

S B

258

TONY KNOWLES
GOVERNOR
2000 PRINCE OF WALES BLVD

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

PROBATION
JUNEAU, ALASKA
JUN 7 2000 11:55
FAX 907 465 4111
6300 2nd St. JUNEAU, AK 99801

ab-258

February 8, 2000

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

The current land leasing program for commercial set gillnet fishing sites carries considerable cost for the Department of Natural Resources (department). In meeting restraints caused by recent budget cuts, this bill I transmit today replaces the shore fisheries leasing program with a self-executing registration system.

A registrant is entitled to a revocable, noncompensable use privilege for the site, with priority over other commercial set gillnet fishers who have not registered that site. The department would provide a system for recording site registration, but would not evaluate individual registrations or resolve conflicts between registrants regarding the priority of their use privileges for a particular site. Instead, conflicts would be resolved by the courts or by any other lawful means. The bill provides for a transition from the existing lease program to the registration system.

To register a site, a person must hold a valid salmon set gillnet limited entry permit for the fishery, mark the site with the fisher's name and limited entry permit number, submit a completed form with precise coordinates of the location of the fishing net, and pay a registration fee to be established by the department.

When more than one valid registration is filed for a particular site during its first three years of registration, priority use would be determined by:

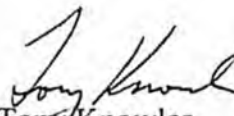
- Length of time each registrant has been set gillnet fishing in the area;
- Proximity of the registrant's past fishing sites to the registered sites; and
- Present ability of the registrants to use the site to its maximum potential for commercial set gillnet fishing.

The Honorable Drue Pearce
February 8, 2000
Page 2

The department would retain authority to process and issue leases for shore fisheries lease applications accepted and filed before the effective date of the Act. Existing shore fisheries lessees could register the site under the new system before the expiration of their lease.

I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

FISCAL NOTICE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 1
Bill Version: SB 258
(S) Publish Date: 2-9-00

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: Self-registration of commercial set net fishing BRU: Minerals, Land & Water Development
 sites: _____ Component: Claims, Permits and Leases
 Sponsor: Rules Committee
 Requestor: Governor Component No 2460

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

[Note: No new funding is envisioned to be needed for this legislation. Continued program funding is already included in the department's proposed FY2001 budget.]

This bill replaces the shore fisheries leasing program with a self-executing commercial set net fishing site registration system, provides for a system of registering commercial set net sites, eliminates the department's role in resolving conflicts, and requires the payment of a rental fee to be established by the commissioner of the department. In response to sustained DNR budget cuts, the shore fishery program has been reduced from four state employees to one. The proposed self-registration system is designed to maintain orderly beach fishing while responding to reduced staffing levels.

[Cont.]

Prepared by: Bob Loeffler *[Signature]* Phone: 269-8625
 Division: Mining, Land and Water Date: 11-Jan-00
 Approved by Commissioner: John Shively *[Signature]* Date: 1-18-00
 Agency: Natural Resources

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Continuation of fiscal note:

The current shore fishery program operates on program receipts. The program brings in approximately \$360.0 a year, and will continue to generate that revenue as a site registration program. Of the \$360.0 collected, \$95.0 was allocated to the department last legislative session to fund the program. The remaining money collected goes to the unrestricted general fund.

Staff will consist of a Natural Resource Officer II (NRO) for 12 months who will continue administering the 1200 existing shore fishery leases and will review the new registrations. Additional department staff provide clerical, administrative, supervisory and policy support. Administration of the shore fishery leases will decline each year until the year 2010, when the last leases should expire and the program will be fully under the self-registration program. In addition to administering the existing leases, the NRO will also administer the sites registered under the new self-registration program. It is anticipated that all the existing holders of a lease will register their site as the leases expire. As leases expire, the workload shifts to the registration program.

Total revenue obtained from set net leases and registrations is projected to remain steady at \$360.0 annually. Each year, the portion of the total coming from set net site leases will decline, and the portion coming from set net site registrations will increase, as leases expire and are converted to site registrations. The rental rate will be the same for both types of authorization. However, the set netter will no longer have the expense of preparing a lease diagram, which will not be required for the self-registration program.

FISCAL NOTE

No. 2

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: SB 258

(S) Publish Date: 2-9-00

Revision Date/Time (Note if correction) _____ Dept. Affected Fish & Game
 Title An Act relating to registration for commercial BRU Comm. Fish (Limited) Entry Commissi
set net fishing sites Component Limited Entry Program Administration
 Sponsor Rules
 Requester Governor Component No. 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 00

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by Roger Kolden Phone 790-6960
 Division Commercial Fisheries (Limited) Entry Commission Date/Time 1/6/00 2:26 PM
 Approved by Commissioner William Donald Date 1/6/00
 Agency Commercial Fisheries (Limited) Entry Commission

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Proposed Set-Net Site Legislation

An Explanation

The Problem. Last year, the legislature cut \$200K or two-thirds of the funding for DNR's Set-Net Lease program. We no longer have the funds to administer the program in the traditional manner. We are proposing legislation to provide a similar but lesser level of service consistent with the remaining funding. We are proposing a program that eliminates some of the office work but maintains the fishers' rights. DNR currently administers approximately 1,200 existing set-net leases, and expects approximately 160 applications and renewals during the next fiscal year.

What is a Set-Net Lease? Under the current set-net lease program, DNR may issue a lease to any fisher who holds a limited entry permit for the set-net fishery. The lease secures the same fishing site year after year. Any limited entry permit holder who meets certain criteria is eligible for a lease. The program does not affect who gets a limited entry permit, when or where the fishery is opened or closed, or other fishery-related regulation, which is properly done by the Board of Fish and DF&G. The lease only establishes control over a particular beach site that has been traditionally used by the fisher for set-net fishing. A lease is not required to participate in the fishery and a limited entry holder may fish from a vacant beach without a lease.

Traditionally, adjudication of the lease application is necessary, and the department must prepare a best interest finding under AS 38.05.035(e) and must distribute public notice under AS 38.05.945. Both of these procedures are expensive and time-consuming. DNR also works to resolve any conflicts, claims or counter-claims that arise during the adjudication/decision process. If granted, the set-net lease creates a right to fish a particular site during fishing openings. The site is not exclusive to the fisherman during non-fishing periods. Enforcement of fishing regulations is the responsibility of DF&G. The lease rate is currently \$300.00 per annum.

Why Are We Proposing to Change the Law? In last year's legislative discussion, the Department prepared a list of services and costs. It indicated that if the legislature felt it wished to eliminate certain services, it could cut the costs. The cut to the set-net lease program was one of the services listed. The Department indicated that if the cut were made, it would recommend legislative changes to institute a program that provided less service but cost less.

The set-net leasing program has deep roots in Alaska's fishing industry with strong ties to rural Alaskans. Realistically, the state must remain responsive to the needs of Alaska's set-net fishers' who wish to protect their fishing sites. In last year's impact statement, the department recognized the potential for the streamlining this program to preserve the spirit of the original program while minimizing the need for costly staff findings and adjudication.

A Solution Consistent with the Budget. The proposed program will replace the current leasing program with a self-executing site registration system. For a fee, the qualifying limited entry holder would receive a revocable use-privilege for the site with priority over use by other set-net fishers. In other words, a fisher would receive all of the same rights as he received under a set-net lease. The department provides a system for tracking site registration, but would

not (as in the past) evaluate individual registrations or resolve conflicts between registrants. Instead, conflicts would be resolved by the courts and other lawful means. The system would be exempted from requirements to do a "best interest finding" under AS 38.05.035(e) and public notice under AS 38.05.945. The proposed system provides less service than previously in that it does not provide for public notice or staff resolution of conflicts.

Existing leaseholders would automatically be granted a site registration for their site upon natural expiration of their lease. Existing leaseholders may however convert to a registration at any time during the term of their lease.

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

Kvichak Setnetters Assoc.

P.O. Box 91118 • Anchorage, AK 99509
(907) 276-4771 phone/fax

March 19, 2000

Senator Halford
Chairman Resource Committee
Juneau, Ak

Senator Halford:

The Shore Fisheries Program is a receipts program supposedly receiving funding from lease fees paid by setnet fishermen. In a letter to setnetters on October 29, 1992 then director Ron Swanson stated that if program was not self-supporting there was a real chance of it being eliminated. Fees then increased from \$150 to \$300. At the time 4 people were employed full-time. The program viability was to be reviewed in 1997.

In a letter from Kathy Dugan, Natural Resource Officer, February 23, 1998 she stated costs had not increased so no fee increase was necessary with the next review to be in 2002. At that time only three people were employed. One was cut due to DNR budget cutting.

At present the program as we knew it no longer exists. One person is employed working only part-time on Shore Fishery issues and trying to fit it in around her other duties. Under the proposed registration program, which is partially operating now, no new diagrams are being accepted, no amending current diagrams is allowed, no mediating of conflicts will occur and eliminates public notices.

From time to time it is necessary to adjust a Shore Fishery Diagram because of shore erosion or the voluntary elimination of an existing site to increase fishability. The ability to change a diagram is essential. Having Shore Fishery people mediate between fishermen saves time, money and paperwork. At present most arguments have already been settled. Only two that I know of have escalated to court battles. One involved Former Governor Hammond and his former best friend Griff Quinton. The public notice of new lease and lease physical changes is a tool to avoid conflicts and is paid directly by the fisherman involved.

\$300 fees are still being required. The fee is not the issue it's the fact that a participant funded receipt program is accepting funding and not performing prepaid services. We would like to see the section pertaining to Shore Fishery Leases in SB 258 be stricken and the former program reinstated. The best way to put a stop to what has become an annual fight to save the program would be to declare the fees paid to the Shore Fishery Program non-general fund monies.

Sincerely,



Allen V Bauman

President

Kvichak Setnetters' Association

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510-7005

October 29, 1992

Dear Setnetter:

In order to continue the Shore Fishery program we must increase the yearly rental from \$150 to \$300. Statute AS 38.05.082 states that the rental will be determined by the Director and that the amount will be equal to the cost of the program administration. So far, the program has not covered its costs.

If the program is not self-supporting there is the real possibility that the shore fishery lease program will be eliminated in a budget cutting measure. The yearly cost of the program is over \$200,000. At the new rental rate of \$300 per lease per year, the program will be self-supporting within a year.

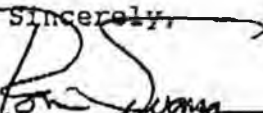
This rental increase will not affect all lessees immediately. This new rate will apply NOW to all leases issued or renewed after January 1, 1993, and to all leases first issued six or more years ago. Any leases issued between 1988 and 1992 will not increase to the new rate until they have begun their sixth year. For example, a lease issued in 1937 will increase to the new rate in 1993, a lease issued in 1992 will not increase until 1998. This change applies to all set net leases statewide.

If you do not wish to pay the new rental fee, you may relinquish your lease or application. No setnetter is required to have a lease in order to participate in a shore based fishery. However, without a lease, there can be no assurance that you will be able to re-occupy the setnet sites you customarily fish without competition from other setnetters.

If you have specific questions please contact the Shore Fishery Unit at the above address or by telephone at (907) 762-2469.

To conserve valuable and limited staff time, before calling with questions, please refer to your lease document for your issue date. Note that at the bottom of page one there is a statement that rental is subject to adjustments at five year intervals. If your lease has been renewed recently, the issue date in question is the ORIGINAL (first) issue date.

Sincerely,


Ron Swanson
Director

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

TONY KNOWLES, GOVERNOR

3601 G STREET, SUITE 1080
ANCHORAGE, ALASKA 99503-5837

February 23, 1998

Dear Shorefishery Lease Holders and Applicants:

A few of you may remember that your lease rentals are determined by the cost of the program's administration. As outlined in regulation, the department must review costs at 5 year intervals. The last rent increase occurred in January 1993. An analysis was done in late 1997 to prepare for a possible change to take effect on January 1, 1998. Our cost analysis showed that we have been able to keep costs from increasing by changing the way we do business. Many procedures have been streamlined, most conflicts have been addressed, and a new computer database allows us to keep track of our workload. As a result, the rental will remain unchanged, at \$300 for the next 5 years. Costs will be reviewed in 2002 to prepare for a possible change on January 1, 2003.

To Contact the Shorefishery Unit:

Mailing Address:	At the top of the page		
Telephone and E-mail:	Kathy	907-269-8544	kathy_dugan@dnr.state.ak.us
	Dennis	907-269-8545	dennis_gall@dnr.state.ak.us
	Nina	907-269-8543	nina_clock@dnr.state.ak.us
Fax:		907-269-8913	
Web Page:	http://www.dnr.state.ak.us , then select "Division of Land" and then, "Shorefishery Leases."		

I would also like to take this opportunity to say goodbye. I will be leaving this office and the state in early May. I've enjoyed working on this program and meeting so many of you. I'll miss being here and hearing all your fish tales. Thanks for making it an interesting six years.

Sincerely and Best Fishes,


Kathleen S. Dugan
Natural Resource Officer

rcatinfo98

Subject: SB 258

Date: Mon, 20 Mar 2000 13:16:11 -0900

From: Rollman_Tom <Rollman_Tom@xmail.asd.k12.ak.us>

To: "Juli_Lucky@legis.state.ak.us" <Juli_Lucky@legis.state.ak.us>

March 20, 2000

To Whom It May Concern,

I am writing to you on behalf of the Greater Nushagak Setnetters' Association (GNSA), an organization that represents salmon setnetters who fish in the Nushagak District in Bristol Bay. We would like to take this opportunity to voice our opposition to SB 258 which seeks to change the shore fishery lease program from its current State lease format to a self registration format.

We are opposed to this bill for the following reasons: First of all, the DNR shore fishery lease program provides a security for commercial setnet fishers that a registration cannot provide and also provides a greater property interest than a registration does. The DNR shore fishery lease protects commercial setnetters from intrusion by other parties. This is a valuable service provided by the State and one that the users more than pay for under the current fee arrangement. Set net sites have often been hotly contested and the source of considerable controversy and the shore fishery lease program has provided a stabilizing effect to the fishery as well as peace of mind to its fishers.

We strongly urge you to reconsider abolishing this shore fishery lease program that has been successfully working in Nushagak and all over the rest of the state for many years.

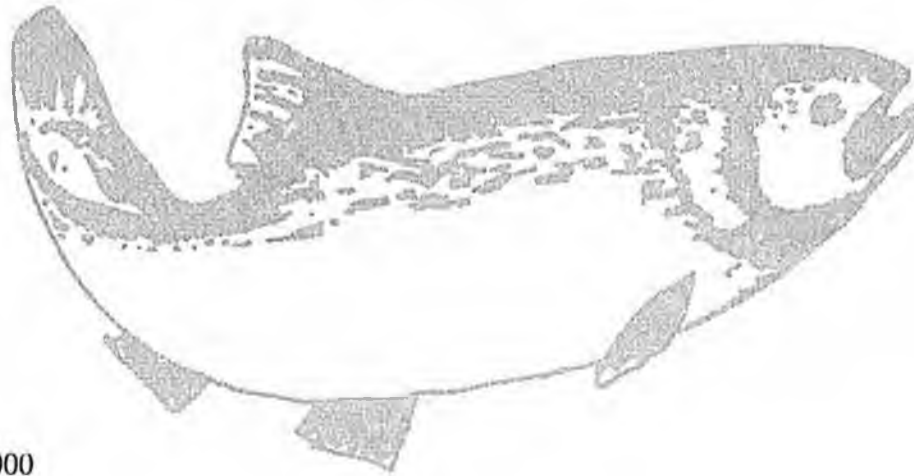
Sincerely,

Tom Rollman Jr.
President GNSA

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

P.O. Box 101480 ♦ Anchorage, Alaska 99510-1480

Est. 1954



20 March 2000

Chairman Rick Halford and members of Senate Resources Committee
State Capitol
Juneau, Alaska 99801-1182

Re: SB 258 - DNR Shore Fishery Lease Program

Dear Chairman Halford and members of the Senate Resources Committee:

I am writing to encourage your committee to support the existing Shore Fisheries Lease Program. I am also enclosing a copy of my 11 February 2000 letter to Commissioner Shively for your information.

In addition to the Northern District Set Netters Assoc. of Cook Inlet, I have corresponded with the following Alaska set net organizations that all support the program as it currently exists and all oppose DNR's shore fishery lease moratorium and proposed registration system instead of the shore fishery lease. These organizations are:

- Cordova Fishermen United
- Greater Nushagak Setnetters' Association
- Kenai Peninsula Fishermen's Association
- Kvichak Setnetters Association
- Northwest Setnetters Association
- Ugashik Set Net Association

Thus seven Alaska set net organizations support the current program. This should help inform your committee that there is broad user support for the existing leasing program.

The existing program:

- has worked successfully for 35 years
- provides stability and valued services to commercial set net fishers in Alaska
- provides security for set net fishers related to other fishers and incompatible uses
- is instrumental in state management of tide lands in a predictable and organized manner
- generates approximately \$375,000 of state revenue annually
- more than supports itself with lease fees
- provides a surplus of revenue to the State of Alaska beyond administration costs

SenHalfL

Based on my discussion with six other set net organizations in Alaska, it is doubtful if commercial fishers will continue to pay \$300 for substantially reduced (or no) services from the state (e.g., the proposed registration instead of the current shore fishery lease). This could result in the loss of up to \$370,000 of revenue to the state (including approximately \$75,000 of surplus revenue).

Since writing my 11 February 2000 letter, I have learned that the legislature asked for a list of programs from DNR and DNR offered up the Shore Fishery Lease Program because it is not statutorily required (it is a voluntary program and is not mandatory). While some view this as a weakness, it is not. Rather it is a strength of the program. The state provides this service if the user desires it. To me, it is one of the best types of government. It provides a valuable service for a reasonable fee, and it is voluntary. Over time, fishers realize the value of having a shore fishery lease and chose to request one. In my view, the only way the lack of a requirement to have a shore fishery lease could be a weakness is if the program did not have a critical enough mass to pay for the services. This is NOT the case. Currently, under the voluntary arrangement, the program more than pays for itself.

As you may know, monies collected by the Shore Fisheries Lease Program go into the State's General Fund and then the legislature has to appropriate them back to the program. Therefore, DNR is always looking to the legislature for monies to administer program even though the program more than pays for itself. This is apparently why the legislature continually reviews this program (because its funds do not automatically go back to administering that program).

Canceling the shore fishery lease program is a four way loser: 1) The state relinquishes hands on management on shore fishery tidelands management, 2) commercial set net fishers lose stability in their fishing sites, 3) the state loses or substantially reduces a revenue producing program, and 4) the state gives up surplus revenues beyond the cost of administering the program in a time of budget shortages.

Commercial fishers are happy with the existing program. It pays for itself, produces a budget surplus, provides predictable rules for shore fishery users, provides a mediation process for disputes, and, in short, provides valuable services for Alaskans. Why change it?

Please support the current program.

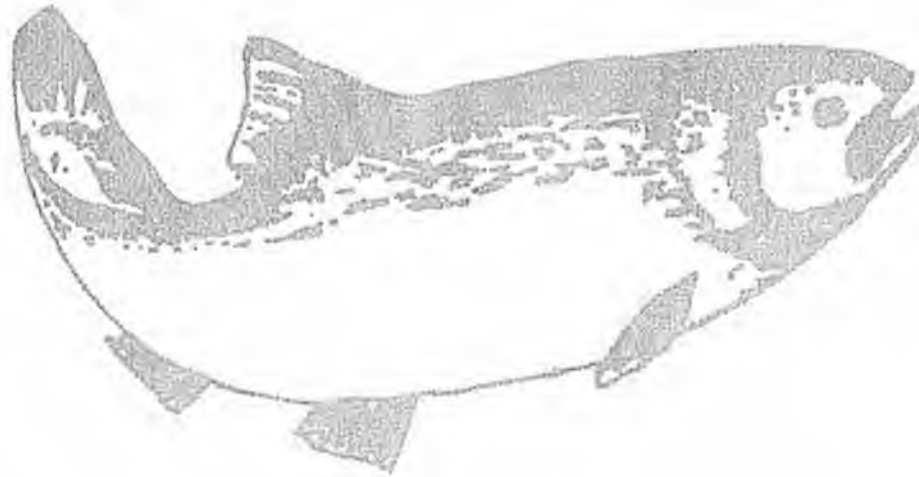
Respectively,

Stephen Braund
President
Northern District Set Netters Association of Cook Inlet

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

Est. 1954

P.O. Box 101480 ♦ Anchorage, Alaska 99510-1480



11 February 2000

John Shively
Commissioner
Dept. of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801-1796

Re: DNR Shore Fishery Lease Program

Dear Commissioner Shively:

I am writing to express our association's dismay that the Department of Natural Resources (DNR) has chosen to eliminate the Shore Fishery Program. This program has provided security for set net fishers related to other fishers and incompatible uses, it more than supports itself with lease fees, and it provides a surplus of revenue to the State of Alaska. We strongly urge DNR to reconsider its position and reinstate the existing program that has worked successfully for Alaska set net fishers for 35 years.

I have been a commercial set net fisher in Upper Cook Inlet since 1981 and have held a DNR shore fishery lease since shortly after I entered the fishery. I have found this program to be efficient and valuable. It provides commercial set net fishers stability in their fishery and a means of conflict resolution. I have encouraged fishers to participate in this program to protect their fishing sites.

When I first obtained a DNR shore fishery lease, the annual fee was in the neighborhood of \$40. DNR gradually raised the annual fee over time until it reached its present \$300 per year. DNR's rationale for the raises in annual fees was that the program had to pay for itself. This was logical and users did not resist these increases in fees. Users could understand that the DNR wanted the program to pay for its administration costs.

DNR has a long history of trying to abolish or radically change the shore fishery program. Over the years, there were numerous attempts to modify the provisions of the program, but most of them met with user resistance. Looking through my records I see DNR proposed significant changes to the shore fishery lease program in 1982, 1984 and again in 1989.

DNR had meetings with commercial set netters who provided valuable information why the proposed changes were inappropriate. The program remained essentially intact.

This is and has been a successfully operating lease program that more than pays for itself. Why disrupt a working system?

The program is working and users are generally satisfied. In my view, there has been little change in the regulations of the shore fishery lease program since its inception other than increased lease fees.

Now, with no user education or comment, DNR has chosen to suspend the shore fishery lease program and replace it with a "self-registration system."

Our set net association strongly opposes this change.

We understand that during the last (1999) session the legislature cut the DNR budget by \$200,000 and as a consequence, DNR proposed to change Shore Fishery Lease Program a couple of weeks prior to the end of the legislature. However, nothing was done at that time.

I have recently seen a copy of your 27 August 1999 Department Order that suspends the 1999 application filing period entirely and essentially abolishes the shore fishery lease program and replaces it with a "self-registration system." The rationale for this action is "Beginning July 1, 1999 the available funding for administration of the shore fishery site lease program has been reduced by \$200,000, or by two-thirds."

Did the legislature specifically reduce the funding for the shore fishery lease program or did the legislature reduce DNR's budget by \$200,000 and then did DNR choose where to reduce services?

If DNR decided this arbitrary reduction, on what basis was the shore fishery program selected?

Why weren't users notified and asked to comment?

If \$200,000 represents two-thirds of funding for the shore fishery lease program, it follows that the total program required \$300,000 annually to fully fund it.

Also, as I stated above, it is our understanding that the current fees charged by the program were designed to fully fund it. According to discussion by our board members, DNR staff, on many occasions, have told set net fishers that the lease fees made the program self supporting and no general funds were needed to operate this program. If the program is paying for itself, why is it necessary to abolish it?

It is our understanding that the DNR Shore Fishery Lease Program has approximately:

- | | |
|---|----------------------|
| • 1,200 leases @ \$300 per year which yield | \$360,000 |
| • 20-25 annual applications @ \$100 which yield | \$2,000 |
| • 50-100 annual transfers @ \$100 which yield | \$5,000 to \$10,000 |
| • 20-25 annual diagram reviews @ \$150 which yield | <u>\$2,500</u> |
| • Total annual estimated revenues for Shore Fishery Program | \$369,500 to 374,500 |

If these calculations are reasonably accurate, DNR's shore fishery lease program raises adequate funds to both fund its \$300,000 annual administration costs and produce approximately \$70,000 to \$75,000 surplus funds for the state.

We understand that under the DNR proposal there would be no lease; no application fee, no review (the applicant is expected to provide correct information), no diagram review fee, and no public notice. We also understand that under the proposal, DNR would not enter into conflict resolution, but users would enter voluntary arbitration or go to court.

Thus, it seems that the State would essentially abandon administration of the tide lands as far as set netters are concerned (and continue to charge the \$300 "lease fee"). This amounts to set netters paying approximately \$360,000 to the State annually for no service. This could result in fishers abandoning the program, loss of \$360,000 revenue to the State of Alaska, and reduced stability on the State tidelands.

As you know, commercial fishing in Alaska has been and is going through hard times. However, fishers are resilient and dedicated to their commercial fisheries. The DNR shore fishery lease program provides a security for commercial set net fishers that a registration cannot provide. Bluntly put, a shore fishery lease provides a greater property interest than a registration. We, as commercial set netters, currently have a State of Alaska lease. We understand that this is a limited property interest and does not preclude the State from allowing other uses of the tidelands. However, implicit in the State's shore fishery lease is the assumption that the State will not allow uses that are incompatible with the shore fishery lease.

Furthermore, the DNR shore fishery lease protects commercial set netters from intrusion by other parties. This is a valuable service provided by the State and one that the users more than pay for under the current fee arrangement.

Finally, set net sites have often been hotly contested and the source of considerable controversy. The DNR shore fishery lease program has provided a stabilizing effect on set net fisheries in Alaska and provided order to the State's tidelands.

It seems to us that DNR is arbitrarily (if DNR decided where to save \$200,000) reducing the services provided, keeping the fees the same, and using the proposed "self-registration system" to make up a \$200,000 legislative budget reduction.

We strongly urge you to reconsider abolishing this shore fishery lease program that has been successfully working for several decades (since 1964 I believe).

Thank you for your consideration of this matter, and I look forward to hearing from you.

Sincerely,

Stephen R. Braund
President

cc: Governor Tony Knowles
Lieutenant Governor Fran Ulmer
Commissioner Frank Rue, ADF&G
Director Colonel John Glass, Division of Fish & Wildlife Protection
Kenai Peninsula Fishermen's Association
The Greater Nushagak Setnetters' Association
Northwest Set Netters Association, Kodiak
Kvichak Set Netters Association
Dan Coffey, Board of Fisheries Chair
Senator Loren Leman
Senator Al Adams
Senator Rick Halford
Senator John Torgerson
Senator Jerry Ward
Senator Jerry Mackie
Representative Ethan Berkowitz
Representative Alan Austerman
Representative Gary Davis
Representative Fred Dyson
Representative Bill Hudson
Representative Jerry Sanders

Proposed Set-Net Site Legislation

An Explanation

The Problem. Last year, the legislature cut \$200K or two-thirds of the funding for DNR's Set-Net Lease program. We no longer have the funds to administer the program in the traditional manner. We are proposing legislation to provide a similar but lesser level of service consistent with the remaining funding. We are proposing a program that eliminates some of the office work but maintains the fishers' rights. DNR currently administers approximately 1,200 existing set-net leases, and expects approximately 160 applications and renewals during the next fiscal year.

What is a Set-Net Lease? Under the current set-net lease program, DNR may issue a lease to any fisher who holds a limited entry permit for the set-net fishery. The lease secures the same fishing site year after year. Any limited entry permit holder who meets certain criteria is eligible for a lease. The program does not affect who gets a limited entry permit, when or where the fishery is opened or closed, or other fishery-related regulation, which is properly done by the Board of Fish and DF&G. The lease only establishes control over a particular beach site that has been traditionally used by the fisher for set-net fishing. A lease is not required to participate in the fishery and a limited entry holder may fish from a vacant beach without a lease.

Traditionally, adjudication of the lease application is necessary, and the department must prepare a best interest finding under AS 38.05.035(e) and must distribute public notice under AS 38.05.945. Both of these procedures are expensive and time-consuming. DNR also works to resolve any conflicts, claims or counter-claims that arise during the adjudication/decision process. If granted, the set-net lease creates a right to fish a particular site during fishing openings. The site is not exclusive to the fisherman during non-fishing periods. Enforcement of fishing regulations is the responsibility of DF&G. The lease rate is currently \$300.00 per annum.

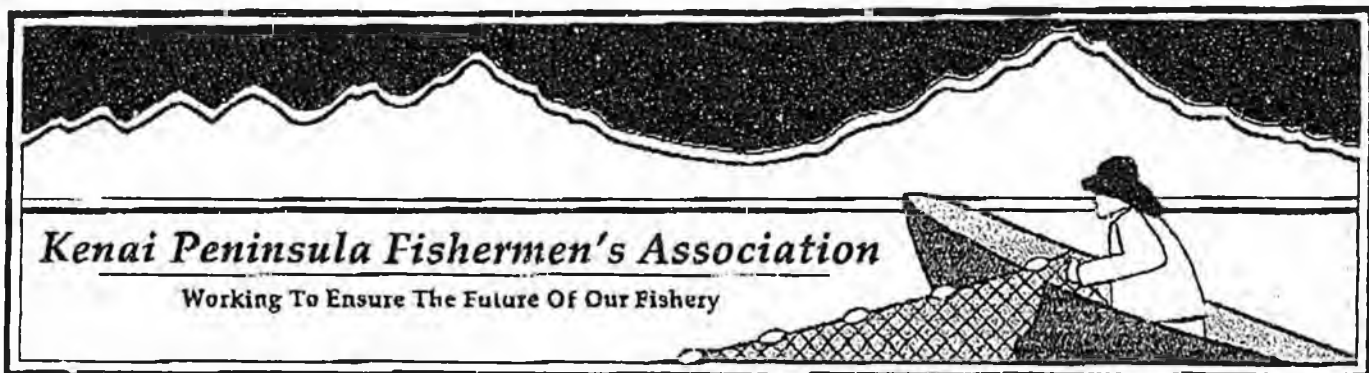
Why Are We Proposing to Change the Law? In last year's legislative discussion, the Department prepared a list of services and costs. It indicated that if the legislature felt it wished to eliminate certain services, it could cut the costs. The cut to the set-net lease program was one of the services listed. The Department indicated that if the cut were made, it would recommend legislative changes to institute a program that provided less service but cost less.

The set-net leasing program has deep roots in Alaska's fishing industry with strong ties to rural Alaskans. Realistically, the state must remain responsive to the needs of Alaska's set-net fishers' who wish to protect their fishing sites. In last year's impact statement, the department recognized the potential for the streamlining this program to preserve the spirit of the original program while minimizing the need for costly staff findings and adjudication.

A Solution Consistent with the Budget. The proposed program will replace the current leasing program with a self-executing site registration system. For a fee, the qualifying limited entry holder would receive a revocable use-privilege for the site with priority over use by other set-net fishers. In other words, a fisher would receive all of the same rights as he received under a set-net lease. The department provides a system for tracking site registration, but would

not (as in the past) evaluate individual registrations or resolve conflicts between registrants. Instead, conflicts would be resolved by the courts and other lawful means. The system would be exempted from requirements to do a "best interest finding" under AS 38.05.035(e) and public notice under AS 38.05.945. The proposed system provides less service than previously in that it does not provide for public notice or staff resolution of conflicts.

Existing leaseholders would automatically be granted a site registration for their site upon natural expiration of their lease. Existing leaseholders may however convert to a registration at any time during the term of their lease.



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March 20, 2000

Senate Resource Committee Hearing on SB258

Dear Chairman Halford

I would like to submit the following documents to the Senate Resource Committee for review during their discussion on SB258:

- October 29, 1992 letter from DNR to setnetters outlining the need for an increase in their yearly rental fees for shore fishery leases.
- October 5, 1992 DNR memo detailing how the increased rental fees were calculated by DNR to ensure that adequate program receipts were collected to cover administrative costs.

As noted in the memo AS38.05.082(c) states that the director shall establish a reasonable rent for shore fishery development leases equal to the administrative costs in processing the leasehold applications.

I assume that the same logic would apply to the fees charged under the new program described in SB258. With that in mind it can be assumed that the fees for this new program will be reduced to cover only the approximately \$100,000 it will take to run the program. This will result in \$200,000 less revenue brought in than under the old program. So in effect the \$200,000 cut to the Shore Fisheries budget made by the legislature in 1999 that resulted in DNR putting forth SB258 will be offset by a \$200,000 reduction in revenue anyway.

The net effect (if you'll excuse the pun) is that setnetters will have a program that cost less but offers less and provides less protection and stability than the original Shore Fishery Lease program. Due to AS38.05.082(c) the effect on the state treasury of either program is the same (essentially revenue neutral) so I do not see the expediency of changing the program that has worked so well for so long in bringing stability and development to our fishery.

I would ask the committee to look closely at the circumstances surrounding the original cut to funds that were clearly raised for a specific purpose. I would also ask the committee to inquire of DNR if there are specific areas of the Shore Fishery Lease program that are financially or administratively problematic as industry would be more than willing to address these issues.

FROM : KSA

PHONE NO. : 276 4771

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510-7005

October 29, 1992

Dear Setnetter:

In order to continue the Shore Fishery program we must increase the yearly rental from \$150 to \$300. Statute AS 38.05.082 states that the rental will be determined by the Director and that the amount will be equal to the cost of the program administration. So far, the program has not covered its costs.

If the program is not self-supporting there is the real possibility that the shore fishery lease program will be eliminated in a budget cutting measure. The yearly cost of the program is over \$200,000. At the new rental rate of \$300 per lease per year, the program will be self-supporting within a year.

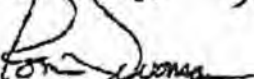
This rental increase will not affect all lessees immediately. This new rate will apply NOW to all leases issued or renewed after January 1, 1993, and to all leases first issued six or more years ago. Any leases issued between 1988 and 1992 will not increase to the new rate until they have begun their sixth year. For example, a lease issued in 1987 will increase to the new rate in 1993, a lease issued in 1992 will not increase until 1998. This change applies to all set net leases statewide.

If you do not wish to pay the new rental fee, you may relinquish your lease or application. No setnetter is required to have a lease in order to participate in a shore based fishery. However, without a lease, there can be no assurance that you will be able to re-occupy the setnet sites you customarily fish without competition from other setnetters.

If you have specific questions please contact the Shore Fishery Unit at the above address or by telephone at (907) 762-2469.

To conserve valuable and limited staff time, before calling with questions, please refer to your lease document for your issue date. Note that at the bottom of page one there is a statement that rental is subject to adjustments at five year intervals. If your lease has been renewed recently, the issue date in question is the ORIGINAL (first) issue date.

Sincerely,


Ron Swanson
Director

cc:postings, etc

FROM : KSA

PHONE NO. : 276 4771

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCESState of Alaska
DIVISION OF LAND
Southcentral Regional Office

TO: Ron Swanson
Director

DATE: October 5, 1992

THRU: Richard B. Thompson *Rick*
Southcentral Regional Manager

TELEPHONE NO: 752-2270

FROM: *[Signature]* E. Stafford
Chief, Retained Lands

SUBJECT: Shorefish Administrative
Costs & Program Receipts
Revenues

As you are aware, AS 38.05.062(c) states that the director shall establish a reasonable rent for shore fishery development leases equal to the administrative costs involved in processing the leasehold applications.

Attached is information documenting the current costs of administering this program and the expected revenues. Both the time and cost involved in a standard casefile adjudication process are outlined. The minimum cost of adjudicating one casefile from application to lease issuance is \$297.70. Scenario 2 is based on the actual cost of administration after a full year at the cost effective revenue of \$300.

Administrative costs have exceeded generated revenue since at least FY87. The following is the generated revenue for those years: FY87 - \$120,000; FY88 - \$165,000; FY89 - \$185,500; FY90 - \$183,450; FY91 - \$164,000; FY92 - \$163,500. For a recent comparison of costs and revenues, examine the FY92 personal services costs of \$188,895 and revenues of \$165,547, a deficit of \$22,848 (personal services only).

The reduction in revenues produced in FY91 and FY92 is attributable, in large part, to lease rental waivers resulting from the Exxon Valdez oil spill and the tideland classification issue, which placed many potential revenue producing actions in limbo for 18 months. As you are aware, these issues have been resolved, and the revenue stream for the conversion year of FY93 would be expected to return to the FY89-90 level. The increase in revenue for FY89 and 90 is partially attributable to an increase in filing and diagram review fees.

The projected costs of the program for FY93 total \$211,499. Personal services costs alone are \$194,183. At the current rental rate, Scenario 1, we are projecting an income of \$190,050. This is a program deficit of \$21,433. If we consider the projected revenue from Scenario 3 the program deficit for FY93 will be reduced to \$11,483. By FY94, referring to Scenario 2, we will be generating revenues which will, for the first time, meet the

FROM : KSA

PHONE NO. : 376 4771

program costs.

Past memos pertaining to rental increases are attached for informational purposes.

We believe a strong case has been presented for a rental increase to \$300 to cover the program costs. If you concur with the need for a rental increase, please sign below and indicate a rental amount. The effective date of this rental increase will be January 1, 1993.

\$250

\$300

\$600

Other

Approved By:



Ron Swanson
Director

Oct 6, 1992

Date

Senate Bill 258
DNR Shore Fishery Lease Program

Good Afternoon Senator Halford and others. Thanks for listening.....

My name is Sandy Umlauf and I am speaking as president of the Ugashik Set Net Association in Pilot Point/Bristol Bay, Alaska. UgSA represents approximately 65 set net permits. More than 50 of those permits were fished in 1999.

Personally, I set net fished in Cook Inlet for ten years and held Shore Fishery Leases. ~~Unable to tolerate being "non-commercial fishermen" and "debt free,"~~ my husband I bought an Ugashik set net operation in 1996, including a shore fishery lease.

Thro my 15 years of commercial setnet fishing I have encouraged other fishermen to purchase Shore Fishery Leases.

UgSA requests that you vote against this new Shore Fishery Program set out by SB 258 .

The old program was more than self-sustaining, offered stability with Shore Fishery Leases and provided a means for conflict resolution.

Why throw away a self sustaining program that was working? There was general satisfaction with the program from the set net fishermen.

Some people think this new program is being instituted so the State of Alaska can avoid the litigation costs of the "conflict resolution" part of the old program. If that is the case, the thinking is wrong. This new program can lead to many different types of litigation....

The self registration program uses GPS coordinates for the location of fishing nets. The DOD continuously scrambles the outgoing GPS satellite data coordinates. The coordinates can be up to 100' off because of DOD variance. This sort of discrepancy can be critical in areas where the shore fishery leases are stacked into the available tidelands exactly next to one another, the exact distance apart that regulations stipulate. One set net fisherman can say his GPS showed a certain point as being the place for HIS net and the neighboring set net fisherman's GPS coordinates can show that HIS net is 100' closer..... these types of disagreements can wind up being settled with our readily available guns.... who do you suppose the families will be suing then? The deepest pocket they can find and that will be our great state of Alaska....

If the fishery does become disorderly because of shore fishery disputes the Dept. of Fish and Game will be forced to close down the set net fishery.... Once again opening up the threat of litigation to the State by the fishermen who were able and ready to be fishing... and unable to fish...

The new Shore Fishery Lease program does not allow State Law Enforcement to do anything with individual fishermen disputes on the beach. Enforcement would basically have to tell all the set net fishermen involved in a dispute to take their nets out of the water, stop fishing and enter voluntary arbitration or go to court over the dispute.... The season would be long over before those fishermen would get resolution of where they could set their nets.

Now, SB 258, without comment or commercial fishermen's input, suspends the old program and replaces it with a "self registration" system and fishermen are expected to pay the same fee.

UgSA STRONGLY opposes the change.... *& urges you to support the current program -*

Under S/B 258 there is no lease, no review, no public notice and the applicant is expected to provide the correct information.... with an assumption that ALL applicants have GPS and know how to accurately use it....

It appears that Alaska has virtually abandoned the administration of the tidelands as far as set net fishermen are concerned and the state still expects to collect the \$300 fee. This translates into set net fishermen paying approximately \$360,000 per year for no service. The result could be the set net fishermen abandoning the program, chaos in some set net fisheries, the loss of the \$360,000 in state revenue and reduced stability on the state tidelands with the set net fishery.

Set net sites are frequently hotly contested and very controversial. The DNR Shore Fishery Lease program provided a stabilizing effect on the set net fisheries of Alaska and provided order on the State's tidelands.

UgSA strongly urges you to reconsider abolishing this shore fishery lease program that has been successfully working for several decades....

Thanks for listening and your consideration...

Sandy Umlauf
President UgSA