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REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

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State Capitol

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Sponsor Statement HB 218

"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities"

Salmon hatcheries in Alaska are successful examples of state assisted economic development programs. Over the years, hatcheries have provided great benefit to our commercial fishing industry and to other users of fish by enhancing the strength of salmon returns and by creating jobs in our communities. The commercial salmon industry has paid into this program through the Salmon Enhancement Tax since 1980.

HB 218 relates to the methods by which hatcheries generate revenue to cover their operating and capital expenses. These methods are referred to as "cost recovery." Under current practices, hatcheries generally contract with processors to purchase part of the returning run of fish that are caught in areas known as Special Harvest Areas immediately in front of hatcheries or at remote release sites where enhanced runs of fish have been developed. Typically only a handful of commercial vessels actually participate in the harvest of these cost recovery fish.

HB 218 provides language that would allow hatchery operators to choose to recover their costs through other methods that would allow these fish to be caught by any salmon permit holder. This would allow the fleet to access more fish. Because each hatchery has a unique financial situation, an open access type of cost recovery may not be applicable to all hatcheries. For this reason, HB 218 merely provides permissive language. It in no way will force a hatchery to change its current practices. However, the intent language in Section 1 of the bill states that the economic interests of the commercial salmon fishery are best served by the harvest of salmon in common property fisheries and the reduction or elimination of the direct sale of salmon by hatchery permit holders. This refers to the fact that hatcheries were created to enhance the productivity of salmon runs; productivity that should primarily benefit the users of the resource.

24-LS0544\Y
Utermohle
4/12/05

CS FOR HOUSE BILL NO. 218()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THOMAS

A BILL**FOR AN ACT ENTITLED**

1 **"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."**

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

3 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS. The Alaska State Legislature finds that Alaska private nonprofit salmon
6 hatcheries should maximize the harvests of returning hatchery-produced salmon by
7 commercial salmon fishing permit holders. The legislature also finds that private nonprofit
8 hatcheries should minimize, to the greatest extent feasible, the direct sale of salmon harvested
9 in special harvest areas.

10 *** Sec. 2.** AS 16.10 is amended by adding a new section to read:

11 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
12 harvest salmon for a facility in a special harvest area through agents, contractees, or
13 employees of the permit holder as provided under regulations of the Board of Fisheries
14 or through the common property fishery under this section.

15 (b) A hatchery permit holder may elect to harvest surplus salmon produced at

1 a facility in a special harvest area established for that facility through the common
2 property fishery. The commissioner of fish and game, after reasonable consultation
3 with the hatchery permit holder, affected commercial fishermen, and other interested
4 or knowledgeable parties, shall adopt regulations governing the harvest of surplus
5 salmon in a special harvest area if the hatchery permit holder elects to harvest surplus
6 salmon produced at a facility through the common property fishery. The regulations
7 must specify the terms, conditions, and rules under which the common property
8 fishery in the special harvest area shall be conducted, including requirements for hold
9 inspections and reporting of harvests and sales of salmon taken in the special harvest
10 area. The board may adopt regulations, as the board considers appropriate, regarding
11 a fisheries management plan governing operations under this subsection in a special
12 harvest area, including allocation plans. Participation in the fishery must be open to
13 all interim-use permit and entry permit holders who hold permits to operate a type of
14 gear that may be used in the administrative area in which the special harvest area is
15 located if that type of gear is authorized by regulation to be used in the special harvest
16 area. An interim-use permit holder or an entry permit holder who takes salmon in a
17 common property fishery in a special harvest area may sell the salmon to any fish
18 buyer or processor who is licensed to do business in the state.

19 (c) As a condition of participation in a common property salmon fishery in a
20 special harvest area under this section, a fisherman who participates in the fishery is
21 subject to the payment of the assessment levied under (d) of this section. The
22 assessment is levied on the value of salmon that the fisherman takes in the special
23 harvest area and either sells to a buyer or exports from the state without being sold in
24 the state. If the buyer of the salmon is licensed under AS 43.75, the buyer shall collect
25 the assessment on salmon taken in a special harvest area at the time of purchase and
26 remit the assessment to the Department of Revenue in accordance with regulations
27 adopted by the Department of Revenue. If a fisherman does not sell salmon harvested
28 in a special harvest area to a buyer licensed under AS 43.75 or if a fisherman does not
29 sell salmon harvested in a special harvest area to a buyer before the salmon are
30 exported from the state, the fisherman shall remit the amount of the assessment to the
31 Department of Revenue in accordance with regulations adopted by the Department of

1 Revenue.

2 (d) The Department of Revenue shall annually set the rate of the assessment
3 levied on salmon taken in a special harvest area in consultation with the Department of
4 Fish and Game, the Department of Commerce, Community, and Economic
5 Development, the hatchery permit holder, and representatives of affected commercial
6 fishermen. The rate of the assessment shall take into account the operating, capital,
7 and maintenance costs of the hatchery permit holder for the facility for which the
8 special harvest area is established, reasonable overhead expenses, including debt
9 service on loans for the facility, the estimated return and harvest of salmon in the
10 special harvest area, the projected price to be paid for salmon in the region, and the
11 amount by which the assessment collected in previous years under estimated or over
12 estimated the costs to the hatchery permit holder for the operation of the facility. The
13 total rate of the assessment may not exceed 40 percent of the value of the salmon.

14 (e) The Department of Revenue shall deposit the assessments collected under
15 this section in the general fund. The legislature may appropriate the funds collected
16 under this section to the hatchery permit holder who operates a facility in the special
17 harvest area in which the assessment was levied. A hatchery permit holder shall use
18 funds appropriated under this subsection for the purposes set out under
19 AS 16.10.450(a).

20 (f) A person who violates a regulation adopted by the Department of Fish and
21 Game or the Board of Fisheries under (b) of this section is guilty of a misdemeanor
22 under AS 16.05.723. A person who violates a regulation adopted by the Department
23 of Revenue under (c) of this section is guilty of a class A misdemeanor.

24 (g) In this section,

25 (1) "facility" means a hatchery or salmon rehabilitation project for
26 which a permit is issued under AS 16.10.400 - 16.10.470;

27 (2) "special harvest area" means a special harvest area established
28 under regulations of the Board of Fisheries in which a hatchery permit holder may
29 harvest salmon for the hatchery at times set by the board or the department;

30 (3) "value" has the meaning given in AS 43.75.290.

31 * Sec. 3. AS 43.76.035 is amended to read:

1 Sec. 43.76.035. Exemption. AS 43.76.001 - 43.76.040 do not apply to
2 salmon harvested under a special harvest area entry permit issued under AS 16.43.400
3 or in a common property fishery conducted in a special harvest area under
4 AS 16.10.455.

LEGAL SERVICES

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MEMORANDUM

March 4, 2005

SUBJECT: Draft bill relating to cost recovery fisheries for private nonprofit hatchery facilities (Work Order No. 24-LS0544\G)

TO: Representative Bill Thomas
Attn: Ian Fisk

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of a draft bill relating to cost recovery fisheries for private nonprofit hatchery facilities.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the legislature in regard to the harvest of salmon returning to private nonprofit hatcheries.

Section 2 of the bill amends AS 16.10 by adding a new section (Sec. 16.10.455) relating to cost recovery fisheries.

Subsection (a) provides that a hatchery permit holder may harvest salmon in a special harvest area through agents, contractees, or employees of the permit holder or through the common property fishery.

Subsection (b) provides that a hatchery permit holder may elect to harvest salmon in a special harvest area through the common property fishery and sets out how the procedures governing the conduct of the common property fishery in the special harvest area would be set.

Subsection (c) provides for the imposition and collection of an assessment on the value of salmon harvested in a special harvest area.

Subsection (d) provides for the setting of the rate of the assessment imposed under subsection (c) and the imposition of a surcharge to cover the costs incurred by the Department of Revenue in setting, collecting, and distributing the assessment. The maximum amount of the assessment, including the surcharge, is 30 percent of the value of salmon taken in the special harvest area.

Subsection (e) provides that the Department of Revenue shall hold the amount of assessment collected on behalf of a hatchery permit holder until the assessment is remitted to the permit holder. The hatchery permit holder shall use the assessments received for purposes set out under AS 16.10.450(a).

Representative Bill Thomas
March 4, 2005
Page 2

Subsection (f) provides that a person who violates a regulation adopted under this section is guilty of a class A misdemeanor.

Subsection (g) sets out the definitions of key terms used in this section.

Section 3 of the bill amends AS 43.76.035 to provide that sale of salmon harvested in a common property fishery in a special harvest area under AS 16.10.455, added by sec. 2 of the bill, is exempt from the salmon enhancement tax.

GU:jad
05-139.jad



Alaska State Legislature

Please enter into the record my testimony to the House Fisheries
(committee name)
committee on HB 218, dated 4/15/05
(bill # / subject)

**VALDEZ FISHERIES
DEVELOPMENT ASSOCIATION INC.**

P.O. Box 125
Valdez, Alaska 99686
Phone 835-4874 Fax 835-4831



Madam Chairman and Committee

This revised CS for HB218 is by far worse than the previous effort, not better.

Findings--

Sentence 1:

Any hatchery organization run by and for the fishermen already has this as their credo. The word "by" should be replaced by "for".

Sentence 2:

"to the greatest extent feasible, the direct sale of salmon harvested in special harvest areas" This really gets to the bottom of the intent of this legislation. The hatcheries are getting a better price because they can negotiate for direct sales. This puts an upward pressure on price and the processing industry can't justify paying their fishermen more than the fish are truly worth.

Page 2 line 0

"The board" What Board is this? I expect it is the Board of Fish. The Board of Fish is a political board appointed by the Governor who seems to care more for the processor than the individual fisherman. The hatcheries will lose any control over their cost recoveries and be subject to an appropriation that the legislature may honor. The sentence relating to the Board of Fish should be eliminated because the board already has allocative abilities. This sentence puts the hatchery operator in another political arena and introduces a huge financial risk.

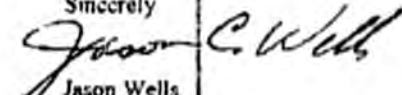
Page 3 line 15

We believe that this is the poison pill for this legislation. The legislature may or may not appropriate the money to each individual hatchery. This means that each hatchery would have to travel to Juneau each year to beg for their appropriation. The hatchery would lose any control it has on its revenue stream and could not project anything for the following year or into the future. Valdez Fisheries Development Association would have to change its fiscal year from May 31 to coincide with the state fiscal year in order to be in an appropriation cycle. This would occur right in the middle of our cost recovery and require us to harvest 1/2 of our cost recovery in one year and 1/2 our cost recovery in the following year. This would require that we borrow 18 months of operating expenses from the state, if available, to insure that we had sufficient funds to operate each year subject to legislative appropriations.

THIS BILL MUST HAVE A FISCAL NOTE ATTACHED THAT SHOWS THE FINANCIAL IMPACT ON THE INDIVIDUAL HATCHERIES AND THE STATE OF ALASKA, DEPARTMENT OF REVENUE.

I think this bill is a red herring to get the hatcheries out of the fish sales business, which can only impact the commercial fishermen negatively. If you change two words in this piece of legislation: Page 1 line 11 may to shall; and Page 1 line 15 may to shall then the hatchery system will cease to function and the State of Alaska can come and get the keys to all the PNP hatcheries and the 60 million worth of debt they carry.

Sincerely


Jason Wells
Executive Director

**DEDICATED TO THE UTILIZATION, CONSERVATION,
AND REHABILITATION OF ALASKA'S FISHERY RESOURCE
WITHIN THE 200-MILE LIMIT**



61

NSRAA's Comments on House Bill 218-"An Act Relating to cost recovery fisheries for private nonprofit hatchery facilities."

More appropriately, the title of this bill should be "~~An act relating to the cost recovery program at NSRAA's Hidden Falls Hatchery.~~" Each year NSRAA sells a small portion of its returning adult salmon, in order to generate funds necessary to the operation of the hatchery. Last year NSRAA sold approximately ~~30% of the adult chum salmon~~ which returned to Hidden Falls ~~for cost recovery~~. Managing the return of adult chum salmon last season was a challenge. Warm sunny weather, higher than normal seawater temperatures (causing the fish to stay deeper than usual), and decreased total run size all contributed to the complexity of ~~managing for broodstock, cost recovery, and the commercial fishery~~. These types of conditions are ever changing, and may or may not be repeated. This bill seems to be a legislative reaction to both weather related, and run size influenced conditions.

Findings: NSRAA fails to understand how the Alaska State Legislature can find that the economic interests of the commercial salmon fishery are best served by reducing or eliminating the direct sale of salmon by hatchery permit holders. This is an opinion expressed by a minority of fishermen. NSRAA is a fishermen's organization, with a Board of Directors elected by their peers, representing three gear groups fishing salmon in Southeast Alaskan waters. The NSRAA Board of Directors are likely some of the best informed fishermen and they unanimously ~~disagree with the finding~~. The Alaska State Legislature authorized cost recovery as a way of financing these hatcheries for producing salmon for Alaska fishermen. ~~The language in this bill is sending a mixed message.~~

Fishermen benefit from the premiums and efficiencies realized in the current cost recovery system. The efficiencies realized and higher prices result in a benefit to fishermen because it allows NSRAA to minimize the number of salmon taken for cost recovery purposes. ~~NSRAA consistently provides approximately 70%-80% of its returning fish to the common property fisheries.~~ To extinguish NSRAA's ability to do this will result in diminished net value to the commercial salmon fishery. With all due respect, the commercial salmon fishery at Hidden Falls is not best served by this bill.

The fishermen that govern NSRAA represent all salmon fishermen of Southeast Alaska, and understand the business of aquaculture and its relationship to commercial fishing better than most. They live with the fiduciary responsibility of making their not-for-profit hatcheries work not only for themselves, but for future Alaskans who choose to fish for a living.

Other Comments: Supporters of HB 218 have "billed" this as an attempt to "put another tool in the box." ~~It does not, however, make much sense to spend a lot of time and effort creating a "tool" that has little chance of working, and very limited potential application.~~

Some individuals have raised questions and issues about numbers of hatchery fish going to common property fisheries, and "Too many fish are going to cost recovery."

Here are some **facts** concerning NSRAA and the issues raised:

- ❖ NSRAA has contributed, on average, 80-82% of its adult returns of salmon to common property fisheries. (See attachment -Note: Sport catches are not included.)
- ❖ In our worst year of common property contribution (2003 season) ~~64% of its adult returns went to common property users~~ (60% of the chums at Hidden Falls). (Attached are some tables and graphs which illustrate NSRAA's harvest history and NSRAA's value to common property fishery history. Note: Sport catches are not included.)

For the most part NSRAA has run a self sustaining salmon enhancement program for the ~~last ten to fifteen years~~ while still providing benefits to the commercial fisheries in excess of the goals established in the Southeast Alaska Enhanced Salmon Plan adopted by the Alaska Board of Fisheries. On a broader scale, in its twenty plus year history NSRAA enhancement programs have returned to commercial fisheries \$130,000,000 in enhanced fish value. Incidentally, the total 3% enhancement tax paid during that same time period totaled approximately \$ 24,700,000 ~~representing a 5.2:1 benefit/cost ratio. We fail to see "what's broken"~~.

NSRAA's cost recovery program is as diverse as they come. The diversity is the result of some sound decisions made by both present and past members of NSRAA's Board of Directors. Like any good investment portfolio, we have diversified our income stream so that we at least have some options in the event that one or more of our programs do not perform as we expect, year after year. Our present cost recovery program consists of three separate sites with three different species at two of the sites and a single species at the third site. ~~NSRAA's cost recovery income comes from chum salmon at two sites, Coho salmon at two sites, and Chinook salmon at three sites.~~ All seven opportunities can contribute to NSRAA's annual cost recovery plan, and putting one of the major components on a "special" plan, will prove disruptive to the total plan.

The real reason this bill is before you is because ~~last year's chum salmon return to NSRAA's Hidden Falls Hatchery was weak enough that some extra precautions had to be taken to insure a good distribution of broodstock and to provide a reasonable opportunity for NSRAA to achieve its cost recovery goal.~~ The end result of last season was that 610,000 chum salmon were caught at Hidden Falls and sold as part of NSRAA's cost, recovery program, 120,000 chum salmon were used for Broodstock, and 1,150,000 were

taken in common property commercial fisheries. We are unaware of any fish going unharvested.

There are and will always be uncertainties, even in near terminal areas. There are many variables most of which we have no input to, nor any level of control. ~~The decision to have or not have a mid-week opening at Hidden Falls has always been an issue.~~ As we co-manage the hatchery return with ADF&G, all we can do is "make the calls as we see them", and realize that sometimes this means inconveniencing someone. As adult returns rise to previously high levels, we should be able to become more aggressive, again, in managing adult returns.

NSRAA has looked at various ideas for changing the way cost recovery is done. We have not, however, come up with an arrangement which does not result in a net loss of value to the commercial fishery. We will continue to evaluate ideas with the hope that some constructive alternative will be found.

Finally, we believe that ~~there needs to be a fiscal note to this bill.~~ It is going to cost some money to implement and enforce the provisions of this measure.

Thank you for hearing our reasons for ~~opposing HB218~~

Related questions:

John Esquiro
General Manager

The Alaska State Department of Revenue is going to set the level of assessment based, in part, on the estimated return and harvest of salmon and the projected price to be paid in the region. How are they expected to do this accurately?

Do fishermen realize that under this bill, if they export fish out-of-state that they will have to collect the amount of any assessment themselves to turn over to the Department of Revenue?

What will the administrative costs of HB 218 be as they pertain to the work expected by the Department of Revenue and oversight by ADF&G or other departments to observe and apprehend violators who may be committing a Class A misdemeanor under this legislation? Will this come out of the maximum 40%?

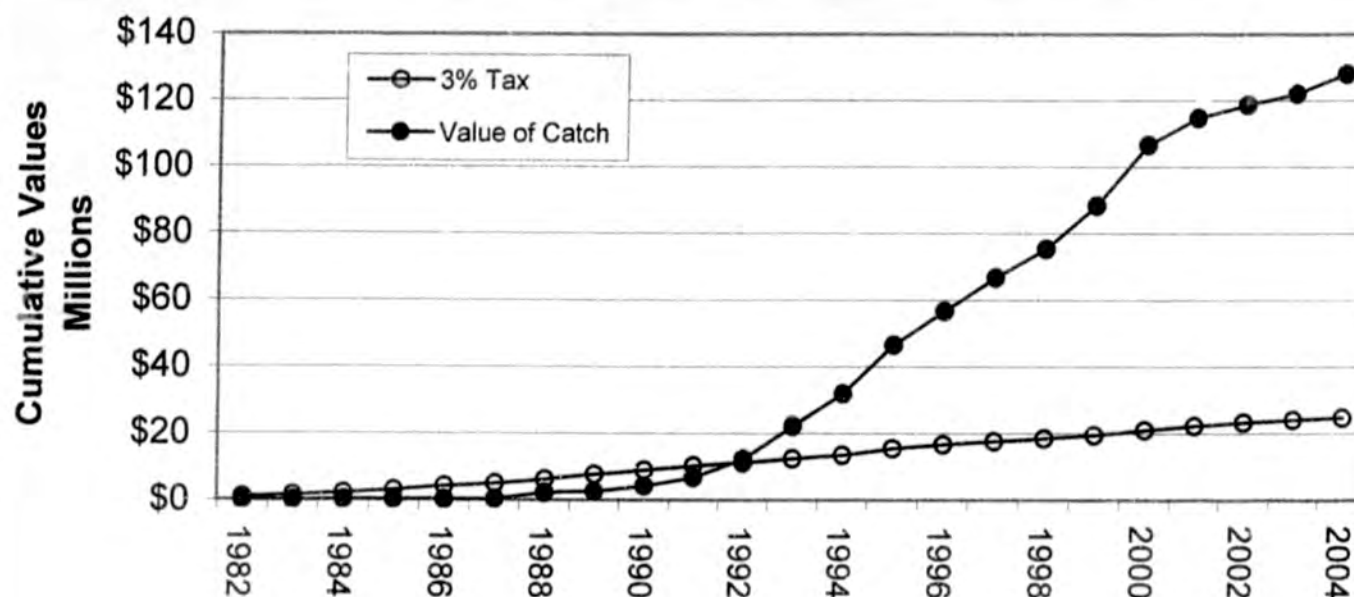
NSRAA SALMON PRODUCTION - ADULT RETURNS

Year	Commercial Catch	Commercial Value	Total Return	Percent Commercial
1984	13,861	\$ 152,884	14,500	96%
1985	682	\$ 6,911	39,970	2%
1986	1,045	\$ 11,193	183,715	1%
1987	10,625	\$ 142,520	155,198	7%
1988	213,750	\$ 1,834,115	470,395	45%
1989	93,643	\$ 441,387	315,118	30%
1990	319,818	\$ 1,584,173	615,095	52%
1991	696,957	\$ 2,656,264	1,134,889	61%
1992	1,129,700	\$ 5,458,588	1,623,485	70%
1993	2,975,002	\$ 10,211,131	3,692,809	81%
1994	4,457,677	\$ 10,010,562	5,295,050	84%
1995	4,962,512	\$ 14,857,179	5,628,278	88%
1996	6,203,569	\$ 10,282,441	7,722,142	80%
1997	4,039,901	\$ 10,172,142	4,841,390	83%
1998	4,947,133	\$ 8,753,561	5,885,665	84%
1999	6,302,429	\$ 13,101,955	7,305,682	86%
2000	6,441,420	\$ 18,285,208	7,332,654	88%
2001	2,312,908	\$ 8,241,057	3,124,713	74%
2002	2,148,868	\$ 3,834,265	3,173,355	68%
2003	2,390,408	\$ 3,391,183	3,722,755	64%
2004	3,112,901	\$ 6,067,090	4,626,954	67%
Grand Total	52,774,810	\$ 129,495,808	66,903,813	79%

NSRAA SALMON PRODUCTION - HIDDEN FALLS CHUM RETURNS

Year	Commercial Catch	Commercial Value	Total Return	Percent Commercial
1984				
1985				
1986				
1987				
1988	205,594	\$ 1,713,420	421,971	49%
1989	50,184	\$ 174,239	154,963	32%
1990	257,587	\$ 1,034,469	479,719	54%
1991	579,329	\$ 1,567,664	869,903	67%
1992	738,121	\$ 3,023,344	1,026,984	72%
1993	1,437,282	\$ 4,839,328	1,791,205	80%
1994	2,855,275	\$ 4,836,836	3,207,873	89%
1995	3,216,855	\$ 8,805,029	3,557,753	90%
1996	3,370,728	\$ 4,496,551	4,055,342	83%
1997	1,377,400	\$ 3,168,020	1,709,864	81%
1998	1,837,515	\$ 2,899,231	2,252,468	82%
1999	2,336,207	\$ 4,075,279	2,714,699	86%
2000	2,740,582	\$ 7,621,559	3,100,449	88%
2001	1,177,019	\$ 3,882,353	1,581,547	74%
2002	1,230,535	\$ 1,915,073	1,620,490	76%
2003	1,351,523	\$ 1,608,457	2,148,941	63%
2004	1,154,761	\$ 1,755,277	1,913,216	60%
Grand Total	25,916,497	57,416,131	32,607,387	79%

Comparison of Commercial Value of NSRAA Production to Enhancement Tax



Value of catch is Commercial ex-vessel value; does NOT include cost recovery value.

Benefit : Cost Ratio is 5.2 : 1 (Ratio of cumulative Commercial ex-vessel value : cumulative 3% Tax)



UNITED FISHERMEN OF ALASKA

April 5, 2005

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Representative LeDoux, Co-Chair
Representative Thomas, Co-Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau, AK 99801-1182

Dear Representative LeDoux:

United Fishermen of Alaska (UFA) supports passage of House Bill 218 relating to potential reductions in hatchery cost recovery fisheries and resulting increases in common property fisheries to be accompanied by a voluntary assessment/landing tax collected by the Department of Revenue. The basis for UFA support is three-fold:

1. First and foremost, HB 218 is permissive. That is, the hatchery and its Board of Director must elect to harvest surplus salmon through the common property fishery. Similarly, commercial fishermen are under no obligation to participate in the common property fishery and pay the additional landing tax.
2. HB 218 does not in any meaningful manner disrupt hatchery finances or in any way impinge upon the hatchery's fiduciary duties. The additional landing tax will generate the same level of net revenue now generated by the cost recovery fishery. The tax rate will be adjusted annually to ensure that the tax reflects the reasonable financial needs of the hatchery.
3. HB 218 is a first step toward reducing the direct sale of salmon by hatcheries. UFA does not oppose hatchery sales and in fact has a number of member hatcheries, including NSRAA and PWSAC. However, UFA does maintain that whenever possible, commercial salmon fishermen must have maximum opportunity to harvest and sell salmon produced at hatcheries or in the wild.

If you have any further questions regarding UFA's support of HB 218, please do not hesitate to contact me.

Respectfully

Mark D. Vinsel
Mark D. Vinsel
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Dragners Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve Concerned Area "M" Fishermen • Cordova District Fishermen United • Crab Rationalization and Buyback Group • Douglas Island Pink and Churn • Fishing Vessel Owners Association • Groundfish Forum • Ketchikan Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association • North Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Herring Seiners Marketing Association • Southeast Alaska Regional Dive Fisheries Association • Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen