

SJR

22

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/9/09

FURTHER: Judiciary

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Resources Committee considered SENATE JOINT RESOLUTION NO. 22

SJR 22 FEDERAL PREEMPTION OF SALMON MANAGEMENT

Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye salmon personal use dip net fisheries; and requesting the governor to re-examine the disproportional influence of the commercial fisheries industries on fisheries management in the state.

and recommends:

- be replaced with SCS or CS SJR 22 (RES)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

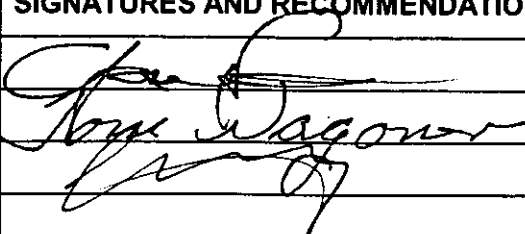
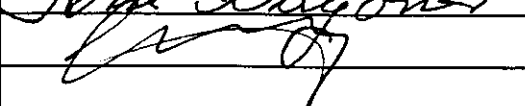
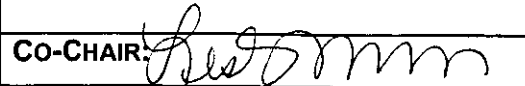
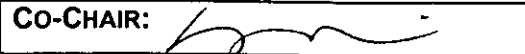
NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LEG	4/14			✓	

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	STEVE WAGONER			X	
	Huggins	X		✓	
CO-CHAIR: 	McLeure	✓			
CO-CHAIR: 	Wieleschowski	✓			

26-LS0866\R
Kane
4/14/09

CS FOR SENATE JOINT RESOLUTION NO. 22()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS HUGGINS, Ellis, Wielechowski, Menard, Thomas

A RESOLUTION

1 **Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye**
2 **salmon personal use dip net fisheries.**

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

4 **WHEREAS** the United Cook Inlet Drift Association is a group of nonresident and
5 resident commercial gill net fishermen in Cook Inlet; and

6 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
7 United States Secretary of Commerce requesting that the United States Department of
8 Commerce preempt state management of its salmon stocks in Cook Inlet; and

9 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
10 United States Secretary of Commerce claiming, among other things, that association's
11 nonresident members are discriminated against because they cannot participate in the
12 resident-only dip net fishery, thus requesting the court to declare that the state-authorized
13 resident-only salmon fisheries are unconstitutional and therefore preempted by federal law;
14 and

15 **WHEREAS** all five species of Pacific salmon are an integral part of Alaska's history,
16 heritage, and cultural identity, helping to meet both its economic and nutritional needs; and

1 **WHEREAS** the Magnuson-Stevens Fishery Conservation and Management Act
2 explicitly excludes state waters from the jurisdiction of the Act; and

3 **WHEREAS** the exclusive economic zone is closed to commercial fishing under the
4 Magnuson-Stevens Fishery Conservation and Management Act unless specifically authorized
5 by the state; and

6 **WHEREAS** the Alaska Board of Fisheries has devoted an inordinate amount of time
7 to the extremely complex salmon management program in the Cook Inlet region in an attempt
8 to balance the interests of all stakeholders; and

9 **WHEREAS** the potential results of this lawsuit, if the plaintiff is successful, would
10 not only preempt state fisheries management but could result in a larger number of
11 nonresident dip net fishermen being allowed to fish, causing an even smaller allocation to the
12 commercial fisheries, thus conceivably further adversely affecting the members of the United
13 Cook Inlet Drift Association; and

14 **WHEREAS** the establishment of federal and state recognized commercial fisheries
15 limited entry programs have drastically limited the ability of residents to use efficient
16 commercial gear for taking subsistence and personal use salmon resources, which has resulted
17 in the establishment of less efficient methods, such as the dip net fisheries, for taking salmon
18 to meet Alaska's nutritional needs; and

19 **WHEREAS** members of the United Cook Inlet Drift Association are able to use their
20 exclusive limited entry permits to use efficient gear that is not available to the average
21 Alaskan for the purpose of taking salmon for personal use; and

22 **WHEREAS** members of the United Cook Inlet Drift Association, including all
23 nonresidents, are allowed an unlimited bag limit, an unlimited possession limit, and an
24 unlimited annual limit under state law for salmon retained for personal use if taken during the
25 commercial fisheries, which is a luxury not afforded to Alaskans who do not possess a state
26 limited entry permit; and

27 **WHEREAS** both the federal government and the state recognize in law and place a
28 high priority on the importance of taking of wild resources for food; and

29 **WHEREAS** the State of Alaska restricts dip net salmon fisheries to Alaska residents;
30 and

31 **WHEREAS**, in 1984, a resident-only dip net fishery for Copper River red salmon

1 stocks was established in Chitina; and

2 **WHEREAS** in 2006, 2007, and 2008, the Alaska Department of Fish and Game
3 issued over 8,000 permits allowing Alaskans to dip net for salmon in Chitina; and

4 **WHEREAS**, in 1981, a dip net fishery for red salmon stocks was established at the
5 mouth of the Kenai and Kasilof Rivers; and

6 **WHEREAS** in 2006, 2007, and 2008, the Alaska Department of Fish and Game
7 issued between 18,500 and 23,700 permits allowing Alaskans to dip net for salmon in the
8 Kenai and Kasilof Rivers; and

9 **WHEREAS** the Alaska Department of Fish and Game calculates that those dip net
10 fisheries provide an average of 14 fish for each household for those households that
11 participated in the Kenai and Kasilof Rivers dip net fisheries in 2006, 2007, 2008; and

12 **WHEREAS** there appears to be a growing groundswell of support within the
13 commercial fishing industries represented at the North Pacific Fisheries Management Council
14 and state Board of Fisheries levels for a more dominant role in the regulatory process; and

15 **WHEREAS** the Constitution of the State of Alaska dictates that "The legislature shall
16 provide for the utilization, development, and conservation of all natural resources belonging
17 to the State, including land and waters, for the maximum benefit of its people," which clearly
18 means that the state's common property resources must benefit all Alaskans and not just a few
19 commercial fisherman;

20 **BE IT RESOLVED** that the Alaska State Legislature hereby requests that the United
21 Cook Inlet Drift Association drop its lawsuit advocating federal preemption of Alaska's
22 salmon management in state waters in Cook Inlet and opposing the personal use of salmon by
23 Alaska residents.

24 **FURTHER RESOLVED** that the Alaska State Legislature also requests Governor
25 Sarah Palin to direct the attorney general to oppose this lawsuit.

26 **COPIES** of this resolution shall be sent to the Honorable Gary F. Locke, United
27 States Secretary of Commerce; the Honorable Sarah Palin, Governor of Alaska; the
28 Honorable Wayne Anthony Ross, Alaska Attorney General; and the Honorable Denby Lloyd,
29 Commissioner, Department of Fish and Game.

ALASKA STATE LEGISLATURE

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Charlie Huggins Senator

Sponsor Statement SJR 22

This resolution takes aim at the lawsuit filed in the US District Court of Alaska by the United Cook Inlet Drift Association (UCIDA). The complaint by this commercial fishing group, calling for a return of federal management is an affront to the State of Alaska. Do not forget, here in our 50th year as a state, it was a colossal failure of federal salmon management that was a major driving force behind the statehood movement. I would hope no one wishes to return to such a regime.

UCIDA is an association of both resident and non-resident commercial fishers who participate in drift gillnet salmon fisheries in the inlet. Remarkably, these fishers can keep, for their personal use, an unlimited number of fish from their commercial catch. Their goal is to have the state-managed person use dip net fishery declared unconstitutional and be pre-empted by federal law. This resolution seeks a fair shake for Alaskans who fish, without commercial gear, with simple dip nets, to feed their families. It asks the governor to intervene in defense of the state's authority to manage its own fisheries in a responsible manner.

4/13/09

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR 22
 () Publish Date: _____

Identifier (file name): SJR22-LEG-COU-04-14-09 Dept. Affected: Legislature
 Title "Opposing litigation that seeks to eliminate the Kenai, RDU Legislative Council
 Kasilof, and Chitina sockeye salmon personal use dip net..." Component Council and Subcommittees
 Sponsor Senators Huggins, Ellis, Wielechowski, Menard, Thomas...
 Requester Senate Resources Committee Component Number 783

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
 Division Legislative Affairs Agency
 Approved by: Pamela Varni, Executive Director
 Legislative Affairs Agency

Phone 465-6626
 Date/Time 4/14/09 10:40 AM
 Date 4/14/2009

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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED COOK INLET DRIFT	)	Case No.
ASSOCIATION, INCORPORATED;)	
)	
Plaintiff,)	
vs.	)	COMPLAINT FOR
	)	DECLARATORY AND
OTTO WOLF: In His Official Capacity as	)	INJUNCTIVE RELIEF
Acting Secretary of Commerce;)	
	)	(U.S. CONST. ART. VI, CL. 2;
	)	U.S. CONST. ART I, SEC. 8,
Defendant.	)	CL. 3; U.S. CONST. AMEND.
	)	V; 16 U.S.C. § 1801 <i>ET SEQ.</i>; 5
	)	U.S.C. §553; 28 U.S.C. §2201(a);
	)	28 U.S.C. §2202; 42 U.S.C.
	)	§4332(2)(c))

I. NATURE OF THE CASE

1. Plaintiff United Cook Inlet Drift Association, Inc. (UCIDA) brings this action against the Secretary of Commerce for failure to respond to a petition for emergency rulemaking under the Administrative Procedure Act, filed by UCIDA in June

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of 2008. Failure to respond to UCIDA's petition resulted in past and ongoing harm in violation of the Due Process clause and Equal Protection guarantees of the Fifth Amendment, and in violation of the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens). 16 U.S.C. §1801 *et seq.*

II. JURISDICTION AND VENUE

2. This court has jurisdiction over this action under 16 U.S.C. §1855(f); 5 U.S.C. §702; 28 U.S.C. §2201(a); 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(e).

III. PLAINTIFF

3. UCIDA is a cooperative corporation, registered and in good standing in the State of Alaska, that represents commercial fishermen who utilize drift gillnets in the Exclusive Economic Zone (EEZ) of Cook Inlet, Alaska to harvest salmon. UCIDA actively participates in efforts at the state and national level to promote the interests of its members. Members of UCIDA consist of resident and non-resident commercial fishermen who rely predominately upon the harvests of sockeye salmon to earn their livelihood. Most of the sockeye salmon harvested by UCIDA members are returning to the major spawning rivers in Cook Inlet; in particular the Kenai, Kasilof, Crescent, and Susitna Rivers.

4. In addition to participating in the commercial fishery, some UCIDA members participate in recreational fishing, including UCIDA members from other states. Although UCIDA does not generally advocate for the recreational interests of its

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members and it is not UCIDA's primary purpose, some of UCIDA's members are precluded from participating in resident-only fisheries and are therefore harmed by ongoing state regulations that prohibit non-resident participation in recreational fisheries.

5. In February of 2008, UCIDA represented its members at the state level, opposing promulgation of proposed state salmon regulations that would substantially and adversely affect their fishery in the EEZ. Immediately after the State of Alaska promulgated these regulations, which would have a substantial and adverse affect on the ability of UCIDA members to remain economically viable, UCIDA filed a petition for emergency rulemaking (Petition) with the Secretary of Commerce pursuant to 5 U.S.C. §553(e), urging the Secretary to initiate emergency preemption proceedings against the State of Alaska under 16 U.S.C. §1855(c)(1) prior to the 2008 salmon season.

6. The Secretary failed to respond to the UCIDA petition. UCIDA brings this action on behalf of its members – those commercial salmon fishermen operating drift gillnets in the EEZ and state waters – to assert their right to petition for rulemaking under the APA and Magnuson-Stevens. UCIDA has standing under both the APA and Magnuson-Stevens to bring this action. The Secretary unlawfully failed to respond to UCIDA's Petition, causing irreparable injury to UCIDA's members. Because the injury caused by the challenged state regulations is ongoing, and the Secretary's ongoing failure to respond to the Petition denies UCIDA due process under the APA and the U.S. Constitution, there is an ongoing controversy over which this court can grant a remedy.

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IV. DEFENDANT

7. Defendant Otto Wolf is the Acting Secretary of Commerce, who has management authority over anadromous species throughout their range under Magnuson-Stevens. He is vested with responsibility for implementing and enforcing Magnuson-Stevens under 16 U.S.C. § 1855(d). He is being sued in his official capacity

V. BACKGROUND

8. Congress exercised federal jurisdiction over all anadromous fish species, including Pacific salmon throughout their range, in the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act), as reauthorized in 2006. 16 U.S.C. §1811(b)(1). Congress clearly articulated ten national standards applicable to conservation and management of anadromous species. The ten national standards are:

- (1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
- (2) Conservation and management measures shall be based upon the best scientific information available.
- (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
- (4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

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(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8) Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea

16 U.S.C. §1851(a).

9. Congress then delegated to the Secretary of Commerce (Secretary) and eight Regional Fishery Management Councils, authority to implement the Magnuson-Stevens Act. The Secretary has authority and the responsibility to “promulgate such regulations,...as may be necessary to discharge such responsibility or to carry out any other provision of [Magnuson-Stevens].” 16 U.S.C. §1855(d). The Secretary delegated his authority to the National Marine Fisheries Service (NMFS) to enact appropriate

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regulations to implement and enforce the anadromous species provisions of Magnuson-Stevens.

10. The North Pacific Fishery Management Council (Council) retains jurisdiction over anadromous species in the EEZ from 3-200 miles off the coast of Alaska. The Council delegated management authority to the State of Alaska in the EEZ through the 1990 Fishery Management Plan for Salmon in the EEZ off the Coast of Alaska (FMP). The FMP for salmon closes the EEZ west of Cape Suckling to salmon fishing, with the exception of three historic net fisheries. The Cook Inlet commercial salmon drift gillnet fishery occurs in the EEZ west of Cape Suckling and is one of the three historic net fisheries preserved in the FMP.

11. The State of Alaska manages anadromous species in state waters under the Statehood Act, which provided that management of fish and game resources would transfer to the state once "adequate provision for the administration, management, and conservation of said resources in the broad national interest" were in place. Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, July 7, 1958.

12. The Statehood Act incorporates the Submerged Lands Act of 1953 by reference. The Submerged Lands Act, while transferring title to the submerged lands under the navigable waters of the United States to the states, retained federal jurisdiction over those waters and resources for the purposes of navigation and commerce. Alaska Statehood Act, §6(c); 42 U.S.C. §772 *et seq.*

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13. Congressional authority to enact Magnuson-Stevens and the Submerged Lands Act is rooted in the Commerce Clause of the United States Constitution, which provides that Congress shall regulate commerce among the several states and with foreign nations. U.S. Const. Art. I, § 8.

14. The State of Alaska promulgated regulations that permit Alaska residents to harvest salmon to the exclusion of commercial fisherman and non-resident recreational fishermen in the drainages of Cook Inlet. UCIDA alleges that resident-only harvests of salmon are violative of Magnuson-Stevens, and they substantially and adversely affect the Cook Inlet EEZ fishery, thereby causing ongoing harm to UCIDA's members.

15. UCIDA alleged violations of federal law under Magnuson-Stevens including discrimination based on residency, failure to manage for optimum sustained yield, and harm to essential fish habitat, and sent a letter to the North Pacific Fishery Management Council urging the Council to provide comments to the Secretary of Commerce as provided for in the Council's procedures and the FMP.

16. The Council, through its executive director, responded that the Council had no obligation to provide comments to the Secretary, and that there are no federal laws that apply to salmon management in state waters.

17. UCIDA then filed a PETITION FOR EMERGENCY RULES RELATED TO SALMON MANAGEMENT IN COOK INLET, ALASKA pursuant to the APA and Magnuson-Stevens with the Defendant on June 16, 2008, alleging a violation of Magnuson-Stevens and urging Defendant to take emergency action.

18. Specifically, UCIDA challenged the resident-only fisheries, mandatory closures, arbitrary season opening and closing dates, escapement goals that do not meet optimum sustained yield, and failure of the state to utilize the best available science when promulgating regulations. UCIDA requested that the Secretary take steps to protect the commercial fishing community and the essential fish habitat upon which UCIDA's members and salmon rely.

19. The Secretary failed to respond to the Petition.

20. On July 24, 2008, the Cook Inlet fishery targeting Kenai River sockeye salmon was closed for the season in an attempt to achieve the minimum escapement goal. The resident-only personal use fishery continued unabated until the normal regulatory season closure at 11:00 p.m. on July 31. The minimum sockeye salmon escapement goal for the Kenai River was not met.

21. On November 20, 2008 a letter was sent to the Secretary inquiring into the status of the Petition. As of March 3, 2009, there has been no response to the Petition or the letter of inquiry related to the Petition.

22. The same regulations are in place for the 2009 and 2010 seasons which led to the 2008 closure of the EEZ fishery in favor of resident-only fisheries. UCIDA's members have been harmed and continue to be harmed by the state regulations pertaining to salmon management in Cook Inlet and the EEZ.

23. UCIDA sought a remedy through the petition process available under the APA in an effort to redress the ongoing harm suffered by its members. The Secretary, by

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failing to respond to the Petition, denies UCIDA's members due process under the provisions of the APA, Magnuson-Stevens, and the United States Constitution.

First Claim
Defendant Failed to Respond to UCIDA's Petition for Emergency Rulemaking

24. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

25. UCIDA's members have a statutory interest under the APA and Magnuson-Stevens related to petitions for rulemaking which are filed with the Defendant.

26. UCIDA'S members also have a substantive interest in the commercial fishery in the EEZ of Cook Inlet as recognized by Congress in Magnuson-Stevens, including adherence to the ten national standards and protection of essential fish habitat.

27. Defendant unlawfully withheld agency action regarding UCIDA's Petition, resulting in actual harm to UCIDA's members when their fishery was closed in favor of resident-only fisheries and the minimum escapement goal for sockeye salmon was not achieved in the Kenai River. Defendant's inaction failed to provide procedural protections to ensure that the ten national standards are met and that essential fish habitat is protected. UCIDA members suffer ongoing harm because the same regulations which closed the Cook Inlet fishery in 2008 and failed to adhere to the ten national standards and fail to protect essential fish habitat are in place for the 2009 and 2010 seasons.

28. UCIDA's members have a statutory and substantive interest in the Cook Inlet EEZ salmon fishery that could have been protected if Defendant acted lawfully and

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considered the Petition. Defendant's failure to act resulted in actual harm to UCIDA members during the 2008 season, and because the same state regulations remain in place, UCIDA members will suffer harm in the 2009 and 2010 seasons that is concrete and particularized – restrictions on their fishery in favor of resident-only fisheries, lost yield, and essential fish habitat degradation.

29. UCIDA respectfully requests this court to declare resident-only fisheries preempted under the Commerce Clause and Magnuson-Stevens as a matter of law. Further, UCIDA requests an order of remand to the Defendant to thoughtfully consider all elements of UCIDA'S Petition and to initiate preemption proceedings against the State of Alaska to redress the ongoing harm suffered by UCIDA members.

**Second Claim
Defendant Violated UCIDA's Members Due Process Rights Under the 5th
Amendment**

30. Paragraphs 1 through 29 are realleged and incorporated by reference herein.

31. Defendant's failure to respond to UCIDA's Petition deprived UCIDA's membership due process of law under the Fifth Amendment to the United States Constitution regarding their statutory liberty to commercial fish granted under Magnuson-Stevens and the APA.

**Third Claim
Defendant Violated UCIDA's Members Equal Protection**

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32. Paragraphs 1 through 31 are realleged and incorporated by reference herein.

33. Defendant's failure to respond to UCIDA's Petition deprived UCIDA's membership equal protection under the United States Constitution, the APA, and Magnuson-Stevens.

PRAYER FOR RELIEF

Therefore, Plaintiff respectfully requests that the Court:

1. Declare Defendant's failure to respond to UCIDA's Petition a violation of the APA, Magnuson-Stevens, and the 5th Amendment for unreasonably withholding agency action.
2. Declare Defendant's actions a deprivation of the due process and equal protection rights of UCIDA's members.
3. Declare that the state authorized resident-only salmon fisheries in Cook Inlet, Alaska are unconstitutional and therefore preempted by federal law.
4. Order the Defendant to initiate preemption proceedings against the State of Alaska under Magnuson-Stevens for actions that substantially and adversely affect the commercial salmon fishery in the EEZ of Cook Inlet.
5. Order the Secretary to review the Cook Inlet Salmon regulations and show cause that they meet the ten national standards of Magnuson-Stevens, with particular

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attention to season opening and closing dates, mandatory closures, whether the Kenai River sockeye salmon escapement goals achieve optimum sustained yield, and whether adequate measures are in place to protect essential fish habitat.

6. Order the Secretary to provide comments to the State of Alaska and to establish a consultation process for protection and rehabilitation of essential fish habitat in the Cook Inlet basin.

7. Order the Secretary to provide procedural guidance to the North Pacific Fishery Management Council regarding requests for comments to the Secretary related to fishery management by members of the public and other interested parties.

8. Retain jurisdiction over this matter until such time as the Secretary of Commerce demonstrates to the court that salmon regulations in Cook Inlet comply with the ten national standards and other provisions of the Magnuson-Stevens Act.

9. Award Plaintiff the costs of this action, including reasonable attorney's fees, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

10. Grant Plaintiff such other and further relief as the Court deems just and proper.

DATED: This 4th day of March, 2009.

Respectfully submitted,
BALDWIN & BUTLER, LLC

United Cook Inlet Drift Association v. Wolf,
Complaint Page 12 of 13

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Attorney for Plaintiff

United Cook Inlet Drift Association v. Wolf,
Complaint Page 13 of 13

ALASKA STATE LEGISLATURE



Bill Stoltze
State Representative
House District 16

Charlie Huggins
State Senator
Senate District H

Huggins, Stoltze Introduce Resolution to Protect Alaska's Personal Use Dip Net Fisheries

(JUNEAU, April 9, 2009) – Senator Charlie Huggins (R-Mat-Su) and Representative Bill Stoltze (R-Chugiak/Mat-Su) today announced that they are introducing companion resolutions requesting Governor Sarah Palin's administration to join the federal government in opposing a lawsuit filed by a Cook Inlet commercial fishing group challenging salmon management in the inlet. Senate Joint Resolution 22, sponsored by Senator Huggins and co-sponsored by Senators Johnny Ellis (D-Anchorage), Bill Wielechowski (D-Anchorage) and Linda Menard (R-Wasilla), was introduced this morning. Representative Stoltze plans to introduce a companion resolution in the House of Representatives tomorrow.

"With this resolution, we're trying to get a fair shake for Alaskans who fish to feed their families and asking the governor to defend the state's authority to manage our fisheries in a responsible manner," said Senator Huggins. "If this lawsuit is successful, it could pre-empt state management and be detrimental to Alaskans' access to our salmon resources."

The lawsuit was filed last year by the United Cook Inlet Drift Association (UCIDA) against the U.S. Department of Commerce opposing the current management of salmon fisheries in Cook Inlet. UCIDA is an association of both resident and non-resident commercial fishermen who participate in drift gillnet salmon fisheries in the inlet. Senate Joint Resolution 22 would express the Senate's objection to the association's effort to have state-managed personal use dip net fisheries declared unconstitutional and therefore pre-empted by federal law.

"It is appalling that this Alaska resident-only salmon fishery is under assault by special interests," said Representative Stoltze. "Dipnetting is a great part of Alaska - a true family tradition."

The resolutions request Governor Palin "to direct the attorney general to oppose this lawsuit", and, "in cooperation with the legislature, to re-examine the inordinate and potentially unfair, unethical, and disproportionate influence of the commercial fisheries industries on fisheries management in Alaska."

SJR 22 has been referred to the Resources Committee and the Judiciary Committee. The House version will be referred to committees tomorrow.

For more information, contact Senator Huggins or Sharon Long at 907-465-3878, or Representative Stoltze or Ben Mulligan at 907-465-4958.

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Sharon Long

From: edfelt@gci.net on behalf of Larry Edfelt [edfelt@gci.net]
Sent: Friday, April 10, 2009 1:33 PM
To: Sen. Lesil McGuire; Sen. Bill Wielechowski; Sen. Hollis French; Sharon Long
Subject: Support for SJR 22

Dear Senators:

I strongly support passage of SJR 22. The resolution thoroughly captures my thoughts. I hope the examination of the fisheries management process the resolution calls for actually happens.

In this same vein, please also reject the appointment of Brent Johnson to the Board of Fisheries, and encourage the governor to provide more geographic balance and broader user group expertise to the board.

Thank you for whatever consideration you give to this.

sincerely,
Larry Edfelt

Box 210821
Auke Bay, AK 99821
907-780-4780

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Sharon Long

From: Melvin Grove [mbgrove@mtaonline.net]
Sent: Monday, April 13, 2009 3:19 PM
To: Sharon Long; Sen. Charlie Huggins
Cc: Sen. Lesil McGuire; Sen. Bill Wielechowski; Sen. Hollis French
Subject: SJR 22
Follow Up Flag: Follow up
Flag Status: Red

Senator Huggins,

I would like to express my support of SJR 22 and all initiatives that will bring a fair and equitable share among sport fisherman and the commercial fishing industry.

Sincerely,

Mel and Cheryl Grove
Halibut Grove Valdez Charters
~~907-442-6413/337-888-8888~~
P.O. Box 520575 Big Lake, AK 99652
www.alaskan-adventures-unlimited.com

Sharon Long

From: Duane BelAND [BELAND@MOSQUITONET.COM]
Sent: Monday, April 13, 2009 2:22 PM
To: Sharon Long
Subject: SJR 22
Follow Up Flag: Follow up
Flag Status: Red

I support SJR 22 and ask that the fisheries resources be allocated iaw the state Constitution and that commercial interests and out of state interests do not get priority as they seem to be attempting.

Duane Beland
North Pole, AK.

Sharon Long

From: Chuck and Joanne Collins [tales@ptialaska.net]
Sent: Monday, April 13, 2009 11:44 AM
To: Sharon Long, *staff to Senator Huggins*
Subject: SJR 22

Dear Ms. Long,

Please let Sen. Huggins know that we are in full support of SJR 22; for too long the commercial fishing industry has dominated boards and councils regarding fisheries management. It past time that a more equitable balance be established on these boards and councils and we believe SJR 22 to be a first step in that direction.

Sincerely,
Charles E. and Alice J. Collins

Sharon Long

From: Holly Van Pelt [alaskavetpath@mosquitonet.com]
Sent: Monday, April 13, 2009 11:11 AM
To: Sharon Long, *Staff to Senator Huggins*
Subject: support for SJR 22

support for SJR 22:

Dear Ms Long: Please be aware that I support SJR 22. The imbalance in the representation of our fisheries decision making councils and boards is a major cause of the creation of rules that are benefitting a small number of commercial fisherman in a disproportional manner. There finally is a study out that reflects the huge value of sport caught fish. The recreational fishery not only benefits local Alaskans directly by putting food in their freezers, but the financial benefit from tourist dollars is widely spread through the economy by the huge variety of the many small businesses that support this industry.

I think specifically the failures of the North Pacific Fisheries Management council to create a reasonable allocation of halibut resources between private and commercial sector is a result of a ridiculously biased council and somewhat biased staff and legal advisors. If there were to be a balance on that council, they might actually have produce a reasonable solution instead of the 15 years of failed efforts and legally flawed rules.

Thank you for your efforts in protecting the public interest in its resources,

Holly Van Pelt
Alaskan Cottages
P.O. Box 3309
Homer, AK 99603
907-235-9113