly enhanced.

SECTIONAL ANALYSIS

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

Work Draft O-LS0415K

Section 1

- Allows the creation of regional dive fishery development associations for the purpose of developing dive fisheries and cooperative management of dive fisheries with the Department of Fish & Game.
- 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.

Section 2

Sec.43.76.150. Dive fishery management assessment.

- Provides the mechanism for determining the rate of assessment.
- The species and rate in cents a pound must be determined by an election of the interim use dive permit holders.
- An assessment cannot be levied unless:
 1. a regional dive fishery development association approved by the commissioner of the Department of Fish & Game exists; and
 2. the species and rates are approved by an election.

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

- This section is basic "boiler plate" for the election procedure. It outlines the time line, the public notice requirements, what must appear on the ballot and the registration and voting procedure. The commissioner of Fish & Game certifies the results of the election.
- The regional dive association must adopt the following procedures:
 1. one public meeting shall be held not less than 30 days prior to the return postmark date;
 2. state the reason for the proposed assessment or amendment; the reason for the proposed rate or the reason for termination;
 3. an explanation of the registration and voting procedures;
 4. notice of the meeting must be mailed to all eligible to vote; must be posted in three public places in the administrative area; and, must be

published in at least one newspaper at least once a week for two consecutive weeks;

5. two ballots must be mailed
 - a. not more than 45 days before return postmark date; and
 - b. not more than 15 days before return postmark date.
 6. the ballot must:
 - a. indicate the species and rate of assessment in cents a pound;
 - b. ask whether each specie assessment shall be approved, amended or terminated;
 - c. indicate the boundaries of the assessment area;
 - d. provide an effective date; and
 - e. indicate return postmark date.
- This section also provides the same procedure for terminating or amending 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 terminate;
 3. a majority votes to terminate; 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 monthly remittal to Department of Revenue.
- Requires the maintenance of buyer records.
- Assessment deposited into general fund.

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

[Because dedicated funding is prohibited by state constitution, all appropriation language is permissive "may."]

- 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 costs of the cooperative management, research, and planning for dive fisheries and for the administration of the association.
- Requires associations receiving funding to:
 1. to develop an annual operating plan with the cooperation of ADF&G;
 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 to be performed by both the regional association and ADF&G.
- Funds appropriated to ADF&G for the regional association cannot be spent by either the association or ADF&G unless both parties have approved the annual operating plan.
- The association may expend administrative funds authorized under the annual operating plan for the prior fiscal year in the absence of an approved annual operating plan for the current fiscal year.
- Requires an annual financial report to be submitted by the association to ADF&G.

Section 3

The bill will become effective upon passage.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

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.¹ 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

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

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 resources² 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

² 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.

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



Regional Information Report ¹ NO. 1J96-19

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

August 1996

¹ 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.

Mr. Frank Rue
Commissioner, ADF&G
P.O. Box 25526
Juneau, Alaska 99802-5526

March 12, 1997

(Amy)

A

Dear Commissioner Rue:

There is a bill being introduced by Representative Bill Williams that establishes a new precedence in the fishing industry. This bill is proposing that the Southeast harvest divers form a regional association and then vote to assess themselves a tax which will be deposited into the general fund and then rerouted back to ADF&G to manage the dive fisheries. Cheryl Sutton of the Sutton Connection received \$80,000 from four S.E communities to develop a dive fishery association. I have attached a copy of her Scope of Work with the Ketchikan Gateway Borough and a Sectional Analysis of the bill. She has managed to convince not only some of the divers, but also Representative Bill Williams that by self-assessment, the divers will be able to influence ADF&G in management decisions. Decisions such as what areas to assess, open and/or close and which specific species to be targeted.

Most of the fishing associations that I am aware of such as the United Fishermen of Alaska are funded by membership dues, donations and community fund raisers. With an entire arm of government dedicated to the development of natural resources one would think that with the dwindling of the timber industry this agency would be putting concentrated effort into the development of every untapped resource available. The State should put more money and effort into any underdeveloped or undeveloped resource that would economically benefit all Alaskans.

It is my understanding that 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. Will the state constitution have to be amended to allow for self-management of a fishery? I believe that the state regulations and statutes would also have to be changed or amended. Aren't these things usually handled by the Board of Fish.

If this bill is successful and this tax is passed, will the additional money coming into the Fish & Game budget actually be used to perform more bio-assessments? Will it allow for more areas to be opened? Will it provide for the opening of new fisheries, or will it end up displacing the line item money appropriated by the government to the ADF&G budget for the dive fisheries.

It appears that the Sutton Connection is patterning her association after the regional aquaculture associations which as you know are

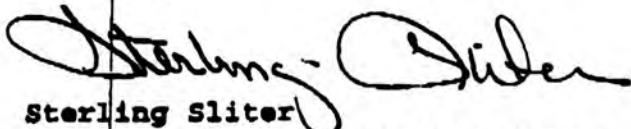
funded by a 3% assessment by Alaska permit holders to provide enhancement to the salmon fisheries. The difference between her proposed organization and the regional aquaculture associations is that the regional aquaculture associations have nothing to do with management and must defer all management decisions to ADF&G. The regional associations do co-operative agreements with ADF&G but once again it is for stock enhancement, not management.

Several weeks ago, we were told that the intent of the bill was to provide for funding of the urchin fishery past the June 30, 1997 deadline when the money paid by the processors to keep this fishery going would end. We were informed this week by Senator Taylor's office that there is now a very good chance that we will get line item funding for the urchin fishery for continuation past the above deadline. This is not a done deal, and we will not know for certain for a couple of weeks. In spite of the possibility of now having the necessary funding, The Sutton Connection and Representative Williams are continuing with the introduction of the bill because they say the divers want to tax themselves in order to have more control over the management. Not all of the divers in Southeast Alaska feel that this is a prudent way of managing a fishery or any other natural resource for that matter.

Mr. Rue, it is very important for those of us who are against this bill to know if there is any way that by self-assessment, those paying the tax will be able to influence ADF&G management decisions. Public comment on the bill will begin soon, and we need more information from you before our own comments can be formulated. Your expedient response to this letter will be greatly appreciated.

Thank you for your time and consideration.

Sincerely,



Sterling Sliter
Alaska Harvest Divers Association
Ketchikan Chapter, President
428 Hawden
Ketchikan, Ak 99901
Phone: 225-7188 Fax: 225-1348

cc: Robert Clasby, Director, CFMD
Representative Bill Williams
Senator Robin Taylor
Representative Jerry Mackie
Senator Alan Austerman

Exhibit A

**Cheryl Sutton
Box 210975
Auke Bay, AK 99821
907-769-7346**

Scope of Work

for

Dive Fisheries Economic Development Project

Summary Statement

The objectives of the Southeast Dive Fisheries Economic Development Project are to develop underutilized and non-utilized dive species throughout the southeast region to allow year-round harvesting and processing opportunities; to create plans which will capture the highest economic return to the region; to provide opportunities for new employment throughout the region; and, to create opportunities for associated economic development.

Scope of Work

The scope of work which will be performed for the Ketchikan Gateway Borough by Cheryl Sutton for the Dive Fisheries Economic Development Project is as follows:

- Create a regional communication network for reporting and coordination of activity. In Ketchikan, the Borough Manager will receive regular written and oral communications.
- Research, draft and seek introduction and passage during the 1997 legislative session of legislation to tax fishermen (dive) a percentage of the exvessel value of the dive species to be collected by the state for the purposes of management and research of the underdeveloped and developing dive fisheries in southeast Alaska.
- Coordinate the development plan by southeast communities to identify existing research and management; define additional harvest opportunities by species and area; and develop a budget and timetable for survey work by area and species.
- Coordinate with the Alaska Department of Fish & Game in the development of both the research activities and the management plans.
- Coordinate with other state agencies to seek funding and support for associated economic development in southeast communities (e.g. additional shoreside processing, DEC marine toxin testing labs, etc.)
- Examine aquaculture opportunities for dive species and seek incorporation of opportunities.
- Assist in identifying market opportunities and contacts.
- Perform as project leader.

Alaska State Legislature

Committees:

Transportation, Chairman

Resources

Economic Development

Rules



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
352 Front Street
Ketchikan, AK 99901
(907) 247-4672
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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 regions 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.



KAKE
Tribal Corporation

To: Kyle Anderson, Office of Rep. Williams
Re: HB 198

April 10, 1997

It came as a surprise to me that language had been added to HB 198 providing for a representative of fish processors and a representative of municipalities on the dive fishery development association board of directors. As I mentioned to Representative Williams following the action that passed the bill out of the Fisheries Committee, it is a step in the right direction.

In my testimony on behalf of Kake Tribal Corporation, I stated that we believe a dive fisheries association should be representative of the dive fisheries industry, and that we believe such representation should include a balance of interests in addition to those of dive fishermen.

The current language of the bill states that the association shall possess a board of directors that "(A) is representative of commercial dive fishermen who fish in each of the significant commercial dive fishing areas in the administrative area; (B) has a member who is representative of fish processors who process dive fishery resources in the administrative area; and (C) has a member who is representative of municipalities in the administrative area."

I haven't gone over the bill line by line, so perhaps you can point out to me where it states the number of people who will constitute the board of directors, and what powers that board will possess.

If the board structure and powers are not outlined in this bill, is there an intention to add clarifying language to the bill in the Resources Committee?

Please keep me informed of the bill's hearing schedule. Your reply would be appreciated.

Thank you,

Peter Metcalfe
Director of Communications

cc: Gordon Jackson, Rep. Austerman