

HJR

26

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 6, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/13/99

The STATE AFFAIRS Committee considered:

HJR 26

HOUSE JOINT RESOLUTION NO. 26

ALASKA MARITIME BOUNDARY WITH CANADA

Relating to establishing maritime boundaries with Canada.

recommends it be replaced with the following committee substitute _____ the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) WTR

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>	✓			
<i>Hal Smalley</i>			✓	
<i>Bern Bertu</i>			✓	
<i>John Elliott</i>	✓			
<i>Brian Hude</i>			✓	
<i>Scott Orr</i>	✓			

CHAIR'S SIGNATURE *Janette James*

Reynnera

Carl Olson 818-223-8080 } California
Mark Seidenberg 944-770-6058 }

1-800-368-8772

Tell them to call this #
at 8:00 am Tuesday.
Barbara

Committees:

Health, Education & Social Services
Co-Chair

State Affairs
Vice Chair

Military & Veterans Affairs
Vice Chair

Alaska State Legislature



District 32
Representative John Coghill

During Interim: (June-Dec.)
119 N. Cushman St.
Suite 211
Fairbanks, AK 99701
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Fax (907) 456-8245

During Session: (Jan.-May)
State Capitol, Room 416
Juneau, Alaska 99801-1182
(907) 465-3719
Fax (907) 465-3258
1-877-465-3719

March 10, 1999

Honorable Madeline Albright
U.S. Secretary of State
2201 C Street
Washington, D.C. 20520

Dear Secretary Albright:

In recent years there has been a dialog between the United States and Russian government concerning the sea boundary of Alaskan boundaries with Russia. Unfortunately, the State of Alaska has not been a party to the discussions with Russia, therefore, we do not know what activities have occurred other than what I have researched in newspaper archives.

According to a news article dated March 9, 1997, the State Department has considered further negotiations with Russia over the maritime issue and the Russians are now demanding that the maritime boundary be moved even closer to Alaska so that it can get another 300 million pounds of fish per year from the American side.

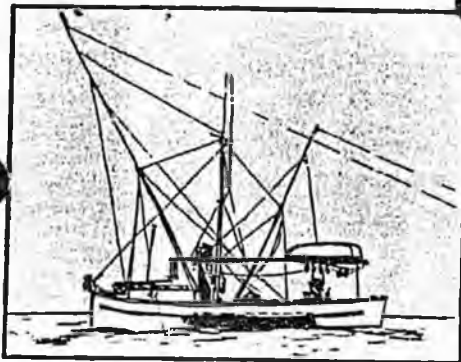
As a new legislator, I am interested in keeping current with any international activities that will affect Alaska. I am, therefore, requesting any information you can provide me on State Department activities regarding the maritime boundary between the Alaska and Russia, and for that matter, between the State Department and Canada.

I would appreciate this information as soon as possible and I thank you for your assistance in this matter. I would also welcome an invitation on the part of the State Department for the State of Alaska to participate in the discussions with Russia and Canada.

Sincerely,

A handwritten signature in cursive script that reads "John Coghill".

Representative John Coghill



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

December 2, 1997

Secretary Madeline Albright
U.S. State Department
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Albright:

I am writing to inform you about the concerns of commercial fishermen operating in the disputed waters between Alaska and Canada. Our association has requested relief on this issue since the late 1970s. Since that time, the U.S. and Canada have come no closer to resolving the maritime boundary dispute. The Alaska troll fleet has essentially been forced out of U.S. waters in Dixon Entrance, due to harassment by Canadian fishermen and enforcement officials. The Alaska Trollers Association (ATA) remains deeply concerned about the safety of Alaska fishermen who operate in Dixon Entrance and requests your assistance to ensure our boats can freely conduct their business.

This summer, at least one sport and four commercial fishermen were harassed by Canada's Department of Fisheries and Oceans Enforcement (DFO) while fishing legally in the disputed area of Dixon Entrance. DFO's conduct underscores the failure of reciprocal flag state enforcement, as agreed to by the U.S. and Canada in the 1978 Exchange of Diplomatic Notes.

Since signing the Reciprocal Fisheries Agreement with Canada in 1977, the U.S. has allowed Canadian vessels to operate within its EEZ at Dixon Entrance, in contravention of Section 307(2) of the Stevens-Magnuson Fishery Conservation and Management Act. This agreement and the subsequent exchange of diplomatic notes on June 2, 1978, provided for reciprocal flag state enforcement at Dixon Entrance. Simply put, Canada is to enforce fisheries regulations only on its fishing vessels and the United States is to enforce only on U.S. vessels fishing in the disputed area. However, by both its stated policy and enforcement conduct, Canada has clearly demonstrated its disregard for flag state enforcement in the disputed area.

DFO claims the Alaska troll fishery is not a "traditional" fishery subject to flag state enforcement. This is absurd. Our 120 year old troll fishery is neither new, nor should its "traditional" status be a matter of debate in this case, as is clearly pointed out in former Secretary Alexander Haig's July 13, 1981 memo to the U.S. Coast Guard. While the 1977 Reciprocal Fisheries Agreement included a provision on "traditional" fisheries, the more recent set of diplomatic notes includes only one element of that agreement, Article IX Reciprocal Flag State Enforcement.

ATA believes the U.S. must reaffirm its commitment to reciprocal flag state enforcement, by stating its expectation that Canada return to reciprocal procedures by January 1, 1998. In addition, the U.S. should insist that Canada recognize all U.S. fisheries presently operating in the disputed area. If Canada refuses to recognize the Alaska troll fleet, the U.S. should, in turn, consider the Canadian troll fleet to be illegally operating in Dixon Entrance and take appropriate enforcement action.

Furthermore, Canada should be reminded that the parties agreed to flag state enforcement only as an interim measure, *pending the resolution of questions pertaining to the delimitation of areas subject to the respective fisheries jurisdiction of each party*. In its own 1978 diplomatic note Canada stated it, *"reaffirms its commitment to pursue negotiations on maritime boundaries"*. It was on the basis of this commitment that the U.S. agreed in its responding diplomatic note to continue reciprocal flag state enforcement. Accordingly, in October 1985, Secretary Schultz suggested to Canadian Foreign Minister Joe Clark that the two countries attempt to resolve the boundary dispute. Late in 1986, Minister Clark informed the Secretary that it was not an opportune time for Canada to negotiate. To date, Canada has consistently refused to begin negotiations with the U.S. and remains unwilling to submit the matter to the World Court for resolution. Unless Canada honors its commitments to flag state enforcement and negotiation of the maritime boundary, the U.S. should not hesitate to enforce its EEZ in Dixon Entrance, as it deems appropriate.

The importance of this issue to U.S. fishermen should not be under-estimated. What effectively forced the U.S. fleet out of Dixon Entrance is not just the sporadic harassment of a few fishermen by DFO, but daily harassment by the Canadian fishing fleet. Canada's troll fleet did not have a large presence in the area until after the U.S. claimed its 200 mile limit. Since that time, the Canadian fleet has grown to the detriment of U.S. fishermen. The majority of the Canadian boats are large, efficient processor/trollers operations, fishing six lines of gear (U.S. trollers are limited to only 2 or 4 lines, depending on permit type). They target U.S. origin salmon to, redress "equity imbalances", as stated by Canada in Pacific Salmon Treaty negotiations. Apparently, some Canadian fishermen have come to believe that these waters are sovereign Canadian waters, and that U.S. vessels are fishing there illegally. The Canadian fishermen are not at all shy about taking matters into their own hands when it comes to driving out U.S. boats. We cannot expect the U.S. Coast Guard to referee chronic right of way skirmishes, nor can we expect U.S. trollers to subject themselves to intimidation in order to fish U.S. waters.

Management of the coastwide salmon resource has been confounded by Canada's unwillingness to provide timely and meaningful harvest and coded wire tag data from its boundary area fleet. This is particularly galling to U.S. fisherman, who must often release chinook salmon to rebuild runs, while the Canadian fisherman fishing next to him continues to catch chinook all summer long. Also disturbing is when U.S. fishermen are stopped from fishing to conserve weak coho salmon runs in both countries, as they were in 1997, and Canada continues to fish our waters for the same fish. In contrast, Alaska closed

part of its troll fishery this year to protect coho stocks, and voluntarily managed both the seine and gillnet fisheries to assist in the conservation of salmon stocks bound for the Nass River in Canada.

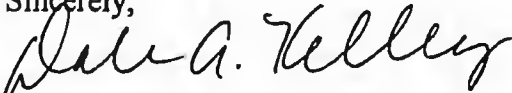
Not only does the presence of the Canadian fleet in Dixon Entrance violate the Stevens-Magnuson Act, it also poses an enforcement dilemma for the State of Alaska. By catching and transporting unprocessed fish within state waters, and by failing to report information about any processed catch aboard, Canadian fishermen operate in violation of Alaska's statutes and regulations. Furthermore, a U.S. Customs policy permits these vessels to bypass clearance at a port of entry and routinely anchor in U.S. harbors. This creates a safety threat for U.S. fishermen who must compete for scarce anchorages, particularly during foul weather. In addition, Canadians use our harbors as staging areas for their fishing operations, which is illegal under both federal and state law.

Finally, tension over this issue contributes to our inability to effectively engage Canada in discussions in important fisheries management forums, such as the Pacific Salmon Commission.

It is the hope of our members that you will assist us by finally bringing resolution to this long-standing disagreement. Our hope is that timely resolution will assist in securing long-term goodwill between the two countries.

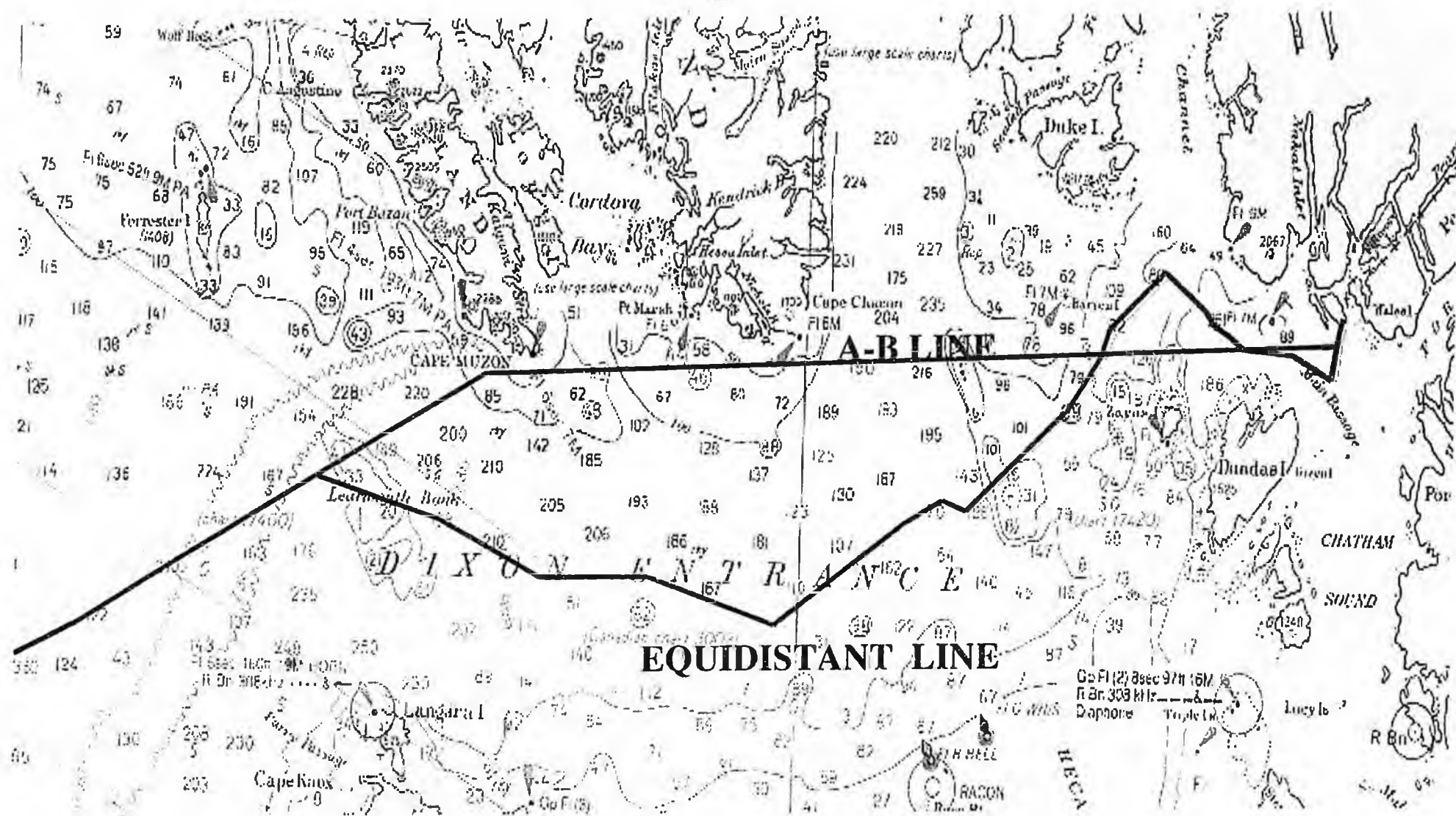
Thank you in advance for considering the perspective of ATA. If I can provide additional information on this or other issues of concern to our industry, please don't hesitate to contact me.

Sincerely,



Dale A. Kelley
Executive Director

DIXON ENTRANCE



*Committee
Approved
Unanimously.*

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: HJR 27

1 Page 1, Line 9:

2 Delete "Wrangel"

3 Insert: Wrangell

4

5 Page 2, line 26, after the word "have":

6 Delete: "failed to"

7 Insert:

8 *(and add ^{not} "d" to "approve")*

9 Page 3:

10 Delete Lines 6 thru 8

11

12 Page 3:

13 Delete Lines 14 thru 30

14 Insert:

15 BE IT RESOLVED by the Alaska State Legislature that, because the proposed

16 United States - U.S.S.R. maritime Boundary Agreement has not been put into force,

17 negotiations for the proposed treaty should include participation by the State of

18 Alaska, and terms in a new proposed treaty regarding Alaska's territory,

19 sovereignty, or property should involve representatives of the State of Alaska; and

20 be it

21 FURTHER RESOLVED that the Alaska State Legislature considers participation

22 of the State of Alaska to be essential to the validity of the executive agreement,

23 requests the United States Department of State to report any and all acts and

1 directives regarding implementation of the executive agreement, and respectfully

2 requests the Govenror and the Attornev General of Alaska to in~~v~~estigate whether

3 any actions in this matter are not consistent with law and to report on their findings

4 to the Legislature prior to the next regular session; and be it

5 FURTHER RESOLVE~~S~~ that the Alaska State Legislature urges the Alaska

6 delegation in the United State Congress to promote and pursue the views expressed

7 in this resoltuion, especially the need for Alaska representation in negotiations over

8 setting a maritime boundary between the state and eastern Russia; and be it

9

10 Page 4:

11 Delete: Line 1

12 Insert:

13 maritime boundary between Alaska and eastern Russia is a constitutional issue of

14 states' rights and

Alaska State Legislature



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19 N. Cushman, Suite 211
Fairbanks, AK 99701
(907) 456-5081 - Phone
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Session:
State Capitol, Room 416
Juneau, AK 99801
(907) 465-3719 - Phone
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Representative John Coghill

HJR 26 Maritime Boundary Between Canada and Alaska Sponsor Statement March 10, 1999

I have introduced HJR 26 to encourage the federal government to begin a dialog with Canada and Alaska over the disputed maritime boundaries between Canada and Alaska.

The federal government established a maritime boundary with Canada between Maine and Nova Scotia fourteen years ago. Since the late 1970's the Alaska Trollers Association has requested assistance from the U.S. State Department but Alaska has received no assistance in resolving the problem.

In 1976 the United States unilaterally expanded its territorial waters from the 12-mile traditional limit to the 200-mile Exclusive Economic Zone (EEZ) in hopes that everyone else would follow suit. Canada, however, maintains the A/B Line in the Dixon Entrance as its maritime boundary.

On February 25, 1998, Captain Vince O'Shea, Chief of Maritime Operations Plans and Policy Division of the 17th District United States Coast Guard, testified about the problem before the House Special Committee on Fisheries. He said that the U.S. has had an agreement with Canada since 1977 as to how to enforce laws in the disputed waters. Under the agreement each country enforces its fishing rules on its own vessels in the disputed area. In 1980 Canadian officers took law enforcement action against U.S. trollers operating in the disputed waters claiming the agreement did not apply to nontraditional fisheries in the area. The issue has been debated every since.

The only solution to the ongoing disputes over fishing rights, mineral rights, transportation rights, and other rights of Alaskans, Canadians and the federal government is the establishment of a maritime boundary.

This resolution also clarifies that the sovereignty, territory, jurisdiction, and property rights of Alaska must be protected. It resolves that any negotiations on a maritime boundary with Canada must include participation of representatives of the State of Alaska.

FISCAL NOTE

No: 1

Version: CSHJR 26(WTR)

(H) Publish Date: 4/6/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: _____
 Title: Establishing Maritime Boundaries
with Canada
 Sponsor: Rep. John Cognill
 Requester: WTR

Dept. Affected _____
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES [1]						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by D. Mark Riehle, WTR Aide

Mark Riehle

Phone 465-6643

Phone _____

Date 3-29-99