

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

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THE PROBLEM

Over the past few decades, major changes have occurred in the abundance of seals, whales and sea birds breeding in the North Pacific. In Alaska, harbor seal numbers are greatly reduced, northern fur seals are *depleted*, while Steller sea lions are *threatened* and may soon be declared *endangered*. Similar declines have been reported in some seabird breeding colonies. In British Columbia, Steller sea lion numbers appear stable, but harbor seal populations have increased rapidly. Further south, striking increases are being observed in the range and abundance of elephant seals and California sea lions.

Such large scale changes may be a natural phenomenon or may be connected with similar changes occurring concomitantly in a number of commercial fisheries. All told, they stand to impact the economic development of commercial fisheries throughout the North Pacific.



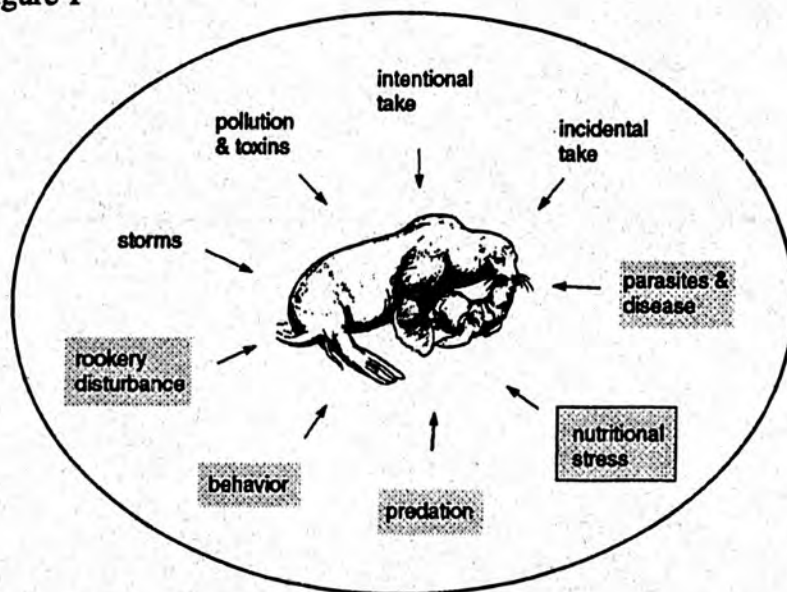
BACKGROUND

Why Steller sea lions have declined in Alaska continues to remain unresolved. Possible causes shown in the shaded regions of Figure 1 include increased incidence of parasites and disease, predation by killer whales, nutritional stress through competition with man or other species for food, or nutritional stress caused by natural and/or human-induced changes in the abundance, quality and distribution of prey. Other factors that may be contributing to the population decline include meteorological changes (i.e., frequency of storms), pollution and toxic substances, entanglement in marine debris, and incidental and intentional take by man.

For the most part, data to assess each of the possibilities is currently limited. Whether the decline is caused by a single factor or a combination of all of the above is a matter of scientific debate. However, considerable research is being focussed on the nutritional stress hypothesis.

In 1990, the Steller sea lion was listed as a *threatened* species under the *US Endangered Species Act*. In October 1995, the National Marine Fisheries Service announced in the US Federal Register their intention to relist the Steller sea lion as two distinct populations, maintaining those east of Prince William Sound as *threatened*, and relisting those to the west as *endangered*.

Figure 1



Funding for the research program of the Consortium is provided by the Pacific Marine Science Foundation, formed especially for that purpose. Contributions to the Foundation have come from other foundations, federal grants and a wide spectrum of donors representative of the industry.

The research program is overseen by a Scientific Advisory Committee with representatives of universities, industry, and government agencies. A Research Committee, composed of the research leaders at the various universities, is responsible for preparing a proposal for research each year and for reporting on progress to the Scientific Advisory Committee.

The Consortium has been greatly aided in its work by the guidance and assistance provided by the United States National Marine Fisheries Service, the Alaska Department of Fish and Game, Fisheries and Oceans Canada, the National Fish and Wildlife Foundation and the Vancouver Aquarium.

Consortium researchers have completed their fourth full year of research. This report reviews the accomplishments from April 1996 to March 1997, and briefly sketches the work proposed for the 1997-98 fiscal period.

Future contributions of the Consortium will lead to better understanding of the population biology of Steller sea lions, and in due course, to other marine mammals of the North Pacific. The interactions of fisheries and marine mammals are the subject of intensive research in many parts of the world, and will be a major focus of research in the North Pacific for many years to come. The Consortium brings university resources to help resolve the issues at hand.

The Marine Mammal Research Unit of the Fisheries Centre at the University of British Columbia administers the Consortium. Core staff of the Consortium consists of a Research Coordinator (Dr. A.W. Trites) and an Administrative Manager (P. Rosenbaum). Dr. P.A. Larkin oversaw the administration of the Consortium until his death in July 1996.

THE FIVE YEAR RESEARCH PLAN

In January 1993, the Consortium developed a five year research plan to study marine mammal / fishery interactions in the North Pacific: most notably, the effects of commercial fisheries, species interactions and oceanographic conditions on changes in sea lion abundance. The program contains three components: 1) field studies, 2) captive studies and 3) data analysis and laboratory studies. The essence of the field studies is to study and contrast a healthy sea lion population with a declining population. Captive studies on Steller sea lions held at the Vancouver Aquarium are providing data that can not be established in the wild about the nutritional requirements of sea lions. They also provide a means for testing and developing new techniques for studying sea lions in the wild. Analysis of historical data sets and development of new laboratory techniques for processing biological samples comprise the third group of studies.

The studies are a balance of short term and long term projects designed to test the various hypothesis that have been put forward to explain the decline of Steller sea lions (see Figure 1). The studies are integrated and draw on the expertise and talents of university based physiologists, ecologists, marine mammalogists, fisheries specialists and oceanographers. Only a concerted effort and a commitment to long term research will determine the causes of changes in the North Pacific. Solutions are unlikely to come quickly and need a concerted effort. Our five year research plan contributes to this end.



RESEARCH UNDERTAKEN

Predation by Killer Whales

Killer whales have been observed to attack sea lions. The stomach of a dead killer whale that washed ashore in Prince William Sound in the summer of 1992 contained flipper tags from 14 Steller sea lions. Predation on sea lions also has been noted from the stomach contents of stranded killer whales from other parts of Alaska and British Columbia. In view of these findings, a study was begun in 1993 by L. Barrett-Lennard (UBC) and a team of co-investigators to determine whether killer whale predation could significantly affect sea lion numbers. Results of their research are contained in a 1995 report titled *The impact of killer whale predation on Steller sea lion populations in British Columbia and Alaska*.

The authors surveyed mariners for accounts of predatory attacks on Stellers, compiled the available diet information from the stomachs of 22 stranded whales, estimated killer whale abundance from photographs, and developed mathematical computer models to examine whether killer whale attacks could significantly affect Steller sea lion numbers. They concluded that predation by the 258 marine-mammal-eating-type of killer whale (called 'transients') may account for a significant portion of the total annual mortality of sea lions in Alaska and British Columbia. When sea lion populations exceed 100,000, the effects of killer whale predation on sea lion dynamics appears minimal. However, at levels of 50,000 sea lions or fewer, the effects are more significant, and may even be sufficient to drive a population decline.

The authors conclude that killer whales did not cause the sea lion decline, but may now be a significant contributing factor. The model suggests that as many as 18% of the sea lions that die each year in Alaska are taken by killer whales. What is killing the other 82% of the missing Steller sea lions remains unanswered.

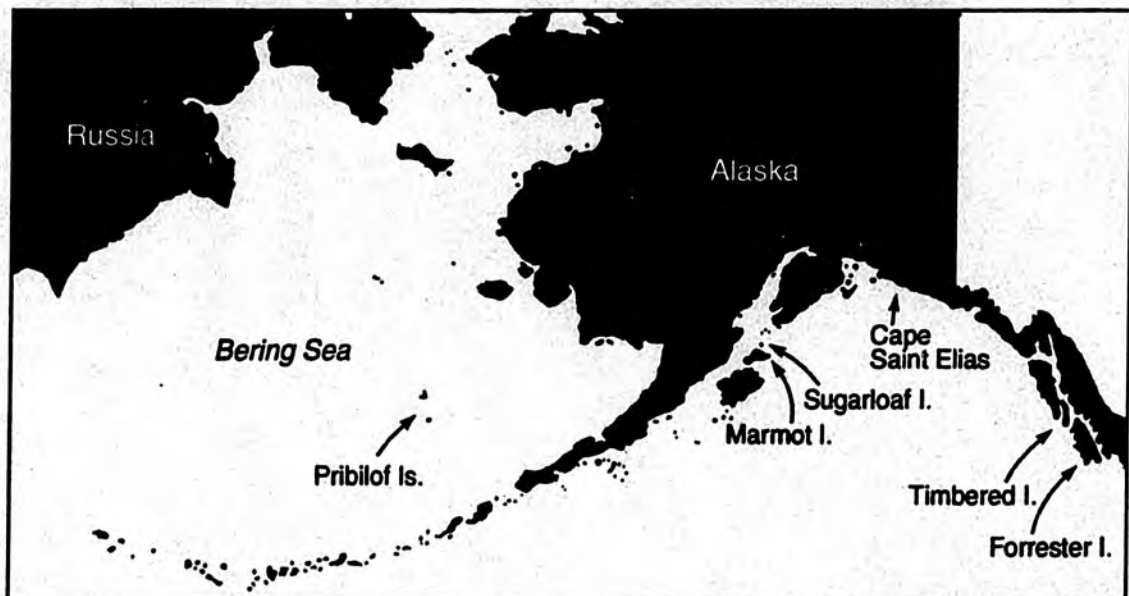
Human Disturbance and Behavioral Changes

Steller sea lions are easily scared off their rookery and haulout sites by humans. While animals commonly return after having been disturbed, it is not clear what the effect of prolonged or repeated disturbances might be on Steller sea lions. The close proximity of fishing vessels or efforts to capture and study Steller sea lions in the wild might therefore be a contributing factor to the population decline.

For the past four years, numbers of pups, juveniles, females and bulls were counted daily at two breeding sites at Forrester Island in a collaborative study with the Alaska Department of Fish and Game. The daily counts began in May before the breeding females return to the rookery, and ended in August after they have left with their pups. One of the two sites was repeatedly disturbed for two years by researchers conducting independent studies. The other remained relatively undisturbed during the entire time period. Preliminary results by Dr. A. Trites (UBC) suggest that human disturbance may cause females and pups to abandon the rookery earlier in the breeding season than they otherwise would.

Behavioral observations in 1994 and 1995 contrasted reproductive behavior of Steller sea lions at two sites: Forrester Island, where sea lion abundance has been stable or increasing, and Sugarloaf Island, where sea lion numbers are in decline (see Figure 2). The study by L. Milette (UBC) measured behaviors that have been reported to change during periods of nutritional stress, namely: activity budgets, maternal attendance patterns (time spent ashore and at sea), maternal investment (number of suckling juveniles, time spent with pups) and male investment (length of bull tenure, number of copulations).

Figure 2



Preliminary results suggest that activity budgets and maternal attendance patterns differ between the two areas. However many of the observations are not consistent with the hypothesis that the declining population is nutritionally stressed during the summer. For example, in the area of decline, females spend more time nursing their pups and have a significantly longer perinatal period compared to females from the abundant population of southeast Alaska. Feeding trips were shorter in the area of decline, but it is not known whether this was due to a difference in prey abundance or location of feeding areas. The amount of time that females spend onshore with their pups decreases at both sites as the pup grows older. Females also appear to spend the same amount of time in close proximity to their pups at each of the sites. Male investment data have not yet been examined, and additional results for female behaviors are also pending.

A second summer study was initiated in June 1996 at a non-breeding (haulout) site at Timbered Island in Southeast Alaska (see Figure 2) to quantify the activities and behaviors of animals that elect not to return to the breeding areas (rookeries). Roughly 45% of Steller sea lions use haulouts during the summer, yet relatively little is known about this group of animals. Our pilot study was designed to monitor the juvenile age class and document summer behaviour, noting the incidence of copulations and the process of weaning. With financial assistance from the National Fish and Wildlife Foundation, a team of biologists will be returning to Timbered Island in May 1997, and a second team will be sent to another nonbreeding site in the area of decline.

A third behavioural study was initiated in January 1995 by B. Porter (UBC) to document the behavior and activity budgets of immature animals at a winter haulout site, Cape St. Elias (Figure 2). In January 1996, the study was expanded to contrast winter behaviors and activity budgets of a declining population at Marmot Island with an increasing population at Timbered Island in Southeast Alaska. Unfortunately observations ceased in the area of decline when human disturbance caused animals to abandon the Marmot site. With financial assistance from the National Fish and Wildlife Foundation, biologists returned to Marmot (January - March, 1997) to gather the data needed to complete this study.

The winter study is considering whether females are able to adequately nourish their pups during lactation, and whether weaned juveniles are able to successfully forage on their own. Changes in the sex and age composition of the haulout population were noted over the winter months, and haulout behaviour and activity budgets of pups, yearlings and juveniles



were recorded through scan and focal animal sampling. A significant correlation between numbers of mature females on shore and numbers of immatures present, suggests that a high proportion of immatures are not fully weaned 3-5 months prior to the start of the breeding season. Observers have also noted a high incidence of aborted fetuses.

Both summer and winter behavioral observations are designed to test for signs of nutritional stress and to detect aberrant behavior at various densities. Field support and assistance is being provided by the Alaska Department of Fish and Game.

Disease & Parasites

The role of infectious diseases in the decline of Steller sea lion populations has yet to be fully evaluated. It is known however that disease can degrade general health, reproductive capacity, and survival of individuals, but the impact on population dynamics is not clear.

A collaborative study by Dr. F.M.D. Gulland (Marine Mammal Centre, California), Dr. T. Spraker (Veterinary Diagnostics Lab, Colorado), D. Calkins (ADF&G) and Dr. A.W. Trites (UBC) was proposed in 1996 to test the hypothesis that disease is causing the decline of Steller sea lions through reproductive failure. This study, planned for 1997-98, will examine reproductive data and use mathematical models to explore whether the rates of decline of Steller sea lions in time and place are consistent with the transmission of a sexually transmitted disease. The study will also determine what pathogens Steller sea lions have been exposed to in the increasing and decreasing areas using serum samples collected over the past decade.

Nutritional Stress

D. Calkins and E. Goodwin from the Alaska Department of Fish and Game concluded that Steller sea lions were physically smaller in the mid 1980s compared to sea lions sampled in the mid 1970s, a conclusion further supported by morphometric measurements of sea lions caught in the trawl fisheries. Both findings suggest that sea lions may not have obtained adequate nutrition during the 1980s. Simulation studies by the National Marine Fisheries Service (A. York) further suggest that young sea lions may have had a higher incidence of mortality. These and other findings have led to the hypothesis that a shortage of food during the winter may cause pups to die of starvation or other problems associated with food stress.

This hypothesis has received major attention by government agencies as well as by Consortium Researchers. Our approach is four fold: (1) verify changes in body size; (2) determine energy requirements; (3) examine how diet may have changed between sites and over time; and (4) determine whether the forage base has changed with time and, if so, explore whether the change is related to fisheries and/or natural changes in the ecosystem.

Verifying Changes in Body Size

Existing morphometric data are currently being re-analyzed by the Alaska Department of Fish and Game. We are attempting to collect additional data from sea lions taken in the subsistence harvest in a project coordinated by Dr. A. Springer (UA). Increasing numbers of samples and morphometric measurements are being provided to researchers by subsistence hunters.

Another approach to determine how conditions may have changed from previous decades is to examine the annuli of sea lion teeth as proposed by Dr. D. Sampson (OSU) for 1997-98. Growth records and chemical signals embedded in the teeth of Steller sea lions will be examined between sites and over time to test whether changes may have occurred in the age of weaning or the age of first lactation. A pilot feasibility study will begin in the coming year pending budgetary approval.

A pilot study was initiated with the subsistence hunters on St. Paul Island (Pribilof Islands, Fig. 1) in July 1995 to measure the lengths of subadult males taken in the northern fur seal harvest, and to compare them to the mean lengths of fur seals harvested in earlier years. Such a comparison may provide insight into the general health of the ecosystem of fur seals and Steller sea lions, and may also offer insight into why the Pribilof fur seal population has failed to recover. It seems likely that if Steller sea lions are physically smaller, then northern fur seals should also be physically smaller.

A considerable data base of body length measurements already exists for the Pribilof population. From 1933 to 1956, 1.6 million males of unknown ages were measured during the harvest. An additional 36,000 males of known ages were measured from 1943 to 1983. A comparative set of length measurements has not been collected from the harvest since 1983. In 1995 and 1996 we measured and aged over 400 young males per year. Preliminary findings suggest that northern fur seals are indeed smaller today, and that the carrying capacity of northern fur seals from the Pribilof Islands may now be half of what it was half a century ago. This research will continue in 1997.



Determining Energy Requirements

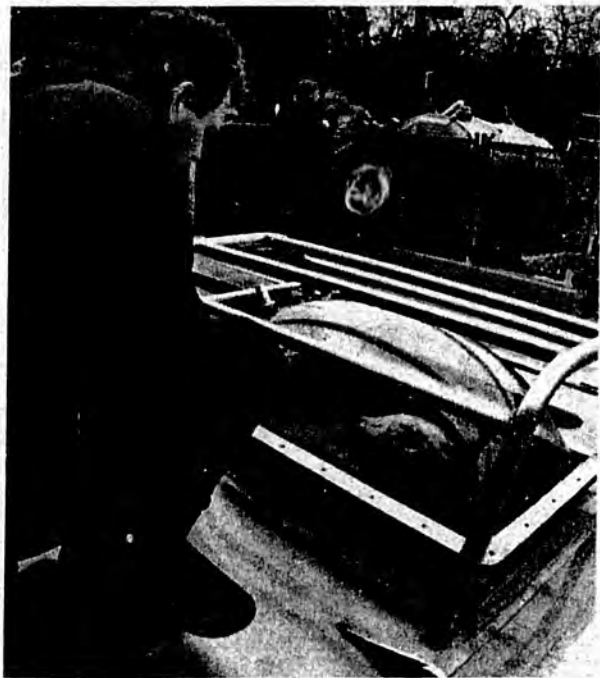
In 1993, three male and two female sea lion pups were taken from a Canadian rookery and transferred to the Vancouver Aquarium. In 1994, an orphaned female pup joined the research group.

Studies on these six captive animals are enabling determination of: (1) metabolic rates, (2) nutritional requirements, (3) digestive efficiency of different diets (such as pollock and herring), and (4) the relationship of diet to growth, blubber thickness, and reproductive maturation. In addition, we can (5) identify what and how much sea lions are eating in the wild by feeding the captive animals different foods and observing which bony hard bits survive the digestive process to pass out in scats. The culmination of these studies will be a mathematical model that considers seasonal and annual activity budgets for sea lions at both the individual and population levels, and makes predictions about the amount of food they need.

Baseline or resting metabolic data have been collected since October 1993 via direct gas exchange measurement (using an open circuit respirometer). The studies being conducted by Dr. D. Rosen (UBC) are showing how the energy requirements of the Stellers change with both age and time of year. Two important patterns have emerged. The first is that resting metabolic rate declines with age, an inevitable consequence of mammalian growth. Younger animals grow faster, and have consequently greater energy requirements than do older animals. However, there is also an apparent seasonal pattern in metabolic rates. Data collected since 1993 indicate that metabolism drops sharply as summer approaches, before increasing again in the fall. This implies that young Steller sea lions may have unusually low food requirements during certain times of the year.

The second component of the metabolic studies is experimental manipulations. In January 1996, a swim mill was installed at the Vancouver Aquarium to measure the energetic costs of swimming. It was constructed at cost by BC Packers with financial assistance from the Alaska Science and Technology Foundation. Studies on the combined effects of exercise and water temperature are awaiting the necessary funds to construct and install a water temperature control unit.

Studies are being undertaken to determine the physiological effects of changes in the type and quantity of diet. One set of experiments examines how changes in the amount of food affects body mass, body composition, and metabolism. Other experiments are examining how different types of prey (such as herring, pollock, squid, cod, Atka mackerel, and salmon) affect



the sea lions. Although the sea lions are allowed to eat as much as they want, they appear unable to maintain body mass when switched to a lower calorie prey type, such as squid or pollock. They appear to partially compensate for this change by lowering their metabolic rates to conserve energy.

A co-operative research project with Dr. L. Rea (National Marine Fisheries Service) has been examining the effect of fasting and reduced food intake on blood chemistry and body composition in the sea lions. Differences in several blood parameters have been observed between Steller sea lions in the areas of declining and stable populations. Some of these differences may be indicators of nutritional stress in certain populations, but no comparative data from otariids (sea lions and fur seals) is available. Placing the captive Steller sea lions on fasts of up to 14 days and a 30 day period of 50% food restriction provides comparisons to blood profiles obtained from wild sea lions. To date, four animals have completed the reduced food intake trials, and two have undergone fasts. Preliminary results suggest that some of the differences in blood chemistry observed in the wild sea lions are consistent with short-term fasting and may be indicative of nutritional stress.

Another set of experiments is considering how efficiently sea lions use the available energy from different prey types. Digestive efficiency (how much of the food is actually processed) is being measured using the dietary manganese method. Concurrent work has also begun to determine the effect of prey type and meal size on the amount of ingested energy which is ultimately available to the sea lion (the heat increment of feeding). Results indicate that lower quality prey, such as pollock, requires more energy to digest than a higher quality prey, such as herring, and that proportionally more energy is lost from larger meals. All of the experiments to date have been with resting sea lions, but work is planned to examine the effects of swimming exercise on the metabolism and digestive efficiency of the sea lions.

Examining Changes in Diet and Foraging Success

Enumerating prey remains in scats is the best nondestructive means presently available to determine what sea lions are eating. Since 1993, Dr. A. Trites (UBC) has obtained over 1,500 scat samples in a collaborative project with Alaska Department of Fish and Game in Southeast Alaska. The 326 scats collected in the summer and fall of 1993 showed a surprisingly high proportion of pollock in the diet. Other species in high abundance included cod, herring, salmon and arrowtooth flounder. An extended effort has been underway to obtain samples four times per year. Particular attention is being paid to whether diets of animals using the male dominated



haulouts differ from those using rookeries, given that future dietary studies concentrated on haulout animals would cause minimum disturbance.

Since 1993, Dr. A. Springer (UA) has enlisted the aid of subsistence hunters to obtain stomach and tissue samples from 67 animals killed on the Pribilof Islands. Most of the samples have come from subsistence hunting in spring, fall, and winter. Tissues have been provided to the National Marine Fisheries Service for genetic studies to identify the stock affiliation of animals in the harvest. The information is becoming ever more relevant to management decisions for sea lions as the population continues its overall decline. Stomach contents are being identified and tissues are being analyzed using stable isotopes for dietary information. In cooperation with the National Marine Fisheries Service, the program has recently expanded into the Aleutian Islands.

Ratios of carbon and nitrogen stable isotopes that accumulate through the food chain are being measured by A. Hirons and Dr. D. Shell (UAF) in whiskers and tissues collected over the past 48 years. An identified shift in isotope levels would support the hypothesis that a shift in diet may have played an important role in the recent population declines.

Vibrissae from pup, subadult and adult Steller sea lions have been and continue to be analyzed from the southeast, central and western Gulf of Alaska, the Aleutians, and the Pribilof Islands (Bering Sea). A strikingly similar pattern is expressed by the stable carbon and nitrogen isotopes in animals from the Gulf of Alaska. The oscillating pattern of isotope ratios seem to reflect seasonal migration between regions of isotopic difference. Some sea lions sampled in the Bering Sea do not exhibit these oscillating patterns but do show an isotopic shift along the vibrissae which appears to correspond to long-term geographic movement outside the Bering Sea. Regional isotopic signatures are beginning to emerge for areas of the Gulf of Alaska and the Bering Sea as more prey and mammal data are being compiled. Studies are continuing on the rate of whisker growth and isotope uptake of the captive sea lion population at the Vancouver Aquarium.

Analyses of current and archived tissues (1950-1996) suggest there has not been a trophic shift resulting from a change in major food sources during the past forty-seven years. However, a significant change in Carbon-thirteen, originating from the base of the food web, appeared in the mid-1970s. This change was not localized or species-specific, and is seen in Steller sea lions, northern fur seals and harbor seals from SE Alaska through to the Pribilof Islands. In light of other physical and

biological data, the isotopic data suggest a decrease in the carrying capacity of the North Pacific ecosystem.

Preliminary analysis of osmoregulatory hormone concentrations by T. Zenteno-Savin (UAF) suggest that the anti-human sera used in the hormone assays cross-react with hormones from seals and sea lions, and that circulating levels of the hormones analyzed in several species of pinnipeds are within ranges reported for humans and terrestrial mammals. It is particularly interesting that Steller sea lions sampled in Alaskan waters had a significantly elevated level of atrial natriuretic peptide. The possible relationship between dietary stress and elevated hormone levels is being evaluated by comparing data from wild animals with hormone concentrations in Steller sea lions maintained under a known diet regime at the Vancouver Aquarium.

Since 1993, R. Andrews (UBC) has been developing and successfully field-testing a portable data logger for attachment to free-living Steller sea lions to record location, diving depth, swim speed, and changes in stomach temperature (*i.e.* an index of feeding activity). Dramatic drops in stomach temperature indicate prey ingestion events, and have provided the first conclusive record of foraging by a wild sea lion. Because of the difficulty of recapturing adults, a remote-release device was developed in 1994 to recover the backpack instruments and reduce the amount of disturbance to the sea lions, both for the instrumented individual and for the entire rookery. Eight adult females were captured and instrumented in 1994, but none were captured in 1995. In 1996 two adults were captured in southeast Alaska before the summer field season was cancelled due to the grounding of the sister research vessel working the Aleutian Islands. The comparative study between declining and increasing populations will resume in June 1997.

To date, the stomach temperature sensors have shown that feeding trips vary in length from 8 to 50 hours, and that prey are consumed on all trips. However, long periods of time often elapse and large distances are covered between successful foraging events.

The new technology is providing new insights into the relationships between diving patterns and successful foraging activity, and will enable a collaborative re-analysis of data collected by Alaska Department of Fish and Game using satellite-linked time-depth recorders. Further development of the technique should also allow us to quantify the actual amount of prey that sea lions are consuming. Calibrating such a change

in stomach temperature against mass of ingested prey has been underway since 1995 using the captive Steller sea lions at the Vancouver Aquarium.

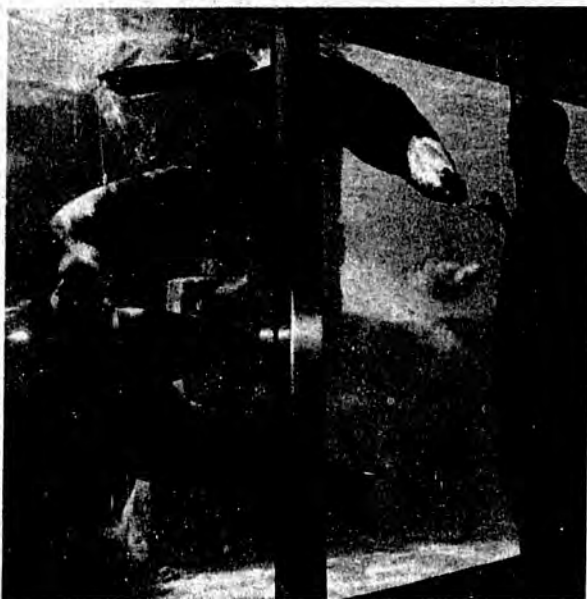
The 1997 study of foraging behavior and energetics of lactating females will be done in collaboration with researchers from Alaska Department of Fish and Game, National Marine Fisheries Service, and Texas A&M University, and will involve the capture of 10 sea lions in Southeast Alaska and 10 in the Aleutians. The electronic devices will be deployed on females that are injected with doubly-labeled water for the determination of energy expenditure.

Changes in the Forage Base

Although the overall number of sea lions in the Gulf of Alaska and Bering Sea has decreased over the past two decades, not all sea lion rookeries have been affected to the same degree. Irregularities between the rookeries could have resulted from differences in seasonal densities of fish or relative amounts of human disturbance.

In 1995, Dr. D. Sampson (OSU) completed his analysis of groundfish fishing activities near Steller sea lion rookeries in Alaska. The study found that large winter catches of pollock occurred near sea lion rookeries that suffered large declines in the early 1980s. However, sharp sea lion declines were also reported in other areas in the late 1980s, where no winter catches of pollock occurred. There was no relationship between the declines and the amount of fishing effort, total catches of groundfish, or catches of Pacific cod and Atka mackerel. It may be that the only way anyone will ever know if there is a relationship between commercial fishing activities and changes in sea lion numbers is by conducting a carefully monitored experiment that heavily fishes in one area while restricting fisheries in another.

Federal funding was awarded to assess the abundance of forage fish in southeast Alaska, where sea lions are abundant and the ecosystem is considered healthy. In June 1997, researchers from the Universities of Alaska and British Columbia will sample fish at sea, track feeding Steller sea lions and assess their diets from scats collected on shore. Results from this in-depth study will be contrasted to those of other investigators from ongoing studies in Prince William Sound and the western Gulf of Alaska. Our ultimate goal is to compare forage fish abundance twice during the year corresponding to important phases in the biology of sea lions: summer, when females are nursing young pups; and winter-spring, when pups are weaned and must begin to feed themselves. Our study in southeast

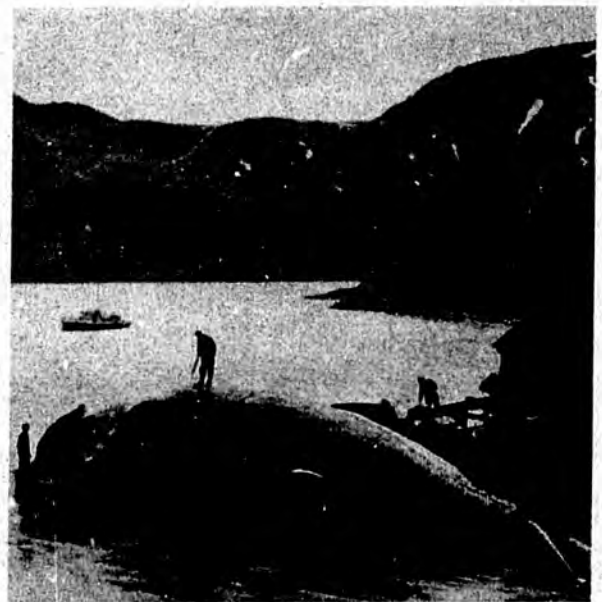


Alaska provides a critical opportunity to test the hypothesis that prey availability is not adequate to support sea lions throughout most of their range. This project will begin in 1997.

Another possible explanation for the decline of Steller sea lions is that an ecosystem shift changed the food base in the North Pacific in the mid 1970s. Dr. A. Springer (UA) is examining the hypothesis that mass removals of whales from the North Pacific contributed to ecosystem change and declines in the abundance of pinnipeds and seabirds. Removals of whales, plus the collapse of Pacific Ocean perch, herring, and yellowfin sole stocks during the same interval in the eastern Bering Sea and Gulf of Alaska (1950s-1960s), resulted in the rapid loss of several million tons of biomass from this region. Such an abrupt change in biological constraints in the system may have had cascading effects that led to new patterns of energy flow through food webs of relevance to other species at higher trophic levels, and could have been the cause of recent declines of sea lions, harbor seals, fur seals, and certain seabirds.

The analysis of the large-scale slaughter of whales in the North Pacific in the 1950s and 1960s just prior to the beginning of the increase in pollock and the decline of sea lions is approaching completion. The harvests of whales in the North Pacific released a substantial amount of biomass to other consumers and reduced predation pressure on certain species, some of which, such as pollock, also stood to benefit from the increase in prey resources. When added to equally large changes resulting from the removals of herring, yellow fin sole, and Pacific Ocean perch during the same interval, the aggregate disturbance could have contributed to the development of a less diverse community and food web structure, an increased sensitivity of the community to variability in the physical environment, and the changes of concern today.

Another hypothesis under consideration is that ecosystem change resulted primarily from variability in patterns of weather and climate, particularly as related to the Aleutian Low pressure system. According to a recent forecast, the NE Pacific climate will cool through the coming decade and enter a "cold" regime by about the year 2005, characterized by conditions that prevailed in the 1950s-1970s. Biological correlates of atmospheric regime shifts continue to be discovered over a wide part of the North Pacific and Bering Sea. These include broad scale changes in primary and secondary production, production of several species of salmon and forage fishes, and the production and abundance of certain species of seabirds and marine mammals. Thus, the ecosystem structure and function may respond to the change in atmospheric forcing.



Dr. Springer is also collaborating with other investigators to obtain core samples from anoxic basins in the Bering Sea and Gulf of Alaska to determine long-term (100+ year) records of variability of forage fish populations preserved in sediments. A pilot program in the Bering Sea has revealed an abrupt decline in the abundance of one species of forage fish, the prickelback *Lumpanella* spp., in the mid-1970s, concurrent with the regime shift in the North Pacific. Investigators using traditional net-sampling techniques found that *Lumpanella* and other forage fishes, including capelin, also declined in the Gulf of Alaska during the same time.

Lumpanella is an important prey of sea lions in the Kurile Islands, and could have been important in the eastern North Pacific, particularly during winter when many other prey species might be less available than they are in summer. For example, summer diets of sea lions in the Aleutians are dominated by Atka mackerel, which are abundant during the summer in shallow water. However, Atka mackerel over-winter at depth off the edge of the continental shelf, and diets of sea lions in the Aleutians in winter have now apparently shifted to miscellaneous species. Thus, *Lumpanella* and other abundant species that inhabit shallow waters year round might be important to sea lions in winter, and their decline in the mid-1970s might have contributed to the decline in abundance of sea lions. Whether or not *Lumpanella* is in fact important prey, it might be a sensitive indicator of environmental change and serve as a proxy for forage fishes of equal or more value to consumers.

Criteria to Protect Stellers

A study was initiated in 1995 by L. Gerber (UW) to review and develop criteria for classifying Steller sea lions as *threatened* or *endangered* under the U.S. Endangered Species Act. It is examining and applying the analytical classification tools suggested by the International Union for the Conservation of Nature (IUCN), including Population Viability Analysis and Minimum Viable Population methods. A final report is expected later this year.

OTHER ACTIVITIES

Consortium Researchers undertook a number of studies in 1996 that fell within our mission statement, but were either not formally proposed in the 1996-97 Research Plan or were completed with outside funding.

The Consortium participated in Kodiak's ComFish in March. In addition, a number of public presentations were made in 1996 about the Consortium's research program by Dr. Trites in Juneau, Cordova, Anchorage, and Kodiak to legislators, fisherman school children and the general public. Further public presentations are planned in 1997.

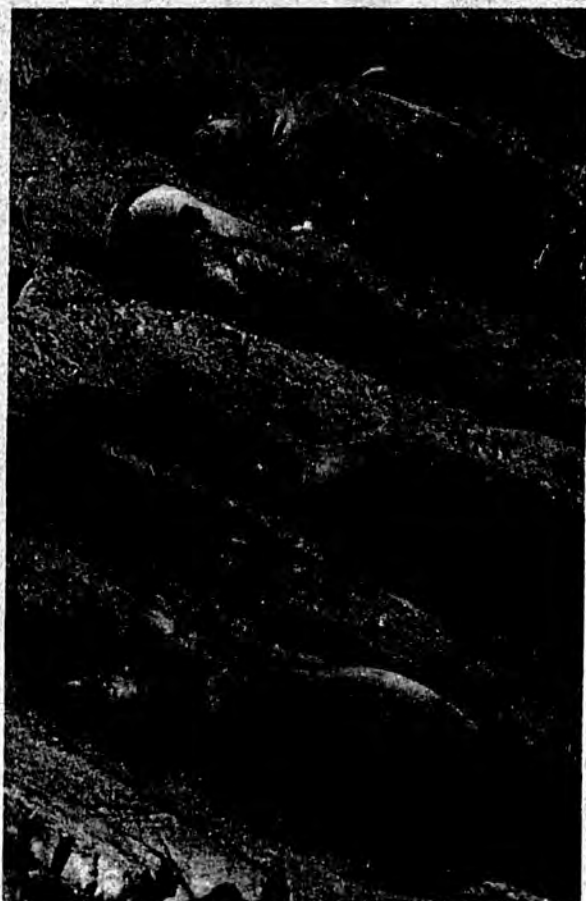
Consortium researchers participated in a number of international forums including: a symposium on the role of forage fish in the ecosystem sponsored by Alaska Sea Grant, a conference on exercise physiology sponsored by the American Physiological Society, a workshop on designing marine reserves sponsored by the University of British Columbia, a working group to estimate the prey consumption by sea birds and marine mammals sponsored by PICES (North Pacific Marine Science Organization), a workshop to plan a scientific program for the Pacific Northwest Coastal Ecosystem Region Study (PNCERS), the National Research Council (U.S.) Committee on the Bering Sea Ecosystem, and a panel of peer reviewers for studies funded by the Exxon Valdez Oil Spill Trustee Council.

The Consortium produced a spring and fall newsletter in 1996 to complement the annual report. The publication is being produced biannually for distribution in February and November.

OVERVIEW

The Marine Mammal Research Consortium was formed to address issues related to marine mammal / fishery interactions in the North Pacific. With this in mind, we have undertaken a solid field program, a strong captive research program, and a major analytical research initiative. Research in 1997-98 will continue with a balance of short-term and long-term projects designed to address and draw conclusions about changes occurring in the North Pacific and about the role that commercial fisheries may have played in causing them. We have mounted a multidisciplinary research program to elucidate the factors responsible for the decline of Steller sea lions in Alaska. Our studies also take into account other issues related to harbor seals, northern fur seals and whales that will attract greater attention in the years to come.

Understanding the causes of change in the North Pacific requires a commitment to long term research. Solutions are unlikely to come quickly and need a concerted effort.



ACKNOWLEDGEMENTS

The Consortium has been greatly aided in its work by the guidance and assistance provided by the US National Marine Fisheries Service, the Alaska Department of Fish and Game, and Fisheries and Oceans Canada. We are particularly grateful for the field support provided by the Alaska Department of Fish and Game.

We extend our thanks to the Vancouver Aquarium and its staff who provide us with research space and expertise in training and caring for our Steller sea lions. We are particularly grateful for the fish donated by J.S. McMillan Fisheries Ltd, UniSea Inc., E.C. Phillips and Son, and Wards Cove Packing Company. As well, we thank the subsistence hunters from the Pribilof Islands and Aleutians East Borough for collecting and providing scientific data from subsistence hunts.

We are also grateful to the members of the Research and Scientific Advisory Committees for the many hours they have spent preparing and reviewing the Consortium research plans.

Finally, we wish to thank our volunteers and the many and varied donors for their support and continued interest. We would particularly like to acknowledge the Alaska Science and Technology Foundation, the National Fish and Wildlife Foundation, the National Oceanic and Atmospheric Administration, and the UBC Office of the Vice President - Research.

CONSORTIUM PROJECT REPORTS

Schaffner, A.A., S.B. Mathews, and J.E. Zeh. 1994. Statistical considerations in assessing recent adult/juvenile census trends of Steller sea lions. University of Washington, Fisheries Research Institute, WH-10 Seattle WA 98195.

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Cottrell, P., Trites, A.W. and E.H. Miller. 1995. Assessing the use of hard parts in faeces to identify harbour seal prey: results of captive feeding trials. University of British Columbia, Fisheries Centre, 2204 Main Mall, Vancouver, B.C. V6T 1Z4.

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Cottrell, P.W., Trites, A.W. and E.H. Miller. 1996. Assessing the use of hard parts in faeces to identify harbour seal prey: results of captive feeding trials. *Canadian Journal of Zoology*, 74: 875-880.

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Trites, A.W. and P.A. Larkin. *in press*. Changes in the abundance of Steller sea lions (*Eumetopias jubatus*) in Alaska from 1956 to 1992: how many were there? *Aquatic Mammals*.

FUNDING RECEIVED TO DATE

The Consortium received start up funding in the latter part of 1992 and full year funding in 1993. The fiscal period was changed in 1994 from the calendar year to April 1 - March 31.

1992	(Sep 1 - Dec 31)	\$32,000
1993	(Jan 1 - Dec 31)	\$290,056
1994	(Jan 1 - Mar 31)	\$75,000
1994-95	(Apr 1 - Mar 31)	\$278,124
1995-96	(Apr 1 - Mar 31)	\$300,000
1996-97	(Apr 1 - Mar 31)	\$294,000

LIST OF CONTRIBUTORS

Alaska Ocean Seafood	F/V Viking
Alaska Science and Technology Foundation	F/V Western Dawn
Alaska Trawl Fisheries, Inc.	F/V Westward I
Aleutian Challenger Fisheries	Fishing Vessel Owners' Association
Aleutian East Borough	Glacier Fish Co. Ltd.
Aleutian Pribilof Island Community Dvp Assoc.	Golden Alaska Seafoods Inc.
Aleutian Spray Fisheries, Inc.	Gorton's Seafood
Alliance Fishing Inc.	Great Pacific Limited Partnership
Alyeska Seafoods, Inc.	Highland Light, Inc.
American Beauty Inc.	Icicle Seafoods Inc.
American Factory Trawler Assoc.	International Maritime Management
American Seafoods Company	J. S. McMillan Fisheries Ltd.
Anita J. Fisheries Inc.	Kodiak Island Borough
Auriga/Aurora General Partnership	Kodiak Salmon Packers, Inc.
Bristol Bay Economic Dvp. Corp.	Long John Silvers
Byrnes & Keller	Marine Safety Reserve
City of Unalaska	National Fish & Wildlife Foundation
Coastal Villages Fishing Coop.	National Fisheries Institute Scholarship Fund
Dutch Harbor Seafoods Ltd.	National Oceanic and Atmospheric Administration
E.C. Phillips and Son	Nelbro Packing Co.
Emerald Resources	Nina Fisheries
F/V Alsea	North Pacific Fisheries Research Foundation
F/V Alyeska, Dutch Harbor Seafoods	Northwest Setnetters Assoc.
F/V Amber Dawn	Norton Sound Economic Dvp. Corp.
F/V American Eagle	Ocean Beauty Seafoods, Inc.
F/V Argosy	Ocean Dynasty Limited Partnership
F/V Auriga, Alyeska Ocean, Inc.	Oregon Trawl Commission
F/V Aurora, Alyeska Ocean, Inc.	Pacific Seafood Processors Association
F/V Defender	Pacific States Marine Fisheries Commission
F/V Destination	Peter Pan Seafoods, Inc.
F/V Fierce Allegiance	Phoenix Processor Ltd. Partnership
F/V Great Pacific	Sea Storm Fisheries Inc.
F/V Gunmar	Seafirst Bank
F/V Leslie Lee	Seattle Fisherman's Exchange
F/V Nordic Star, Aleutian Spray Fisheries Inc.	Supreme Alaska Seafoods, Inc.
F/V Ocean Leader, Inc.	Trident Seafoods, Inc.
F/V Pacific Monarch	Tyson Seafood Group
F/V Progress	UniSea, Inc.
F/V Royal American	University of British Columbia
F/V Sea Dawn	Vancouver Aquarium
F/V Seeker, Inc.	Victor Seafoods
F/V Starfish, Aleutian Spray Fisheries Inc.	Wards Cove Packing Co.
F/V Starlite, Aleutian Spray Fisheries Inc.	Western Alaska Fisheries, Inc.
F/V Starward, Aleutian Spray Fisheries Inc.	Westward Seafoods Inc.
F/V Traveler	Yukon Delta Fisheries Dvp. Assoc.

SCOMM

102:3

REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT CS HB 19 (FSH)

The guided sport fishery is an important and rapidly growing commercial industry in the Alaska economy. The ability of the state to provide for the sustainable development and sound, sensible management of our fishery resource is dependent upon the availability of complete information upon which to base decisions. My main goal with HB 19 is to provide for the collection of this data.

There is a lack of data available regarding the commercial guided sport fishery in Alaska. Registration of the guides themselves is required on a few rivers, but not everywhere. Currently, no uniform licensing procedure for sport fish guides exists in Alaska. Thus, we do not have complete information about who is actively engaged in commercial sport fish guiding, how many clients are served, what the catch rates are, and what rivers, streams and marine waters are being utilized.

Without a means for gathering information, it is impossible to monitor the activity or growth of the commercial sport fish fishery on a statewide basis. It is imperative for the state to have solid information to ensure the sustainable development of this commercial industry and to ensure the sound management of the fishery resources upon which this commercial industry depends. It is time to acknowledge this important growing industry and make sure that management decisions can be based on complete information.

HB 19 establishes in statute a license program and requires ADFG to collect the needed information for a period of 3 years. It does not impose any limitations on the number of guides or vessels in the state, nor does it affect their activities other than having to report and carry the documentation on their persons. The cost of licensing, data gathering, analysis and enforcement will be funded by the revenues generated from the license fees. Therefore, this program will be fiscally self-sustaining.

The bill establishes three options of guide licensure: (1) A sport fishing services operator license costs \$75 for sport fish guide business owners and is obtainable from ADFG. An Alaska business license, and proof of insurance are the only requirements to obtain an operators license. (2) A fishing guide license costs \$25 for sport fish guides and will be readily available through ADFG's vendor licensing system. This is modeled after how commercial crew licenses are obtained. (3) We have also provided a third alternative in

which an individual could obtain both guide and operator licenses as one combined license for \$75 from the department to accommodate the many one-person operations.

Each person who plans to engage in sport fish guiding, both on fresh and salt water, from a vessel or otherwise, will be required to purchase a license. The sport fish division of ADFG will develop reports which license holders will be required to submit. This will enable the state to build a data bank regarding the commercial guided sport fishery.

This legislation, then HB 175, passed the House last year with a vote of 36 to 4, but did not make it all the way through the Senate before the session ended. I feel that HB 19 is a piece of forward looking legislation which, 5, 10 and 20 years from now, the charter industry and our state's resources will benefit as a result of it's passage.

December 16, 1996

Senator Miller
Representative Phillips
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Senator Miller and Representative Phillips,

The Alaska Board of Fisheries has increasingly been discussing issues regarding the growth of the sport fishing guide industry in Alaska and its implications on fish allocation and management. Resolution of many of these issues, however, is hampered by the lack of information regarding this industry in many parts of Alaska. Both legislative and regulatory actions are required to remedy the lack of information to ensure informed decisions are made with respect to this industry. The Board of Fisheries can make regulatory changes, and is currently considering several proposals to accomplish this. One item that requires legislative action is the development of a statewide licensing and reporting system for sport fishing guide services and guides. Legislation to accomplish this was debated during the last legislative session in the form of HB 175, sponsored by Representative Austerman. Unfortunately, the legislation passed the State House but failed to pass the State Senate in 1996. The legislation has been pre-filed this session by Representative Austerman.

The Alaska Board of Fisheries supports this legislation. Both the Board and the task force believe that a comprehensive licensing system is needed to better define this diverse industry. The proposed licensing system provides needed definitions for companies and individuals who provide sport fishing guiding, chartering, and outfitting services. Through such definitions, it is hoped that the industry can be more fully identified and organized. It is also believed that the definitions will close loopholes in current definitions, thereby providing a level playing field for the industry and for better enforcement of regulations pertaining to sport fishing guides and charters. It is also believed that comprehensive licensing will add stability to this economically important industry which supports many jobs throughout Alaska. Insurance requirements for companies and safety requirements for guides are stipulated to assure that anglers utilizing this industry are protected and a professional level of service is maintained. The proposed license package also establishes fees and reporting requirements that provide the needed

foundation to help management agencies build a reasonable and stable regulatory environment to assure for the long term health of both the industry and the resource it depends upon.

We ask that you help move this legislation forward in both the House and the Senate. Please call me if you have any questions regarding this legislation or require my assistance. Thank you.

Sincerely,

Larry Engel

Chairman, Alaska Board of Fisheries

**Alaska Board of Fisheries
Guide Charter Task Force Members**

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Jeff King, Vice Chair

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Larry Shaker

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Kodiak, AK 99615
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Fax: (907) 486-4389



January 30, 1997

Representative Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS-3100)
Juneau, AK 99801-1182

Representative Austerman,

Thank you for attending the January 16, teleconference of the Guide-Charter Task Force where we discussed HB 19, which you introduced to establish statutory framework for licensing and reporting for the Alaska sport fishing guide industry. First, let me thank for your support in introducing this legislation, your support & concern for our industry and allowing the Task Force the opportunity to work with you to make the following suggestions.

The following is a summary of the motions the Task Force addressed pertaining to HB 19.

Reporting requirements: The Task Force recognizes, the need for better information to characterize their industry and its importance to Alaska. It also recognizes the need for better information to assure informed decisions regarding resource management. The Task Force is concerned about the proposed reporting requirements and the need for these requirements to be dynamic and have the ability to adjust to changing needs and data collection methods for the future.

For this reason, the task Force recommends a sunset clause after 3 years. This would allow the Department of Fish & Game and the Alaska Board of Fisheries time to evaluate the new information against other independent data to determine the accuracy and precision of the collected information and its applicability for management. After three years (one full state wide cycle of the BOF) the legislature can reevaluate the information collection requirement and either enhance it or eliminate it.

Experience Requirements: The Task Force recommends that the 3/5 year experience requirement be applied to the services (operators) license rather than the guide license as is currently stipulated in HB19. The group believed that this requirement best applied to the operator / management of a guide operation rather than the individual guide. This would also allow for guides to gain experience towards operating a guide business. Concern was also raised regarding the ability to hire sufficient numbers of qualified guides (USCG licensed) in larger lodge operations.

P.O. Box 220248 • Anchorage, Alaska 99522 • Phone: (907) 243-8450 • Fax: (907) 248-3091
E-mail: ~~tikchik@alaska.com~~ tikchik@alaska.net

January 30, 1997

Representative Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS-3100)
Juneau, AK 99801-1182

page 2

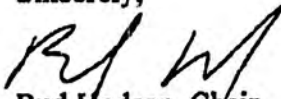
Vessel Licensing : The Task Force recommends in concept that HB19 be amended to repeal the current CFEC vessel licensing requirement for Sport fishing charters & guides as contained in AS 16.05.490 (a) and adopt similar licensing requirements, under the proposed licensing system in HB19. The Task Force felt that the current vessel licensing program under the CFEC accomplishes nothing other than providing funds for the CFEC. It also seems illogical to have the CFEC licensing vessels such as a 16 foot flat bottom boat located 100 miles from marine waters or a commercial fishery.

The Task Force believes this program should be managed by the Department of Fish & Game Sportfish division whereby specific information can be collected at the time of vessel registration/licensing. The current CFEC licensing forms gather little data for the Sportfishing Industry, the forms are geared towards collecting commercial net & troll fisheries data.

ADF&G Sportfish Division could have separate, but identifiable boat stickers or placards separate from the CFEC triangles. The revenues generated for the licensing could be used to collect data on the sportfishing industry that could best be used by ADF&G, the BOF and other land holding agencies who participate in the management of this industry. The current vessel licensing through CFEC provides very little for and about the industry.

If you have any questions regarding these motions, please feel free to contact either me or Doug Vincent Lang of the Dept. Of Fish & Game. Again, thank you for your help and your desire to produce good legislation.

Sincerely,



Bud Hodson, Chair
Guide Charter Task Force

Goodhand Charters

Prince William Sound

winter: P.O. 218, Ester, Alaska 99725 ph. 907-479-5562

summer: P.O. 970, Valdez, Alaska 99686 ph. 907-835-4333

Fishing -- Sightseeing -- Kayaking

To: Alan Austerman

Re: HB 19

Alan I would like very much to see this bill passed this session. Myself and the charter association representatives listed below just left the North Pacific Fisheries Management Council April 16 and we all agree that we would not be facing possible Federal limitations if HB 19 was in place. This bill gives a professional stance to our industry.

John Goodhand, President UCA

**Valdez Charter Assoc. John Goodhand
Sitka Charter Assoc. Kent Hall
Homer Charter Assoc. Bob Ward
Prince of Wales I. Larry Mc quarrie
Petersburg Charter Assoc. Barry Bracken
Deep Creek Assoc. Tim Evers
Juneau Charter operators assoc. Mike Bethers**

These people represent 378 Alaskan business

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February 22, 1997

Mr. Austerman
House Special Committee on Fisheries
Juneau, Alaska

Dear Mr. Austerman,

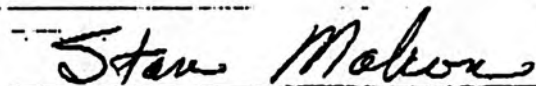
We would like to state our support for HB-19 WORK DRAFT dated 2/18/97. This support represents the position of the following SE Alaskan charterboat associations:

Petersburg Charter Boat Association, Juneau Charter Boat Operators Association, Prince of Wales Charter Association, and Sitka Charterboat Operators Association

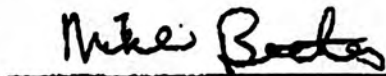
Our four organizations represent 192 vessels.

We are here in Ketchikan attending the Board of Fisheries meetings and representing our respective associations. Due to HB-73 being first on the agenda at the last teleconference and timing conflicts with the Board of Fisheries meetings, we were unable to testify. We will make every effort to attend the next teleconference.

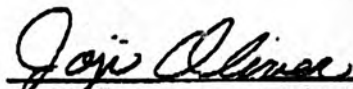
Respectfully,



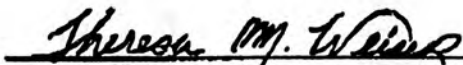
President, Petersburg Charter Boat Association



President, Juneau Charter Boat Operators Association



President, Prince of Wales Charter Association



Vice President, Sitka Charterboat Operators Association

cc: Board of Fisheries Chairman - Dr. White

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



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State of Alaska

Goodhand Charters

Prince William Sound

winter: P.O. 218, Ester, Alaska 99725 ph. 907-479-5562

summer: P.O. 970, Valdez, Alaska 99686 ph. 907-835-4333

Fishing -- Sightseeing -- Kayaking

To: Alan Austerman

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Prince of Wales I. Larry Mc quarrie
Petersburg Charter Assoc. Barry Bracken
Deep Creek Assoc. Tim Evers
Juneau Charter operators assoc. Mike Bethers**

These people represent 378 Alaskan business



**Juneau Charter Boat
Operators Association**

P.O. Box 34522
Juneau, Alaska 99803
(907) 789-0165

April 24, 1997

Senator Allen Austerman
Alaska State Legislature
Juneau, Alaska 99801

Dear Senator Austerman:

The Juneau Charterboat Operators Association remains in support of HB19.

We realize that a lot has been stripped from the bill, however we still support registering and reporting by individuals working in the sportfish/guiding industry.

Reports could be turned in on an annual basis as this data would not be suitable for in season management. It would however, identify active operators and their level of activity.

We urge you to do your best to move this bill forward. Thank you very much.

Sincerely,

Mike Bethers, President
Juneau Charterboat Operators Association

10011410000
AIR FREIGHT CHARTERS
000 P02 FEB 20 31 00.10

February 22, 1997

Mr. Austerman
House Special Committee on Fisheries
Juneau, Alaska

Dear Mr. Austerman,

We would like to state our support for HB-19 WORK DRAFT dated 2/18/97. This support represents the position of the following SE Alaskan charterboat associations:

Petersburg Charter Boat Association, Juneau Charter Boat Operators Association, Prince of Wales Charter Association, and Sitka Charterboat Operators Association

Our four organizations represent 192 vessels.

We are here in Ketchikan attending the Board of Fisheries meetings and representing our respective associations. Due to HB-73 being first on the agenda at the last teleconference and timing conflicts with the Board of Fisheries meetings, we were unable to testify. We will make every effort to attend the next teleconference.

Respectfully,

Stan Melton
President, Petersburg Charter Boat Association

Mike Becker
President, Juneau Charter Boat Operators Association

Jojo Olin
President, Prince of Wales Charter Association

Theresa M. Weir
Vice President, Sitka Charterboat Operators Association

cc: Board of Fisheries Chairman - Dr. White

To: Mr. Daviws, Committee members,

Re; HB 19 Testimony

From: Robert Ward, Box 631 Anchor Point, AK. 99556

I am a Halibut and Salmon recreational fishing guide operating from Homer, AK. I am presently the Secretary/Treasure for the Homer Charter Association, I am also serving on the Board of Fish Guide Task Force, and I am on the Board of Directors of the Alaska Sportfishing ~~Services~~ Industry Association, and in February of this year I was appointed to the Advisory Panel to the North Pacific Fishery Management Council representing Halibut Charter Industry members.

I am committed to the elevation of the level of proffessionalism within my industry. I have eleven years operation my own business and vessel and I know of no other Alaskan so dedicated to this cause.

I am comfortable with the amendments offered to HB 19 and I have faith in the Board of Fish process with minor exceptions. We need the inclusion of a vehicle to assure a balance of representation at the advisory committee between the commercial and the guide industries when decisions are acted upon.

License limitation is not a part of this bill nor is it intended to be.

HB 19 is about data collection of the participation levels by guides and the collection of effort and harvest levels of those utilizing our services.

We desparately need the State of Alaska to take this action to help the North Pacific Fishery Management Council in the management of the resources we provide access to. We are facing a commercially predominant management body that is very naive to the composition and profile of the recreational fishery in waters under their jurisdiction. They need this legislation to provide the information they need to k make their management decisions. I don't want under-informed and mis-informed resource managers to manage my state industry. I have the University of Alaska Institute of Social and Economic Research analysis of the Halibut Charter Industry here with me and it is 900 pages of assumptions and estimations with which the NPFMC is about to make a decision impacting my industry upon. Had HB 19 been available to us along with the information it would provide I would have a much easier job representing my industry. As an example it "estimates" between 500 and 2055 Halibut Charterboats operating from S\$ate of Alaska ports.

Please advance this bill in a form that will assure us that this tool will be available to both State and Federal resource managers.

I wish to appologize for the condition of my testimony, the LIO office in Anchorage only offered this typewriter to make my testimony presentable to you and without "delete" and Spellchecker I am at a disadvantage.

It is my desire and requirement of those I am representing that the above words are read into the testimony for the official record. I will have a schedule conflict with both the NPFMC and the LIO office, Anchorage so I will not be able to provide you with my voice but my thoughts are stated above.

Most respectfully,

Robert Ward

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To (H) <i>Finance</i>	From <i>Arch LIO</i>	
Co.	Co.	
Dept.	Phone # <i>258-8111</i>	
Fax # <i>465-2418</i>	Fax #	

Written (T)



Alaska State Legislature

Please enter into the record my testimony to the House Finance
committee name
committee on HB19 . dated 4/17/97
bill/subject

Please have someone call me
at 745-4965 regarding
"How broad are the powers to be
granted under par 6, page 5, lines
4, 5, 6?"

I would request the word
"biological" be inserted before
"information" on page 8 line 15

Signed: Bruce Knowles
Testifier
PO Box 573206
Representing (Optional)
Wasilla AK 99687
Address
745-4965
Phone No.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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☐ KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
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FAX: (907) 451-2846

☒ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

April 23, 1997

Honorable Alan Austerman
Chair House Fisheries Committee
House of Representatives
State Capitol, Room 434
Juneau, AK 99801-1182

Re: Section 1 of HB 19

Dear Representative Austerman:

This letter responds to the request of your aide, Amy Daugherty, for an explanation of why the Department of Law recommends that section 1 of CS HB 19 (FIN) be maintained. Section 1 amends AS 16.05.251(a)(12) adding the "sport fishing services industry" to the list of fisheries that the Board of Fisheries (Board) may regulate for traditional fishery purposes - conservation, development, and utilization of fishery resources.

Some persons believe that the changes to subsection (12) of AS 16.05.251(a) are unnecessary because the Board already has authority to regulate "guided sport fishing" and to allocate fishery resources among uses including "guided sport fishing." However, the legislative history of those authorities, and their historic interpretation by the Board, supports the conclusion that those provisions allow the Board to distinguish and regulate the *sport fishers who are guided*. The histories do not support a conclusion that the Board is authorized to regulate the *guides themselves or their industry* because the guides are not the persons who are engaged in *fishing*.

The Board has adopted some guide registration and reporting requirements, and does attempt to regulate guides as a "methods and means" for guided sport fishing (e.g., regulations prohibiting guides from fishing or retaining fish while clients are under their control). We believe that these regulations are defensible because they are reasonably necessary if the Board is to exercise its authority over guided sport fishing. However, the Board lacks explicit authority to adopt these types of regulations, and many guides assert that the Board does not have the authority to do so. Litigation over this authority is likely unless statutory changes are made.

The change to the language of AS 16.05.251(a)(12) in section 1 of CS HB 19 (FIN), gives the Board the same authority over the sport fishing services industry as it already has over those involved in commercial, sport, guided sport, subsistence, and personal use fishing, and removes any danger of successful

Honorable Alan Austerman
Chair House Fisheries Committee
Re: Section 1 of HB 19

April 23, 1997
Page 2

litigation against current Board regulations.

In addition to validating existing management practices, the change to AS 16.05.251(12) will also make it clear that the Board has the authority to directly regulate guides in ways similar to the ways that it manages individuals and vessels in other fisheries. For example, the Board will be able to: (1) adopt time and area closures for fishing by guides or registered guide vessels (current regulations prohibit guided sport fishing at some times and areas - but enforcement is difficult because in order to prove a violation it is necessary to show that there is a paying client on board); (2) adopt substantive area registration and reporting requirements on a regional basis (i.e., require advance registration, deny registration until the guide complies with reporting requirements, adopt exclusive or superexclusive registration requirements similar to those in many commercial herring and crab fisheries); and (3) adopt other regulations for guides that are needed in order to regulate guided sport fishing in an enforceable manner.

We believe that maintaining section 1 of the bill with its changes to AS 16.05.251(a)(12) is essential. The subsection will remove any doubt that the legislature intends for the Board to regulate a relatively new and rapidly expanding group of resource users - sport fishing guides and service providers - in the same manner that it manages those who participate in sport, commercial, subsistence, and personal use fisheries.

A deletion of the provisions of section 1 would be used by opponents of Board regulation of guides and of the guided sport industry to support arguments against the entire licensing and reporting requirement scheme set out in HB 19 as well as to attack existing Board management practices. Aided by legislative history and past Board practice, they could claim that the present authority in AS 16.05.251 allows the Board to regulate only clients, not the guides, other service providers, or the industry as a whole.

Sincerely yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Steven A. Daugherty
Assistant Attorney General

SAD:1mt

H:\WP\SD\BILLS\FY97\AMY4-23.WPD

cc: Geron Bruce, Dept. of Fish and Game
Pat Pourchot, Off. of the Governor
Chrystal Smith, Dept. of Law
Deborah Behr, Dept. of Law

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1997

The Honorable Eldon Mulder
House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: House Bill 19

Dear Representative Mulder:

You asked me for a list of areas in which the Board of Fisheries (Board) presently indirectly regulates guides through its existing authority over guided sport fishing and needs additional authority to insulate it from legal challenges or to make its regulations more enforceable. A full grant of authority to the Board to regulate participants in the sport fishing services industry as it does those involved in other fisheries (commercial, sport, personal use and subsistence) would be preferable and would provide the Board with the ability to adapt to changing circumstances in fisheries management. However, based on a preliminary review of the regulations there appear to be three key categories of regulatory authority that would insulate existing management strategies from legal challenge.

The three key authorities would be: (1) explicit authority to prohibit registered guides or registered guide vessels from fishing during closures to guided sport fishing (this would make prohibitions on guided sport fishing more enforceable); (2) explicit authority to adopt both statewide and area-specific registration and reporting requirements for guides; and (3) explicit authority to impose restrictions on guides while accompanying clients (fishing, possession, and retention prohibitions). Specific provisions relating to these authorities will not be needed if section 1 of CSHB 19(FIN) is retained.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 

Steven A. Daugherty
Assistant Attorney General

SAD:lmt

H:\WP\SD\BILLS\FY97\MULDER.423

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

☐ KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

☒ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

The Honorable Eldon Mulder
House of Representatives
Re: House Bill 19

April 24, 1997
Page 2

cc: Representative Alan Austerman
Representative Ivan Ivan
Geron Bruce, Dept. of Fish and Game
Pat Pourchot, Off. of the Governor
Chrystal Smith, Dept. of Law
Deborah Behr, Dept. of Law

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

March 26, 1997

Ms. Amy Daugherty
Fisheries Committee Assistant
Office of Representative Austerman
House of Representatives
State Capitol, Room 434
Juneau, AK 99801-1182

Re: Section 1 of HB 19

Dear Ms. Daugherty:

You have asked whether the Department of Law recommends that subsection (17) of the present committee substitute for House Bill 19 be maintained. That subsection gives the Board of Fisheries specific authority to regulate the "sport fishing services industry" for traditional fishery purposes - conservation, development, and utilization of fishery resources. Besides clarifying that the Board may impose mandatory reporting requirements on service providers, the new authority will enable it to regulate them in other ways. For example, the Board could adopt substantive registration requirements (e.g., exclusive or superexclusive registration), deny registration until guides comply with reporting requirements, and require knowledge of proper fish identification handling.

Subsection 17 also adds two unique purposes for regulating the sport fish service industry - "the safety of the clients of the industry or the protection of the integrity of the industry." It would enable the Board to require experience, knowledge, training, or equipment for persons who provide services to particular fisheries or areas.

The present statute, without section 17, gives the Board power to regulate the harvesters and the harvesting of fishery resources for conservation, development, and utilization. AS 16.05.251(a). Our attorneys have advised the Board that it does not have authority to regulate other persons, regulate other activities, or regulate for other purposes. For example, the Board does not have the authority to regulate fish processing once the

Ms. Amy Daugherty
Fisheries Committee Assistant
Office of Representative Austerman
Re: Section 1 of HB 19

March 26, 1997
Page 2

fish have left the harvesters' control. Although the Board may regulate the use of fish spotters (because the courts have concluded that spotters are a type of fishing gear), it may only regulate for their effect on harvesting, not for their personal safety. The Board has consistently followed this advice by not regulating outside of those powers.

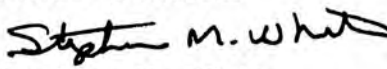
Some persons believe that subsection (17) is not needed because the Board already has authority to classify "guided sport fish" as a category for regulatory purposes, has authority to regulate "guided sport fishing," and has authority to allocate fishery resources among uses including "guided sport" AS 16.05.251(a) (12), (6), (e). However, the legislative history of those authorities, and their historic interpretation by the Board, supports the conclusion that those provisions allow the Board to distinguish and regulate the *sport fishers who are guided*. The histories do not support a conclusion that the Board is authorized to regulate the *guides themselves or their industry*.

We believe that maintaining subsection (17) in the bill is essential. The subsection will remove any doubt that the legislature intends for the Board to regulate new resource users - sport fishing guides and service providers - and that it intends for the Board to regulate them for two purposes that are distinct from the purposes for regulating other users - for safety of their clients and for protecting the integrity of that industry.

Deleting subsection (17) will give a powerful legal weapon to persons who would attack the entire scheme set out in HB 19, the Board's regulation of the sport fishing services industry. Aided by legislative history and past Board practice, they could claim that the present authority in AS 16.05.251 allows the Board to regulate only clients, not the guides, other service providers, or the industry as a whole.

Sincerely yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Stephen M. White
Assistant Attorney General

SMW:1mt

I:\WHITES\BILLS\AMY3-25.WPD

cc: Geron Bruce, ADF&G

Sportfish charter operators support state licensing bill

By LORI THOMSON

THE JUNEAU EMPIRE

Lodge owner Doug Unruh has watched the ranks of charter operators mushroom in the past 15 years. Now, he's hoping a bill passed by the state House on Wednesday will help slow that down.

House Bill 19 requires a new type of license for sport fishing charter businesses and calls for reporting catch data for three years after passage of the bill. Rep. Alan Austerman, a Kodiak Republican, sponsored the legislation, which was passed by the House 31-6 Wednesday and is headed to the Senate.

"I think it's time. Something needs to happen to limit the number of participants in this industry," said Unruh, owner of Bluewater Charters in Juneau and Anglers Choice Lodge in Elfin Cove.

The Juneau Charter Boat Operators Association supports the bill, said Unruh, who is a board member for the group.

Under the bill, licenses for op-

I think it's time. Something needs to happen to limit the number of participants in this industry.

Doug Unruh

erators of sport fishing services, such as the owner of a charter business, would cost \$75 for residents and \$225 for nonresidents. For the same price, they would be allowed to guide. Guides, who accompany or direct the angler for the fishing trip, would pay \$25 for a license if they're residents and \$75 if they're nonresidents.

Charter operators would be required to have \$100,000 in insurance, assets or a bond.

The insurance won't be a problem for those who make a living

in the business, because they already have such coverage, Unruh said.

But the legislation could hurt the little guy who charters only a handful of trips a year, said Bob Winters, owner of Sea Marine Training Service, which trains charter operators.

"It's more of their money they're not going to see," Winters said.

Austerman said the intent of the bill is to get data on the effects of the charter industry on fisheries.

"We do not have complete information about who is actively engaged in sportfish guiding, how many clients are served, what catch rates are, and what rivers, streams and marine waters are being utilized," Austerman said.

Juneau's Reps. Bill Hudson, a Republican, and Kim Elton, a Democrat, supported the bill.

Elton said lack of data causes biologists to guess at harvest rates — especially a problem because of the treaty with Canada that caps salmon harvests.

Juneau
Empire
May 1, '97

SCOMM

102:4

Alaska State Legislature

Co-Chair, House Resources
Community & Regional Affairs
Legislative Council
Special Committee on Fisheries
Special Committee on Oil and Gas



State Capitol
Room 128
Juneau, Alaska 99801
(907) 465-3878
1-800-862-3878
Fax (907) 465-3265

Representative Scott Ogan
House District 27

HB-25 SPONSOR STATEMENT

I have introduced HB-25 to make the residency law applying to the taking of fish and game resources a more workable, consistent, enforceable provision.

Like many other valuable state programs there is always the temptation by nonresidents to bend the rules, or circumvent the letter of the law. By changing the language in existing statute we can close some of the loop holes that have plagued law enforcement officials.

Last session this measure was supported by both the administration and overwhelmingly by the legislature.

I hope I can count on your support this session.

Thank you.

Scott Ogan

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 25

Revision Date: _____ Dept. Affected: Fish and Game
Title: Residency requirements: fish and game licenses BRU: Administration
Sponsor: Representative Ogan Component: Administration
Requester: House Fisheries COMPONENT SERIAL NO. 479

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

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)

Prepared by: Kevin Brooks
Division: Administration
Approved by Commissioner: Bevon Bruce Jr
Agency: Department of Fish and Game

Phone: 465-5999
Date: 1/14/97
Date: 1/28/97

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Mail Stop 3101

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

MEMORANDUM

February 1, 1997

SUBJECT: HB 25: An act relating to the issuance of hunting, trapping, and noncommercial fishing licenses, tags, and permits and to residency for fish and game purposes (HB 25)

TO: Representative Scott Ogan
Attn: Dave Stancliff

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to your request for a description of what HB 25 does.

HB 25 addresses the issue of residency for fish and game purposes generally, as well as, addressing residency for hunting, trapping, and noncommercial fishing licenses in particular.

Section 1 of the bill expresses in writing the generally understood requirement that a hunting, trapping, or noncommercial fishing license, tag, or permit may be issued only to a natural person. A natural person is a human being and not a nonhuman legal person such as a corporation, partnership, etc.

HB 25 contains two provisions relating to residency for fish and game purposes. The first provision is contained in sec. 2 of the bill and applies to the determination of residency for purposes of issuing hunting, trapping, and noncommercial fishing licenses. The second provision is contained in sec. 3 of the bill and sets out the definition of "resident" for other purposes under AS 16.

Section 2 of the bill amends AS 16.05. by adding a new section establishing how residency is determined for hunting, trapping, and noncommercial fishing licenses. The basic requirements for a person to establish residency are physical presence in the state with the intent to remain in the state and to make a home in the state; maintaining a domicile in the state for the preceding 12 months; and not doing anything contrary to the assertion of residency such as claim residency in another state or country or obtain benefits in another state or country under a claim of residency in that state or country.

A resident does not lose his or her residency in the state by being absent from the state. In order to lose residency, the person must be absent from the state and claim residency in an

Representative Scott Ogan

February 1, 1997

Page 3

In AS 16.05.940, the definition of "resident" is not as detailed as that set out in sec. 2, because there is not an apparent need for a more detailed definition for AS 16. The residency issues that have arisen relate to eligibility for resident hunting, trapping, and noncommercial fishing licenses and those are addressed by sec. 2 of the bill.

If I may be of further assistance, please advise.

GU:lmb

97-023.lmb

CORRECTION

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

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HB 25 contains two provisions relating to residency for fish and game purposes. The first provision is contained in sec. 2 of the bill and applies to the determination of residency for purposes of issuing hunting, trapping, and noncommercial fishing licenses. The second provision is contained in sec. 3 of the bill and sets out the definition of "resident" for other purposes under AS 16.

Section 2 of the bill amends AS 16.05. by adding a new section establishing how residency is determined for hunting, trapping, and noncommercial fishing licenses. The basic requirements for a person to establish residency are physical presence in the state with the intent to remain in the state and to make a home in the state; maintaining a domicile in the state for the preceding 12 months; and not doing anything contrary to the assertion of residency such as claim residency in another state or country or obtain benefits in another state or country under a claim of residency in that state or country.

A resident does not lose his or her residency in the state by being absent from the state. In order to lose residency, the person must be absent from the state and claim residency in an

other state or country or the person must do something that is not consistent with the basic requirements for residency set out in this section.

Members of the military who have been stationed in the state for the preceding 12 months and their dependents who have lived in the state for the preceding 12 months are considered as residents. These military personnel and their dependents do not have to surrender their legal residency in their home state or benefits based on their residency in another state. This bill provides that members of the Coast Guard and their dependents shall be eligible for resident status. The Coast Guard is not clearly a branch of the military service, so the bill clarifies that members of the Coast Guard and their dependents are to receive the same benefit as members of the military service and their dependents.

An alien establishes residency in the state by maintaining a domicile in the state for the preceding 12 months and not claiming residency in another state or country or obtaining a residency benefit under a claim of residency in another state or country.

In those instances where a business may apply for a license, such as a taxidermy or fur dealers license, the residency of the business is determined by the location of the business' main office or headquarters. A nonresident person who has an interest in a resident business (such as a partnership or joint venture) in the state cannot qualify as a resident by virtue of that interest in a resident business.

Section 3 of the bill amends AS 16.05.940(26) which is the general definition of "resident" for AS 16. One change that is made to this definition is the replacement of the undefined term "place of abode" with "domicile". Though the terms have substantially similar meanings in the common law, the term "domicile" is already defined in AS 16.05.940(11).¹

The other changes made to the definition of "resident" in AS 16.05.940(26) provide that residency is to be determined in a manner comparable to that used in sec. 2 of the bill. For example, a person cannot maintain residency if the person claims residency in another state or obtain benefits in another state or country under a claim of residency; a natural person cannot claim residency based on an interest in a resident business entity; members of the Coast Guard and their dependents get the same privileges as members of the military service and their dependents.

*

¹ For purposes of AS 16, "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game. AS 16.05.940(11).

Representative Scott Ogan

February 1, 1997

Page 3

In AS 16.05.940, the definition of "resident" is not as detailed as that set out in sec. 2, because there is not an apparent need for a more detailed definition for AS 16. The residency issues that have arisen relate to eligibility for resident hunting, trapping, and noncommercial fishing licenses and those are addressed by sec. 2 of the bill.

If I may be of further assistance, please advise.

GU:lmb

97-023.lmb

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 25

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to residency for Fish and BRU: Fish and Wildlife Protection
Game purposes Component: Detachments
 Sponsor: Representative Ogan
 Requestor: H.F. 21 **COMPONENT SERIAL NO. 0490**

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ 0.0

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.)

This Bill will improve the Division's ability to meet program objectives and will have no significant affect on the Division's budget.

Prepared By: Lt. Joel L. Hard Phone: 269-5409
 Division: Fish and Wildlife Protection Date: January 22, 1997
 Approved by Commissioner: *Joel Smith* Date: 1/31/97
 Agency: Ronald L. Otte, Department of Public Safety

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SCOMM

102:5

Sponsor Statement

HB 27

"An Act relating to participation in matters before the Board of Fisheries by members of the board."

February 7, 1997

This legislation was introduced because of a growing frustration among fishing Alaskans. Alaskans involved in fisheries have witnessed an erosion in their Board of Fisheries process in recent years. The cause is the reinterpretation and consequent increased interference of the Executive Ethics Act by the Attorney General's Office.

HB 27 adjusts the conflict of interest laws in the Executive Ethics Act as they apply to the Board of Fisheries. It stipulates that all members will vote, after disclosure, despite their financial or personal interest. Historically, this is how the board functioned - with full participation after conflict of interest disclosure. It has only been in the last few years that a conflict has disqualified participation on a vote.

You have in your backup a memorandum from myself to Speaker Phillips which refers to a meeting that I arranged last year which was attended by six Board of Fisheries chairmen. Three of these chairmen came from a commercial background, three from a sportfish background. Their foremost recommendation was for a legislative fix to the conflict of interest of the Executive Ethics Act.

The chairmen unanimously emphasized a conflict of interest adjustment was necessary to minimize attorney interference in the board process and to require board members to vote. Furthermore, they asserted that members of the industry are necessary to, and inherent in, a successful lay board process.

This bill will bring the Board process back to the people who know the industries and who know fish. Our Board of Fisheries is a model in resource management, longstanding in its successful track record. HB 27 will let the Board of Fish function like it should, like it did, and how it was intended to work.

MEMORANDUM

DATE: February 28, 1996

TO: Representative Gail Phillips, Speaker
House of Representatives

FROM: Representative Alan Austerman, Chairman
House Special Committee on Fisheries

RE: Board of Fisheries Chairmen's Meeting

Our Board of Fish chairman's meeting met in Anchorage on February 15th and 16th and was a great success. Thank you for the opportunity to assemble five prior Board of Fisheries chairmen and the current chairman for this meeting. The meeting was designed as an informal roundtable discussion. The only request on my part was to look at the outline of concerns I supplied for the meeting.

As I know you are aware, these are turbulent times for our fisheries and the board process which governs it. I know you share my thoughts that we need to identify and address some of the current trends regarding commercial fisheries.

The chairmen voiced concern about the current level of politics prevalent in Board of Fisheries appointments and in the legislative confirmation process in general. While some of it is inherent in the process, the level of questionably intended appointments and political motives abound at unprecedented levels.

The chairmen were unanimous that the Board of Fisheries remain a lay board. They felt it would be a great loss to the state if this process gave way to a professional board as other states have done. The resistance to the professional board primarily rests with the loss of varied experience to the board, public accessibility to the board and the longstanding successful track record of our Board of Fisheries.

It was also unanimous that a professional board be seriously considered only if the political interference continued and the conflict of interest could not be adjusted to be "workable" to foster the present lay board process. There was suggestion that establishment of a professional board would require careful implementation of specific guidelines for appointment and procedures which, the group felt, they could devise if the lay board changes could not be attained.

Specifically, in order to assist the lay board, the chairmen suggested (1) modification of the conflict of interest law, (2) adoption of a better appointment time frame, as in CSHB 141, and (3) provide Board staff support.

Conflict of Interest

The topic of conflict of interest took center stage at the meeting. The chairmen said that the application of the executive branch's conflict of interest laws and the recent interpretation of these laws, did the board a great disservice and rendered it nearly ineffective. There was concern that this law removes industry participants from participating in the process (which, they felt, is the biggest benefit of having a lay board). There was consensus that lawyers are clogging the system in order to promote their own political agendas. It was pointed out that, in the past, as long as the individual board members admit their conflict on the record and could justify their vote, the board functioned well. At the outset of the meeting the chairmen recommended possible application of the Legislative Ethics Act to the Board.

Change Board Appointment and Term Dates

Of all the legislation introduced on these subjects, the group preferred HB 141, a bill I sponsored which sets the appointment date closer to the confirmation date thereby minimizing the opportunity for new members to vote at board meetings held prior to legislative confirmation hearings. The bill also sets the beginning date of terms to July 1, so that new members are not thrown into a board meeting several days after appointment. That legislation is awaiting scheduling on the Senate Floor. Passage of HB 141 would be a major step in remedying some of the problems associated with the Board of Fish appointment process.

The chairmen stressed that individuals with high levels of integrity need to be appointed to the Board. There was some discussion suggesting a point system be established by statute. This point system would assist the Governor's adherence to certain criteria when deciding between given candidates. If appointments were not made in accordance to this criteria, justification would need to be established on record.

Staff Support

There was consensus that the Board is in dire need of some staff, separate from the Department of Fish and Game staff. It was suggested that a legal position is needed to assist with mediating issues, before they reach the board, and to help with preparation of findings, the legal justification of individual votes. There was also substantial support for the board to access biological and economic information, independent of the department, for obvious reasons. Positions specifically designated to the Board, or funding with RSA capabilities, would lighten the excessive demands on the lay board at a fraction of the cost of a professional board.

Two chairmen felt if the two major problem areas in fisheries, False Pass and Cook Inlet were addressed and resolved, the politics of the process would lessen and the board could better function. They recommended that this group make specific recommendations on these two areas to the board to most effectively get the Board on track.

Update on Conflict of Interest

Since the meeting in Anchorage I have had staff contact Mary McDowell in the Governor's Office and various attorneys in the AG's office. While Mary McDowell has indicated a willingness to work with us on an adjustment of conflict of interest laws for the Board of Fisheries, Neil Slotnick has indicated a reluctance to amend the conflict of interest solely for this board and not all boards at one time. Another attorney involved in Resource issues suggested amending the financial conflict to any interest above 20 percent. That means a commercial fisherman could vote on issues regarding a fishery which composed 20 percent or less of his income. Steve White of the Attorney General's Office suggested that a loosening of the conflict of interest laws undermines public confidence in the Board.

Steven Daugherty also reviewed the Legislative Ethics Act to see if this could apply to the Board of Fisheries. This is not a quick fix because much of AS 24.60 does not or could not apply to the Board of Fish. I am still evaluating which sections should and could apply.

The chairmen's general request was that the Board members be able to vote despite financial ties and an adjustment was needed to relax the financial conflict of interest to more equalize it with the personal conflict of interest criteria.

Speaker Phillips - February 28, 1996
Page Four

My staff is pursuing this topic as a priority item. It is my plan to have legislation drafted in the very near future to address the conflict of interest. I feel that these past and present chairmen are a very valuable information resource that we should continue to draw them together and listen to their input.

State board meeting to discuss management of Cook Inlet fish

Chairmen urge liberalization of Fish Board ethics

The Associated Press

Five past and present state fisheries board chairmen urged a lawmaker Friday to liberalize an ethics code which they say now limits debate and voting rights for members of the Alaska Board of Fisheries.

The group met at the request of Rep. Alan Austerman, R-Kodiak, chairman of the House special committee on fisheries. They said they felt the future of the board governing state fisheries was in jeopardy under the present ethics code.

They recommended that ethics standards governing the board be amended to allow those with financial interests in specific fisheries to deliberate and vote on related issues.

Legislators, by contrast, adhere to rules that allow all lawmakers to vote unless that body permits the member to abstain.

The group also backed passage of legislation that would begin board terms on July 1, rather than Feb. 1.

That legislation, sponsored by Austerman, has sat inactive in the

Senate finance committee since last May.

"The problem now is when terms expire at the end of January, the board is right in the middle of a round of meetings, and it's disruptive to the board," said Nick Szabo, who chaired the board from 1977-82.

When fisheries board members are excluded from voting because of a conflict of interest, the seven-member body may be unable to garner the four votes required to pass any issue.

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Senate Community and Regional Affairs Committee
John Torgerson-Chair

Senate State Affairs Committee
Bert Sharp, Chair

Senate Resources Committee
Loren Leman, Chair

Senate Finance Committee
Steve Frank, Chair

DATE: April 10, 1996

SUBJECT: HB 542

Dear Honorable Chairmen,

I am writing to you about HB 542. HB 542 pertains to the Board of Fisheries voting ethics. The bill must be passed if the board process is to work to the benefit of all user groups as was originally intended when Governor Hammond signed the bill in 1974.

The bill was referred to the Senate Community and Regional Affairs Committee, and then the State Affairs Committee, and then the Resources Committee and finally the Finance Committee after passing overwhelmingly on the floor of the House.

I was appointed to the Board of Fisheries by Governor Wally Hickel in February 1, 1992. I was reappointed to the board by Governor Tony Knowles in February 1, 1995.

During my first term on the board, Attorney General Charlie Cole reviewed my ethics disclosure and determined that I could participate in deliberations on the Area M/AYK chum issue because my level of financial interest was insignificant. I participated in the 1/93 chum meeting and was a full participant in all aspects of the deliberations.

When a new AG took office, he determined that under the current ethics law, because my family and I hold limited entry permits for the Bristol Bay fishery, I could no longer participate in the Area M/AYK chum cap issue. He felt that my family and I could possibly materially benefit if the chum cap was lowered.

Lowering the cap could result in Area M fishermen not being able to harvest their full allotment of Bristol Bay sockeye as provided by the June Management Plan because they could reach the chum cap before they reached the 8.3% of the Bristol Bay run allotted to them.

Because four votes are needed to change any regulation, I feel the Area M/AYK issue will never be resolved as long as I or any

future board member from Bristol Bay sits on the board of fisheries because they will be conflicted out under the current interpretation of the ethics law.

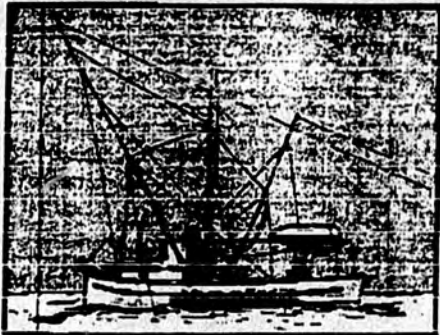
The current law states that members can participate as long as there is no significant or substantial personal or financial interest on the issues before the board.

In summary, the problem with the current ethics law is that because there is no standard of measurement of what constitutes a significant or substantial financial or personal interest, any benefit no matter how minuscule, will be ruled as a conflict of interest, thus a conflict is declared and that board member will be excluded from deliberations.

Sincerely,

Trefon Angasan

Public member, Board of Fisheries



Alaska Trollers Association

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

File

March 29, 1996

Representative Joe Green
Alaska State Legislature
Juneau, AK 99811

Dear Representative Green:

I have been informed that members of the House and Senate Resources Committees may meet next week to discuss several issues including HB 542, which ATA supports.

HB 542 amends the Ethics Act to allow Board of Fisheries members to participate in all issues that come before the board after disclosing any personal or financial interest they may have in a fishery.

Conflicting attorney general opinions have confounded the Board's voting procedure for years. The current attorney general opinion disqualifies any member with a financial interest, yet allows those with personal conflicts to vote. ATA believes a lay board with expertise in Alaska fisheries is extremely important to the regulatory process that governs our industry. We support a recusal process which allows the Board members themselves to determine who has a significant conflict of interest and hope you agree.

For your information I have attached to this letter an updated version of ATA's positions on current legislation. If I can provide additional information on these or other industry issues, please don't hesitate to contact me.

Sincerely,

Dale A. Kelley
Executive Director



United Fishermen's Marketing Association, Inc.

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453



HB 542

**An Act Relating to Participation In Matters Before The Board Of Fisheries By Members Of
the Board**

Testimony

Jeffrey R. Stephan

United Fishermen's Marketing Association, Inc.

Kodiak, Alaska

to the

Committee on Resources

Alaska House of Representatives

Nineteenth Legislature - Second Session

March 22, 1996

Mr. Chairman, members of the Committee, my name is Jeff Stephan. I am here today representing the United Fishermen's Marketing Association, Inc. (UFMA), which is based in Kodiak, AK. UFMA is a multi-species, multi-gear-type commercial fishermen's association. Our membership includes seiners, pot fishermen, longliners and trawlers who harvest, salmon, herring, halibut, black cod, king crab, tanner crab, opilio crab, dungeness crab, pacific cod, pollock, and flatfish throughout the Gulf of Alaska and the Bering Sea/Aleutian Islands. UFMA members are interested in, and affected by the activities of the Alaska Board of Fisheries (Board). I have represented UFMA at Board meetings since 1978. We appreciate the opportunity to provide testimony on HB 542.

UFMA supports HB 542. We applaud the efforts of Representative Austerman and other members of the House Resources Committee and the Legislature who have taken the initiative to address this issue.

Generally, we hope that the Governor and the Legislature are careful in the appointment and confirmation of Board members. We hope that the Board is made up of persons

HB 542, UFMA Testimony; 3/22/96;
Resources Committee, Alaska House of Representatives. Page 2/5

who are capable of conducting the public business in a manner that does not exercise any personal or financial conflict of interest that they may have, or any prejudice that they may hold. It has been both frightening and disappointing to observe several past Board meetings when it has been wholly obvious that a Board member held an unmistakable predetermined bias with regard to a particular regulatory matter, and was not open to a fair and objective reasoning and consideration of the facts relative to such regulatory matter. We note, however, that these predetermined attitudes, prejudices and biases are frequently not based on a financial conflict of interest.

We agree that the Board has been hamstrung because of the current status and exercise of Ethics Act determinations under AS 39.52 by the Alaska Attorney General (Attorney General). Additionally, we have serious concern that the current process opens the door for any administration to direct, control and otherwise influence the policy and regulatory autonomy of the Board through the offices of the Attorney General by virtue of the authority that is held by the Attorney General to disqualify Board members from voting. The Administration and the Attorney General hold de facto control over the regulatory process of the Board through the power that they possess to disqualify Board members from voting. Currently, the possibility exists for the Administration (i.e., Governor, Attorney General, Commissioner of the Alaska Department of Fish and Game (ADF&G), etc.) to influence the regulatory and policy actions of the Board for political or other reasons through the exercise of this authority to disqualify Board members from voting.

While you may take action through HB 542 to modify the Ethics Act determination relative to the Board, or otherwise take action through other legislation to make drastic changes to the structure¹ of the Board, we respectfully submit that you are not getting to the root of the problem. We fully support the much needed action to improve the operational autonomy of the Board that is embodied by HB 542. Nevertheless, we respectfully submit that the Legislature should immediately address several elements relative to the underlying operational and administrative process of the Board. We respectfully recommend that the Legislature adopt legislation that will ensure that before

¹ i.e., regional Boards, multiple Boards, regional or otherwise designated seats, increasing the size of the Board, etc

HB 542, UFMA Testimony; 3/22/96;

Resources Committee, Alaska House of Representatives Page 3/5.

the Board adopts, amends or repeals a regulation, the Board shall be required to:

1 Substantively and reasonably consider and analyze several significant subject areas as a basis for any regulatory action that the Board may take, and specifically with regard to any regulatory action where the Board employs the Allocation Criteria², the Mixed Stock Policy³, or acts upon an Agenda Change Request⁴. Such Consideration and analysis should include, and not be limited to, the following:

- (a) alternative regulatory options.
- (b) costs and benefits of the regulatory action,
- (c) economic impacts on those who are affected by the regulatory action,
- (d) environmental impacts of the regulatory action,
- (e) conservation impacts of the regulatory action,
- (f) other relevant facts and considerations;

2 Produce written findings with regard to significant regulatory issues that the Board addresses, specifically with regard to any regulatory action where the Board employs the Allocation Criteria, the Mixed Stock Policy, or acts upon an Agenda Change Request. Such written findings should :

- (a) include a summary, analysis and enumeration of the significant facts that were considered by the Board as part of a Board action to adopt, amend or repeal a regulation, or to adopt an Agenda Change Request,
- (b) include a summary, analysis and enumeration of the deliberation of the Board relative to a Board action to adopt, amend or repeal a regulation, or to adopt an Agenda Change Request,
- (c) include a summary and enumeration of the

² AS 16.05.251(e), REGULATIONS OF THE BOARD OF FISHERIES.; and 5 AAC 39.205. CRITERIA FOR THE ALLOCATION OF FISHERY RESOURCES AMONG PERSONAL USE, SPORT, AND COMMERCIAL FISHERIES.

³ 5 AAC 39.220. POLICY FOR THE MANAGEMENT OF MIXED STOCK SALMON FISHERIES.

⁴ 5 AAC 39.999. POLICY FOR CHANGING BOARD AGENDA.

HB 542, UFMA Testimony; 3/22/96;

Resources Committee, Alaska House of Representatives; Page 4/5

reasoning, analysis, logic and justification that the Board applied when they acted to adopt, amend or repeal a regulation, or to adopt an Agenda Change Request,

(d) prove that the Board substantively, reasonably and rationally considered, analyzed and deliberated relative to the required analyses and considerations that are suggested in "1" above,

3 Produce oral individual findings on the record that:

(a) itemize the facts and elements of deliberation that were considered by the individual Board member in making her/his decision,

(b) permit the public to evaluate the individual reasons, analysis, logic and justification that an individual Board member applied to her/his decision making,

(c) prove that an individual Board member who influenced a decision to adopt, amend or repeal a regulation, or to adopt an Agenda Change Request through debate, deliberation and the exercise of a vote did reasonably and rationally consider and analyze the required considerations and analyses that are suggested in "1" above

We respectfully suggest that the Legislature should act to impose necessary regulatory reform upon the Board process. The Legislature should also act to address the administrative operation of the Board.⁵ The complexities of fisheries conservation, management and allocation are certain to expand and increase in the future. The

⁵ Several aspects of the administrative operation of the Board are in great need of improvement and modification [i.e., precise and rigorous adherence to the legal requirements of handling Agenda Change Requests (5 AAC 39.999, POLICY FOR CHANGING BOARD AGENDA), and all associated and supportive background information; complete and timely response to information requests from the public; complete and timely dissemination of information to the public that is relevant to Board deliberations and action; adequate and reasonable notice to the public; etc.]

HB 542, UFMA Testimony; 3/22/96;
Resources Committee, Alaska House of Representatives Page 5/5

Legislature must take action to insure that the Board process will serve the public and will protect the resource that the Board is statutorily required to manage and conserve. Without such legislative action, the Board has wide latitude to operate in an arbitrary and capricious manner. Without such legislative action, and depending to a large extent on the ability of the Attorney General to disqualify Board members from voting and on the influence that is exercised in the appointment and confirmation of persons to the Board, the Administration has wide latitude to influence the autonomy and decision making of the Board.

We support HB 542 as a first important step toward improving the Board process. We respectfully suggest that the structure of the Board is not so much in need of attention and fixing as is the underlying process by which the Board administers, operates and regulates under their statutory authority.

Thank you for the opportunity to testify to you today.

Respectfully Submitted By:

Jeffrey R. Stephan

United Fishermen's Marketing Association, Inc.

P.O. Box 1035

Kodiak, AK 99615

telephone 907-486-3453

fax 907-486-8362

Attn:
Amy

HOUSE FISHERIES COMMITTEE 3/20/96 @ 5:00 PM
HOUSE RESOURCES COMMITTEE 3/22/96 @ 8:00 AM

MY NAME IS NICK SZABO, I WAS A MEMBER OF THE BOARD OF FISHERIES FROM 1975-1982 AND I'VE BEEN INVOLVED WITH ALASKA'S FISHING INDUSTRY FOR THE LAST THIRTY YEARS. I SUPPORT HB 542. I RECENTLY ATTENDED A MEETING OF THE PRESENT AND PAST FISHERIES BOARD CHAIRMEN CALLED BY REP. AUSTERMAN. THOSE ATTENDING SPANNED A 20 YEAR PERIOD OF BOARD SERVICE AND ALL WERE IN FULL AGREEMENT THAT THIS CHANGE WAS MOST NEEDED.

FISHERIES MANAGEMENT AND ALLOCATION DECISIONS ARE VERY IMPORTANT TO ALASKA'S ECONOMY. WE NEED THE FULL PARTICIPATION OF MEMBERS WHO ARE HIGHLY KNOWLEDGEABLE AND WIDELY EXPERIENCED IN A VARIETY OF DIFFERENT FISHERY USES. THE ISSUES ARE TOO COMPLEX AND TOO IMPORTANT TO RISK DECISIONS BY A BOARD THAT DOESN'T FULLY UNDERSTAND ALL THE IMPLICATIONS OF THEIR DECISIONS.

PEOPLE WITH A LOT OF KNOWLEDGE AND EXPERIENCE ARE LIKELY TO HAVE BOTH A FINANCIAL AND A PERSONAL INTEREST IN AN ISSUE. HOWEVER, THE EXECUTIVE BRANCH ETHICS ACT PROHIBITS PARTICIPATION BY A MEMBER WITH A PERSONAL OR FINANCIAL INTEREST AND THUS FRUSTRATES THE INTENT OF HAVING A BOARD COMPOSED OF MEMBERS WITH KNOWLEDGE AND EXPERIENCE. THE 7 MEMBER FISHERIES BOARD REQUIRES 4 VOTES TO PASS AN ACTION REGARDLESS OF HOW MANY MEMBERS ARE ACTUALLY PARTICIPATING. AT ONE TIME THE BOARD HAD 4 MEMBERS WHO HELD BRISTOL BAY SALMON PERMITS. UNDER THE PRESENT LEGAL OPINIONS, THAT BOARD COULDN'T FUNCTION ON ANY ACTION THAT DEALT WITH BRISTOL BAY. THERE HAVE BEEN OTHER SITUATIONS WHERE ONLY 4 OR 5 MEMBERS HAVE BEEN RULED ELIGIBLE TO PARTICIPATE. AN ACTION TO CHANGE THE STATUS QUO FAILED 3-2, YET A MOTION TO APPROVE FINDINGS IN SUPPORT OF THAT VOTE ALSO FAILED BECAUSE ONLY A PORTION OF THE MEMBERSHIP WAS ALLOWED TO VOTE. THE BOARD'S ACTION TO MAINTAIN THE STATUS QUO WAS NULLIFIED BY ITS INABILITY TO APPROVE FINDINGS.

YOU MAY HAVE MISGIVINGS ABOUT EXEMPTING THE BOARD FROM THE ETHICS ACT BECAUSE YOU FEEL IT MAY VIOLATE THE PUBLIC TRUST. THERE ARE OTHER WAYS TO PROTECT THE PUBLIC'S INTEREST WHILE STILL ALLOWING PARTICIPATION BY MEMBERS WHO ARE INVOLVED WITH THE ISSUE. THE PUBLIC WOULDN'T BE CONCERNED ABOUT BOARD MEMBER'S FINANCIAL OR PERSONAL INTERESTS IF THEY WERE CONFIDENT THAT THE BOARD MEMBER'S VOTE WAS IN THE PUBLIC INTEREST AND BASED ON THE FACTS ON THE RECORD. BY REQUIRING THE BOARD TO DOCUMENT THE REASONS FOR AN ACTION BY FINDINGS OF FACT, THE PUBLIC CAN BE ASSURED THAT BOARD MEMBERS ARE VOTING BASED ON THEIR EXPERTISE RATHER THAN THEIR CONFLICTS. THESE FINDINGS WOULD GIVE THE PUBLIC A WRITTEN BASIS FOR CONTROVERSIAL BOARD DECISIONS. POSSIBLY EACH BOARD MEMBER COULD ADDITIONALLY BE REQUIRED TO PRODUCE PERSONAL FINDINGS, EXPLAINING TO THE PUBLIC THEIR INDIVIDUAL REASONS FOR A PARTICULAR VOTE.

THESE ADDITIONAL OBLIGATIONS WOULD REQUIRE INCREASED STAFF SUPPORT, BUT IF THE BOARD IS TO REGAIN THE CONFIDENCE OF THE PUBLIC, THEN THEY ARE VERY MUCH NEEDED AND LONG OVERDUE.

REPORT TO THE GOVERNOR
ON THE BOARD OF FISHERIES

Board of Fisheries Review Committee
February 23, 1988

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF AUDIT & MANAGEMENT SERVICES

STEVE COWPER, GOVERNOR

P.O. BOX AM
JUNEAU, ALASKA 99811-0199
PHONE: (907) 465-3568

February 22, 1988

The Honorable Steve Cowper
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Cowper:

As Chairperson of the Board of Fisheries Review Committee, I have the pleasure of submitting to you our report with its recommendations. In choosing committee members, you succeeded in selecting persons who are highly knowledgeable of the fishing industry in the State of Alaska and with a great concern to improve its regulatory processes. I believe that the given recommendations represent sound advice which will eliminate many of the problems currently associated with operations of the Fisheries Board.

Sincerely,

s/c A. Mathisen
Ole A. Mathisen, Chairman
Board of Fisheries Review
Committee

OM/lmy/jcb
om760/dams7

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1. INTRODUCTION

The effective management of Alaska's fisheries resources is a matter of considerable public concern. Many state residents depend on the harvest of fish stocks for subsistence needs, while commercial fishing is one of the most important segments of the Alaskan economy.

The regulatory system designed and implemented by the Alaska Legislature upon statehood was purposely crafted to provide substantial opportunities for fishermen and other interested members of the public to participate in the regulatory process. This was largely in response to a legacy of federal management, resource depletion, and special-interest bias during the territorial period.

Over the years this commitment to open participation has become an integral part of the regulatory process which the public strongly supports. To quote from the 1987 Senate Advisory Council report on fisheries management:

"It is difficult to emphasize just how strongly many believe that 'participatory democracy' is the essence of Alaska's fisheries management regime. They speak very critically of other systems, such as Canada's Department of Fisheries and Oceans and of the management agencies in California and Washington as bureaucracies which limit or essentially exclude public involvement. The legacy of territorial days during which Congress and federal regulators routinely ignored the concerns of local fishermen is strong."

While public participation is an essential part of the regulatory process, in recent years the virtually unlimited opportunity for such participation, combined with ever-increasing complexity of fisheries issues, has created an almost impossible working situation for the board. To again quote from the Senate Advisory Committee report:

"...many fishermen, past and present board members, and others expressed the conviction that some action to either control the agenda or to enhance the ability to cope with the workload was necessary. They referred to the present system as verging on chaos."

In response to public concern, Governor Cowper appointed a nine-member review committee in October 1987 to evaluate the structure and procedures of the Board of

Fisheries and to recommend changes necessary to facilitate effective management. Members of this committee are:

Ole Mathisen (Chair)	Pete Schaeffer
John Garner	Larry Edfelt
John White	Hank Pennington
Cheryl Sutton	Don Mitchell
Dick Jacobson	

Staff Assistance and support from the Office of the Governor was provided by John Halterman and Sam Stoker. This report was drafted by Sam Stoker based on the committee's deliberations.

In his charge to the committee, the governor instructed the members to address the following questions:

- a. Is the present system of fisheries regulations well suited to meet the challenges posed by an increasing complex utilization of valuable resources?
- b. Is the current Board of Fisheries regulatory process fair, efficient, and responsive? If not, what changes should be made to make it so?
- c. Does the current process integrate all available data, including the most recent biological information, economic considerations, and state fisheries policy, in considering regulatory decisions? If not, what changes are required?
- d. How should board members be selected? Should they represent different gear groups, geographic areas, or knowledge and expertise? What other qualifications should be considered? Should membership to the board require divestiture of a personal economic interest in fisheries regulations? Should membership be a full-time paid occupation?
- e. Does the current process provide for sufficient input from all user groups and regions without discrimination or bias, and does the process promote orderly and efficient review of regulatory proposals? If not, what improvements can be made?

On November 6-13, 1987, the committee met in Anchorage for initial deliberation and for receipt of public testimony through a statewide teleconference. On February 4-5 the committee reconvened in Juneau to finalize its discussion and recommendations. The content of these hearings and deliberations are summarized in the following report.

2. IDENTIFICATION OF PROBLEMS

The number and diversity of problems, real or perceived, which have been attributed to the board and its processes over the years are myriad and nearly all-inclusive. Many of the present problems with the board derive from the increasing value of the resource, consequent competition for that resource, acknowledgement and definition of competitive user-groups, and better organization and lobbying pressure on the board from these user groups.

The following outline of problems and suggestions relating to the board is summarized from written comments received by the Governor's Office, a recent public teleconference in Anchorage, deliberations of this committee, and recent reports from the Board of Fisheries and the Senate Advisory Council.

a. Policy:

- o Inadequacy of statewide fisheries policy, resource assessment documents and area management plans for use by the board.

b. Regulatory Process:

- o Relationship of the board to relevant agencies.
 - (1) ADF&G
 - (2) Local advisory committees and regional councils
- o Accountability and documentation.
- o Criteria and guidelines for regulatory decisions.
- o Reliability, applicability and consistency of information supplied to the board.

c. Structure of and appointment to the board:

- o Full-time "professional" versus part-time "lay" board concept.
- o Creation of regional boards.
- o Division of boards by resource category.
- o Process of and criteria for appointment to the board.

- o Conflict of interest and special interest bias by board members.
 - (1) divestiture of financial interests
 - (2) disclosure of financial and other interests
- d. Staff support for the board.
- e. Proposal submittal and review.
 - o Length of board meeting.
 - o Criteria for submittal and screening of proposals.
 - o Role of advisory committees and regional councils.
 - o Public access to the regulatory process
 - o Level of autonomy and authority of advisory committees and regional councils.

3. RECOMMENDATIONS OF THE COMMITTEE

The following were approved by the committee as recommendations to the governor. Many of these recommendations may also apply to or affect the Board of Game.

3.1 Policy:

(a) To a large extent the Board of Fisheries has been delegated the task of regulating the take of fish stocks without specific guidance in the form of comprehensive fisheries policy adopted by the legislature, which has the authority and responsibility to provide such guidance, pursuant to Article 8, Section 2 of the Alaska Constitution. The committee recommends therefore that the legislature and the governor develop more specific fisheries policy in order to direct and assist the Board of Fisheries in its decision making process.

(b) Objectives of the board should be to prepare, in cooperation with staff of the Department of Fish and Game, resource assessment documents (RADs) and develop and implement area management plans (MPs) for geographic areas which represent ecological systems or entities in so far as such can be defined by available data. The timing and priority for development of these RADs and MPs should be consistent with state fishery policy as defined by the legislature and/or the governor. Biological data contained in the RADs and MPs should have confidence limits or at least degrees of reliability clearly delineated so that all parties understand the biological risks associated with particular management and allocation decisions by the board. Ultimately, all regulatory proposals should be offered as amendments or revisions to management plans and considered against the objectives of those plans.

RADs and MPs should be updated on a biannual basis to incorporate new information, and should be made available to all segments of the regulatory system. Management plans should be promulgated for the purpose of developing both short-term and long-term sustained harvest and allocation policy addressing subsistence, commercial, sport and personal use needs as well as incidental catch.

The authorship of RADs and MPs and amendments to them should be noted and dated.

3.2 Regulatory Process

(a) The committee supports the board's return to a two-year cycle for proposal submittal and review, by alternate area, except as otherwise provided for.

(b) The board should address each section of the regulations as advertised, and should provide timely and public notification in the event of reconsideration or change of schedule.

(c) The location of board meetings should be determined by the board, based upon considerations of cost and efficiency, with the provision that adequate and timely notification of such decisions be made public.

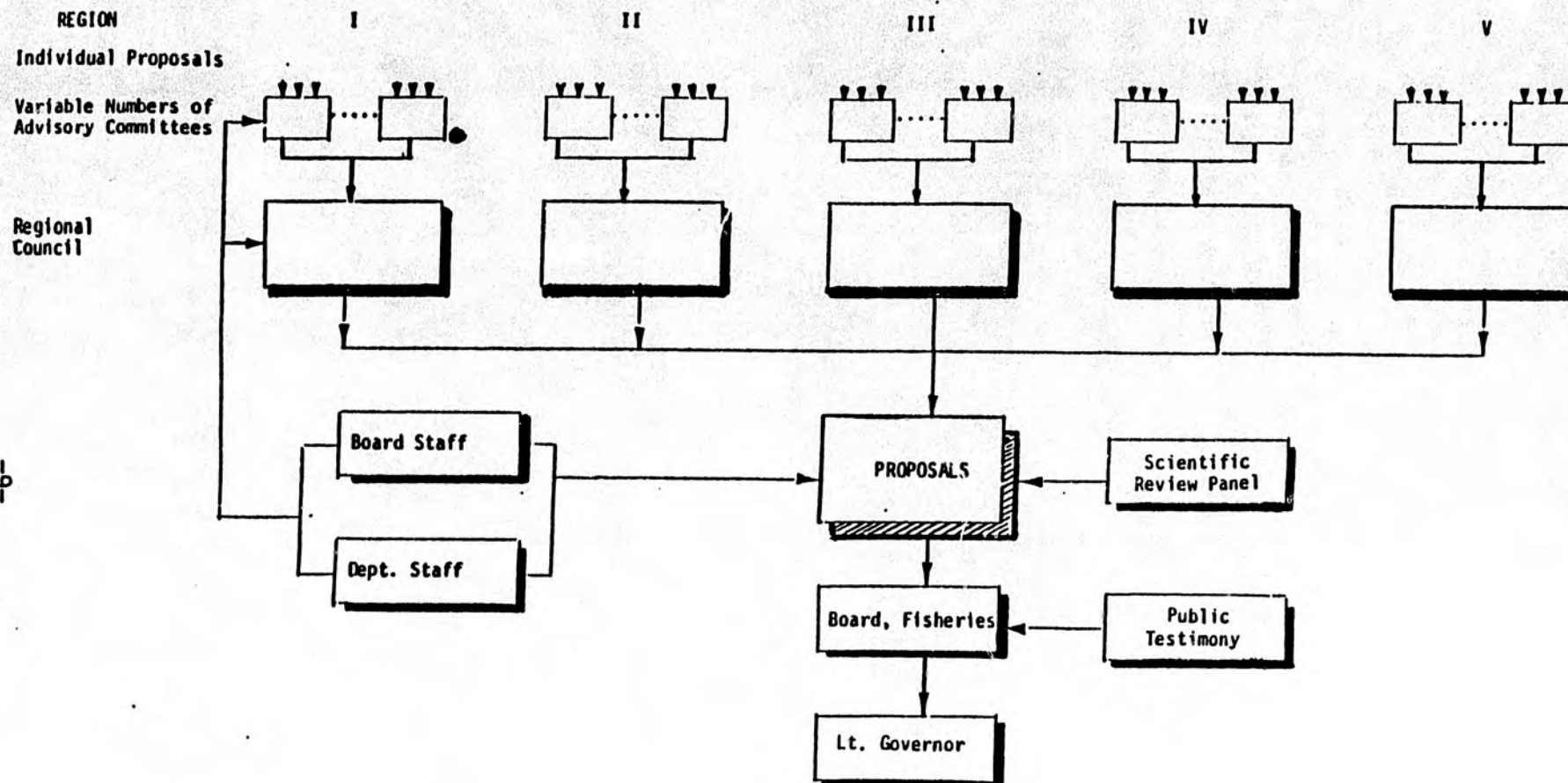
(d) In addition to the biannual cycle for proposals by area, all regulatory proposals should be submitted sufficiently in advance of board meetings to accommodate adequate review according to an established schedule similar to the following:

<u>Finfish</u>		<u>Shellfish</u>
January 1	Department proposed RADs and MPs should be published and distributed	January 1
February 1	deadline for submittal of proposals	May 1
March 1	deadline for publication and distribution of proposals	June 1
March 15	deadline for submittal of written comments relating to proposals, and meetings of Local Advisory Committees to discuss RADs and MPs	June 15
April 15	deadline for written comments on RADs and other proposals	September 15
May 15	meetings of regional councils for debate and comment on proposals	October 15
September 1	regional council meetings to review proposals for which new information has been acquired, with participation by the board and Department staff	November 1
October 1	deadline for submittal of recommendations by the regional councils	February 1
November 1	Board meeting	March 1

3.3 Appointment to the Board:

(a) The governor should appoint persons to the board who concur with and agree to implement state fishery policy. Such persons are expected to be knowledgeable and

ALASKA DEPARTMENT OF FISH & GAME
Flow Chart of Regulatory Process



experienced concerning aquatic renewable resources and their uses in Alaska.

3.4 Structure and Composition of the Board:

(a) After lengthy deliberation the majority view of the committee was that a full-time professional board is not necessary at this time and that the present lay board system should be retained. Other recommendations relating to this decision are as follows:

(b) Board of Fisheries appointments should be salaried, part-time positions within the state employee system.

(c) Appointment to the board should not require divestiture of financial interests in fisheries or fishery-related businesses. Board members, however, should not hold concurrent positions as officers or directors, paid or unpaid, of professional fisheries organizations.

(d) Members of the Board of Fisheries should be required to provide full public disclosure of interests, financial or otherwise, in fisheries related businesses or organizations. The board's current abstention policy should be maintained.

(e) Any member of the Board of Fisheries convicted of a violation of fish and game regulations should be subject to automatic removal. A minority of the committee felt a board member should be removed only for an intentional violation.

3.5 Ex parte Communication:

(a) Members of the Board of Fisheries may not have ex parte communication relating to regulatory proposals during meetings of the Board of Fisheries which they are attending, including periods of recess. Board members have the obligation to inform the public of this prohibition if improperly approached, and to disclose such approaches as soon as the board reconvenes. Failure to do so should be considered grounds for automatic removal of the board member. A minority of the committee felt that automatic removal was too severe.

In recognition of limitations which this places on the board and the public for information exchange, the committee recommends that chairpersons of advisory committees be allowed to participate in deliberation of issues relating to their areas at the discretion of the Board chairperson.

3.6 Documentation:

(a) The Board should provide written documentation which identifies evidence in the

administrative record upon which it relied in arriving at all decisions, along with a summary of reasons for such decisions. This administrative record should also include the voting record of board members on each decision.

3.7 Support Staff

(a) The executive director of the Board of Fisheries should be a partially exempt position, and should be hired and fired by mutual consent of the Board of Fisheries and the Commissioner of the Department of Fish and Game.

(b) The board should prepare and submit its own budget to the Governor for staffing and annual expenses.

(c) A professional staff, serving exclusively the board, should be hired and fired by the executive director of the board and should consist of partially exempt positions within the state employee system.

(d) Staff needs of the Board of Fisheries, as determined by its executive director, should be consistent with the recommendations of this report and the statutory duties of the board. The committee recognizes the need for both full and part-time staff to provide biological and socioeconomic advice as required.

(e) In addition to salaried staff, there should be appointed a non-salaried scientific review panel representing socioeconomic as well as biological, statistical and oceanographic areas of expertise. Funding for travel and expenses should be provided as necessary by the Board of Fisheries.

3.8 Criteria and Policy for Allocation:

The board should regulate personal use, subsistence, sport and commercial fisheries for long-term sustained utilization and with sufficient regulatory stability to facilitate efficient management and fair and reasonable utilization of such resources. In this context it is recognized that changes in biological, ecological, social and economic conditions may necessitate corresponding changes in allocation among the various user groups. In order to facilitate rational decisions by the board affecting such allocation, it is recommended that the following policy and criteria be adopted:

Management plans and regulations which allocate fishery resources among personal use, sport and commercial interests should: