

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2616 SCOMM 114: HOUSE SPEC. COMM ON FISHERIES, 1999-2000

generating an additional and unnecessary State bureaucracy.

Consistent with its grant of only a privilege, the State through CFEC, retained control over all transfers. A permit holder may transfer his permit only upon approval by CFEC. AS 16.43.170. To ensure against intemperate transfers, the legislature requires a 60-day waiting period before a permit may be transferred. A fisherman may revoke an agreement to transfer any time during this 60-day period. A number of legal requirements must be satisfied before CFEC will approve a transfer. AS 16.43.170; 20 AAC 05.710.

Generally, AS 16.43.150(g) prohibits involuntary transfer requiring that an entry permit may not be "attached, distrained, or sold on execution of judgement or under any other process or order of any court." Additionally, a fisherman may not pledge his entry permit as security for a debt. (The legislature recognized that the absence of a property right might impair a fisherman's ability to obtain financing for the purchase of a permit and his fishing operation, and, therefore, established two State authorized loan programs. AS 16.10.333-16.10.377; 44.81.271; and 44.81.230-44.81.250.) Just as a fisherman could not, contrary to State law, create a security interest in his fishing privilege, neither can a creditor.

The legislature recognized that a fisherman's earnings were seasonal and subject to many variables from year-to-year beyond control (for example, weather, predation, and interception). If creditors with short term objectives were allowed to treat an entry permit as a fungible item of property and to seize and force its sale, a fisherman without other means of earning a living, together with those dependent upon him, could well be left destitute. In Alaska, where many communities in remote areas of the State depend upon commercial fishing as the primary basis for their cash economy, this is a very real possibility. [The legislature notes that the Social Security Administration has acknowledged the wisdom of Alaska's approach by recognizing that an entry permit is essential to self-support, and, therefore, by not considering the market value of a permit as an alternative resource in determining an individual's eligibility for Supplemental Security Income benefits. 50 Fed. Reg. 42683, 42685 (1985).]

Although the State of Alaska could not countenance a system that inexorably would sever fishermen from the source of their livelihood, nonetheless, as a privilege, the legislature has made clear that an entry permit is subject to forfeiture, if its holder fails to abide by the applicable laws. See, for example, AS 16.05.480; 16.05.665; 16.05.710; 16.43.960; 16.43.970. Ultimately, because it has granted to fishermen only a revocable privilege, the State retains the dominion and control necessary to protect and manage its fishery resources.

In conclusion, compelling State interests were served, when the legislature rejected the idea that an entry permit represent a property right belonging to the permit holder. Instead, the legislature chose to establish an entry permit as a mere privilege, subject to State control, and revocable at the will of the State without compensation.

In this manner, Alaska established fundamental policies through its comprehensive fisheries management system. Alaska directed the benefits of the system to individual fishers dependent on the resource (as opposed, for example, to processors, banks, and investment companies). From its unique circumstances giving rise to statehood, Alaska has attempted to protect individual fishers from economic coercion by nonfishers and from forced loss of their livelihood.

When too many participants threatened sustained yield and caused economic distress among fishers, Alaska established limited entry, but not an exclusive right or special privilege of fishery. AS 16.43.150(g) ensures individual fishers are fully accountable only to the state, so no third party can pressure or influence their commercial fishing activities. Consider, Alaska manages more fishery resources and more coastline than exist in the rest of the United States combined. Currently, Alaska has some 54 enforcement officers in the field. Alaska requires complete authority over fishing activities to ensure compliance with regulations necessary for sustained yield. The risk of losing fishing privileges is a critical incentive to comply with Alaska's requirements for sustained yield of its fisheries.

And Alaska's requirements are many. See, for example, AS 16.05; AS 16.10; AS 16.40; AS 16.43, and regulations adopted thereunder. As sovereign, Alaska closely regulates its fisheries, as necessary, to open and close fishing seasons, to prohibit fishing, to limit the size of vessels as well as type and amount of gear, to restrict areas of fishing, to limit the amount of harvest, to ensure escapement, to impose strict liability for certain fishing offenses, to board vessels without warrants, and to forfeit permits, vessels, gear and catch.(21)

salmon fishery through the limited entry system.

Nevertheless, the report recognizes limited entry would become a destabilizing influence in the area if permits are sold outside the area. It also notes the risks of open access fisheries:

The limited entry permit system is the other powerful force at work in the region. The loss of commercial permits to outsiders by sale alienates the local society from its resource base. With the development of the fisheries, the market value of commercial permits increases, making sales for short term gain more attractive. The opening of new commercial fisheries without limits on outside competition holds the potential for degradation of the resource or loss of the value of the resource to more heavily capitalized competitors. Further, the need to preserve a commercial resource from over-exploitation requires the application of restrictive management systems from state or federal agencies.

In summary, commercial fishing provides one of the few sources of cash income in many isolated rural fishing communities. Cash is needed in these villages both to purchase basic necessities and to purchase gear and equipment needed for subsistence harvests. Limited entry helped stabilize a source of monetary income through the initial allocation of entry permits to applicants in those communities and by preventing the dilution or destruction of that economic base through the influx of large numbers of outsiders.

The State of Alaska must preserve the economic base in such isolated rural fishing villages. With declining oil revenues, State subsidies in such communities may decline by necessity in the near future. Furthermore, Alaska is becoming increasingly responsible for the economic welfare of its citizens as the Federal government significantly downsizes its activities (in part, through reductions in public assistance) in order to balance the Federal budget. The fragile economic base in these communities is of vital importance.

Any substantial loss of permits in these villages would be devastating. Large-scale seizure of entry permits by the IRS and sales to outsiders pose such a threat to the economies of many rural fishing villages. The widespread poverty in many of these villages and the lack of cash and/or available credit means persons within such villages likely would be unable to compete with outsiders at IRS permit auctions.(28)

B. IRS has Targeted Individuals in Rural Alaskan Communities.

1. IRS asserts "unlimited supply" of limited entry permits to sell.

a. IRS data.

For more than ten years, the IRS has declared its intention to seize and force the sale of limited entry permits, making the state aware the problem is extensive throughout Alaska and heavily concentrated in isolated rural communities. As former Chief of Collections for the IRS, Dave Tucker, announced(29) in 1994: "we have an unlimited supply of entry permits to sell."

Mr. Tucker estimated as many as 4,000 limited entry permits held by Alaskans could be at risk of IRS seizure due to failure to file tax returns and failure to pay federal tax obligations.(30) Four thousand limited entry permits would constitute roughly 40% of all permits held by Alaskans.(31) The primary source of this supply of limited entry permits is rural Alaska.

In response to repeated requests from the State, in November of 1993, the IRS provided more specific estimates to the Entry Commission. Exhibit I This limited view(32) shows as many as 26%(33) of Alaska resident limited entry permit holders(34) had failed to meet some federal tax obligations. The majority of individuals did not owe an overwhelming amount of taxes. Among those not in compliance, the IRS estimated 74% owed \$10,000 or less, and 86% owed \$20,000 or less. Because some of these figures are derived from IRS forced filing of returns when an individual has not filed, the amount owing likely would be much less upon filing of actual returns with full deductions for actual expenses.

Most disturbing is the focus on isolated rural fishing communities throughout Alaska. Among others, the IRS report singles out the Dillingham, Bethel, and Wade Hampton 1990 census districts as serious problem areas.(35)

b. A glimpse behind the data.

YEAR TOTAL PERMITS GROSS AVERAGE FEDERAL PERMITS FISHED EARNINGS FISHING TAX GROSS DUE(40)

1989	60	53	\$196,690	\$3,711	0
1990	63	45	72,410	1,609	0
1991	52	42	104,522	2,489	0

c. IRS summons: a snapshot of IRS' enforcement targets.

In the summer of 1992, IRS served the Limited Entry Commission with an extensive summons demanding earnings records for more than 2,500 fishers(41) IRS stated(42) the individuals targeted by the summons were limited entry permit holders who failed to file returns for the year 1992. The information conveyed by the summons(43) is only a snapshot in time: it represents only part of the problem. As such, we need to cautiously view this information as the tip of an iceberg.

We extracted the following data from the summons to highlight the number of individuals targeted in the particular census districts and communities mentioned in the previous subsection.

Census Area	Village(s)	Number of Individuals Targeted by IRS Summons
Dillingham Census Area	Togiak	69
	Other Dillingham area communities	149
	TOTAL	218
Bethel Census Area	Kipnuk	15
	Other Bethel area communities	248
	TOTAL	263
Wade Hampton Census Area	Hooper Bay	18
	Other Wade Hampton area communities	224
	TOTAL	242

2. IRS permit seizures cause significant hardship.

a. Isolated Alaskan fishing villages depend upon commercial fishing for their survival.

All of these data underscore the importance of commercial fishing as a source of livelihood for Alaskans in many isolated fishing villages.(44) The loss of permits would reduce the monetary income of permit holders, their crewmembers, their families and households, and others in the community sustained through the village's non-commercial sharing networks.

The loss of permits and commercial fishing income would push more residents below the poverty level and increase the community's dependency on public assistance. The loss of commercial fishing income would also reduce the community's ability to purchase the gear, equipment, and supplies needed to harvest subsistence foods for survival.

b. Seizing entry permits undermines a purpose of limited entry (and may not be in the national interest).

(1) United States' special relationship to Alaska Natives

Many villages are populated largely by Alaska Natives engaged in a "mixed, subsistence-cash" economy. Commercial fishing is one of the few sources of monetary income available to people in many of these villages.

Monetary income from commercial fishing is for basic necessities and is used to purchase the gear and equipment required to harvest subsistence food needed for basic survival. Permit holders, their crewmembers, their families and households, and others who are sustained through non-commercial sharing networks would all suffer from the loss of their commercial fishing economic base.

flow of tax revenues to the U.S. Treasury.

3. IRS and CFEC experience in villages.

IRS statistics highlight isolated, rural Native Alaskan villages. Communicating with villagers has always been difficult for distant governmental entities (including our own). For example, every attorney attempting to work within these communities has experienced a similar problem. Commonly, a resident produces a small stack of official letters. The correspondence is invariably years old and unanswered. At an earlier time, the letters were often from the U.S. Department of Interior informing the village resident of the necessity to respond within thirty days or lose the resident's claim to land.

In short, for a variety of reasons, including isolation, culture, language, and lack of formal education, the individuals did not have the capacity to answer such a letter.(51) The inherent risk in governmental communications is for a distant bureaucrat to assume the individual who did not respond to the letter is a bad actor who requires a harsher measure to get his attention.(52)

Going to a village and meeting the individual can quickly dispel such a notion. Recently, Charles M. Stromme, Chief of Special Procedures for the IRS in Alaska.(53) returned from a regional village meeting held in Kasigluk (an Alaska Native village on the Yukon-Kuskokwim Delta) and announced, "my God, we're trying to collect money from people who don't even know we exist!"(54)

Individual insight, however, may not curb a bureaucratic agenda. At least one IRS supervisor has stated limited entry permit seizures should target lower valued limited entry permits in Western Alaska (representing less valuable commercial fisheries), because such lower valued permits are less likely to be rescued from the enforcement process by legal means, and, thereby, IRS could more quickly obtain ultimate legal victory over the State of Alaska.(55)

At a time when IRS is facing severe budget reductions and responding with dramatic consolidation, we fear such a bureaucratic agenda may prevail.(56)

4. State of Alaska and IRS cooperation.

In the face of IRS' threat, the state has extended itself to help IRS achieve tax compliance and avoid IRS seizures of limited entry privileges. In turn, the IRS has supported and joined these efforts. Under the leadership of IRS' District Director Michael R. Allen,(57) the IRS in Alaska committed resources to work with individual fishers to achieve voluntary compliance. The state has encouraged and joined in this effort as have private parties.(58)

The State Division of Investments (which manages the Tax Obligation Loan Program) and the Commercial Fishing and Agriculture Bank (CFAB) represent arms of the state established by the Alaska Legislature to avoid economic distress to fishermen and those who depend upon them for a livelihood. State employees have worked hand-in-hand with IRS employees to visit Rural Alaskan communities helping individuals understand and meet their tax obligations, often with the help of the State's Tax Obligation Loan Program. In slightly over a year during which the program has functioned, the state has committed more than \$3.6 million through the Tax Obligation Loan Program. This amount represents revenue the IRS would not likely have received but for the direct effort of the state.

Private individuals have helped as well. The Alaska Business Development Center works with individual permit holders throughout the state. In the Bristol Bay area, the Bristol Bay Economic Development Corporation together with the Bristol Bay Native Association have funded an office to work with local permit holders. In Western Alaska, other regional economic development corporations are looking at the Bristol Bay model in order to develop similar projects. In support, the Division of Investments, the University of Alaska, the Alaska Business Development Center, and the IRS are developing a plan through Volunteer Income Tax Assistance (VITA), to place accounting students in rural communities to assist individuals to meet their federal tax obligations.

That no individual or public officer can sell, and convey good title to, the land of another, unless authorized to do so by express law, is one of those self-evident propositions to which the mind assents, without hesitation; and that the person invested with such power must pursue with precision the course prescribed by law, or his act is invalid, is a principle which has been repeatedly recognized by this court.

2. Federal tax lien.

A lien arises by operation of law upon "all property and rights to property, whether real or personal, belonging to such person" where (1) a tax assessment has been made; (2) a taxpayer has been given notice of the assessment, stating its amount, and demanding payment; and (3) the taxpayer has failed to pay the amount demanded within ten days after the notice and demand. IRC 6321; Saltzman, *IRS Practice and Procedure*, 14.05 (2d ed. 1991). This tax lien does not seize or deprive the taxpayer of his property. It is merely a claim against the taxpayer's property comparable to a Uniform Commercial Code lien of a private creditor. H.R. Rep. No. 1884, 89th Cong., 2nd Sess., 1966-2 CB 815; Saltzman, *supra*, 14.04 (2d ed. 1991).

3. Enforcement of federal tax lien.

The IRC provides the government with two methods to enforce the lien: (1) as in the case of Mr. Carle, it may levy, and sell the property administratively without judicial intervention pursuant to IRC 6331-6343 or (2) it may institute suit to foreclose the lien pursuant to IRC 7403. *U.S. v. Hemmen*, 51 F.3d 883, 887 (9th Cir. 1995); Saltzman, *supra*.

4. Statutory administrative levy and sale provisions.

The statutory authority for the IRS to levy upon and administratively sell property of a delinquent taxpayer is contained in the Internal Revenue Code (IRC), Subchapter D, Chapter 64, Subtitle F, in particular 6331 "Levy and distraint," 6335 "Sale of seized property," 6338 "Certificate of sale; deed to real property," and 6339 "Legal effect of certificate of sale of personal property and deed of real property." Related provisions are contained in Subchapter C, Chapter 64, Subtitle F governing liens for taxes, in particular 6321 "Lien for taxes" and in Subchapter A, Chapter 76, Subtitle F, governing civil actions brought by the United States, in particular 7403 "Action to enforce lien or to subject property to payment of tax."

In their relevant parts, we have set out the controlling federal statutes in this section.

IRC 6331(a). [in part]

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.

IRC 6331(b). [emphasis added]

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

6335(e)(1)(B). [in part, emphasis added]

If, at the sale, one or more persons offer to purchase said property for not less than the amount

required condition necessary before the IRS was entitled to administratively sell such property. Specifically, the IRS levy did not affect Mr. Carle's right, as a permit holder, to fish under State law. Alaska Statutes, Title 16, Fish and Game.

6. Administrative sales and the plain language of statutes.

Controlling law in this circuit makes clear in conducting an administrative sale, the government must strictly comply with 6335. Anderson v. U.S., 44 F.3d at 801 (holding where a sale was postponed or adjourned for a period in excess of 1 month in violation of 6335(e), the sale was invalid); Goodwin, 935 F.2d at 1065 (holding that failure to give the notice as required by 6335(a) invalidated a sale notwithstanding that the delinquent taxpayer had actual notice of the sale).

Section 6335(e) gives the IRS three possibilities at the time of sale: sell the property, buy it, or release it. Anderson, 44 F.3d at 800. The statutory language is clear that the IRS shall: (1) if a bid is made that equals or exceeds the minimum price set by the IRS, declare the property sold to the highest bidder [6335(e)(1)(B)]; and (2) give the purchaser a certificate of sale upon payment of the full price [6338(a)]. The use of the word shall leaves no room for discretion. Anderson, 44 F.3d at 799.

Specifically, the IRC requires such property "shall" be declared sold to the highest bidder at the sale. Also, the applicable federal regulations provide the property shall be sold by the IRS "as is" and "where is" and "without recourse" against the IRS with "no guarantys (sic) of warranty, including the validity of title". 26 C.F.R. 310.6335-1(c)(iii). Contrary to the explicit requirements of the IRC and the applicable regulations, the IRS conducted a sale of Mr. Carle's property subject to the condition that CFEC transfer Mr. Carle's permit to the successful bidder. The IRC does not authorize the IRS to sell Mr. Carle's property subject to the condition that the State transfer Mr. Carle's permit to the successful bidder. IRC 6335(c)(1)(B); IRC 6338(a); IRC 6339(a)(2). Accordingly, the sale is invalid under IRC as interpreted by our Ninth Circuit Court of Appeals in Anderson and Goodwin.

C. Conclusion.

In its application to transfer Mr. Carle's entry permit, IRS has raised other issues we will discuss briefly in the following section. However, at this point we conclude we must deny the requested transfer of Mr. Carle's fishing privilege. For lack of federal statutory authority, the administrative levy and sale (upon which the transfer request is based) appears to be ineffective.

V. OTHER ISSUES RAISED BY IRS.

A. Claim by IRS State Law Invalid.

In making this application, the IRS rejected the procedure required by the state⁽⁶⁴⁾ as follows:

The IRS has not completed the Request for Permanent Transfer of Entry Permit Due to Involuntary Action form as the restrictions set out in A.S. 16.43.170(g)(6) and (h) are not applicable to transfer requests by permit holders and are invalid to the extent they interfere with revenue collection. Perez v. Campbell, 402 U.S. 637, 649 (1971).

Perez v. Campbell, 402 U.S. 637, 29 L.Ed. 2d 233, 91 Sup. Ct. 1704 (1971), does not stand for the principle that state laws "are invalid to the extent they interfere with revenue collection." The IRS was not a party to Perez, and the IRC was not at issue in Perez. The case presented the U.S. Supreme Court with a glaring conflict between a specific state law and federal bankruptcy law. In short, federal bankruptcy law discharged debts in order to provide a fresh start for the debtor. 29 L.Ed. 2d at 241. Directly to the contrary, the state law in question provided certain judgment debtors were not relieved of liability by a discharge in bankruptcy. Id. at 238. The five-member majority stated the court must proceed by a 2-step process: (1) look for authoritative construction of the two statutes (federal and state); and (2) determine whether they are in conflict. Id. at 239. With ease, the court found "both statutes authoritatively construed" and concluded they were in direct conflict. Id. Due to direct conflict, the state law violated the Supremacy Clause of the Constitution and was preempted.⁽⁶⁵⁾

The word "property" is commonly equated with "things". However, in its true sense, property is a cultural concept that serves to order relations between people in organized societies. As noted legal philosopher Morris Cohen⁽⁶⁹⁾ observed (emphasis added):

Whatever technical definition of property we may prefer, we must recognize that a property right is a relation not between an owner and a thing, but between the owner and other individuals in reference to things.

The U.S. Supreme Court and the lower federal courts routinely recognize that, although the IRC sets forth the rules to assess and collect taxes on property, the IRC does not create property; rather, property is created by non IRC law. *U.S. v. Bess*, 357 US 51, 55 (1958); *Aquilino v. U.S.*, 363 US 509, 512 (1960); *U.S. v. Durham Lumber Co.*, 363 US 522, 526 (1960); *U.S. v. Rodgers*, 461 US 677, 683 (1983); *U.S. v. National Bank of Commerce*, 472 US 713, 719-720 (1985); *In re Tergwillinger's Catering Plus, Inc.*, 911 F. 2d 1168, 1171 (6th Cir. 1990) cert. den'd *Ohio Department of Taxation v. I.R.S.*, 111 S. Ct. 2815 (1991); *In re Kimura*, 969 F. 2d 806, 811 (9th Cir. 1992). Alternatively stated, property may not be created under the IRC for the sole purpose of federal seizure. *U.S. v. California*, 281 F. 2d 726, 728 (9th Cir. 1960).

Lower federal courts addressing the issue have tended to treat the license as a tangible thing (like a car) or have addressed only disposition of proceeds after a license has been transferred by a government regulator. Few courts have considered whether a federal tax lien specifically attaches itself to the license itself, or the use and enjoyment thereof, the qualified right to request the state to transfer the license, or the proceeds thereof.

Since the *Lorentzen* ruling⁽⁷⁰⁾ that an entry permit represents "property or rights to property" under the IRC, a new line of cases concerning FCC licenses has analyzed the various relationships a licensee may have with third parties and what interests those relationships may affect. The analysis addresses some of the court's remaining questions posed to the parties at the conclusion of the *Lorentzen* case.

The threshold case, *In re Ridgley Communications, Inc.*, 139 B.R. 374, 377-379 (Bkrtcy. D. Md. 1992), held a third-party creditor of the licensee may not assert a property right to force the sale of the license against the government issuer and explained its reasoning as follows:

[A] license confers certain private rights upon the licensee and that these rights may be sold for profit to a private party, subject to Commission approval. [The] rights between licensees and the Commission are to be distinguished from rights between the licensee and a private third party. It is this distinction that permits a licensee to receive a profit from the transfer of a license to a third party.

...

The case of *In re Jewel F. Smith*, 94 Bankr. 220 (Bankr. D. Ga. 1988), [held] a creditor could not take a security interest in the debtor's broadcast license.

...

In *Smith*, the creditor sought to abrogate the rights of the licensee, i.e., its ability to freely initiate a transfer of a license. The right to initiate a transfer is a right granted by the terms of the license and is seriously impaired if it is subject to the dictates of a creditor This interference in the relationship between the licensee and the [FCC] is precisely the evil the FCC was attempting to avoid by the terms of its policy against the recognition of security interests

...

[I]n the instant case [the creditor] is not asserting any interest in the rights of a licensee with respect to the FCC. The right to transfer is a right between the FCC

PBR Communications, 172 B.R. 132; Beach Television Partners, 38 F.2d 535.

Furthermore, the FCC's distinction between the license and the licensee's right to receive proceeds from an FCC approved transfer of it is the distinction between a privilege as between the licensee and the FCC and a property right as between the licensee and third parties, such as creditors. See also, U.S. v. Berkshire Street Railway Co., 219 F.Supp. 861 (DC Mass. 1963) (IRS may not enjoin Commonwealth of Massachusetts from discharging a sovereign function to revoke a franchise from the Department of Public Utilities, because the franchise was a privilege, not property); Tak, 985 F.2d 916 (As a privilege, not property, an FCC license is neither part of the bankrupt's estate nor property to which a UCC security interest may attach). Compare Brown v. Baker, 688 P.2d 943 (Alaska 1984) (A promise to retransfer an entry permit is an attempt to create a security interest in the permit and illegal under AS 16.43.150(g) and, therefore, will not be enforced by the courts); Pavone, 860 P.2d 1228.

The IRS accepts FCC policy enunciated in Chasky, 9 FCCR at 987, and does not conduct IRS administrative levy and sales of FCC licenses. The Internal Revenue Manual (IRM) directs IRS employees as follows:

56(16) 4 FCC Broadcasting Licenses

(1) Administrative seizure and sale of FCC broadcasting licenses are not feasible due to the difficulties involved in the transfer of ownership without the approval of the Federal Communications Commission. However, levy against other assets of the taxpayer business is still appropriate. Such seizures should be handled on a routine basis. As is the case with any issue of a sensitive nature, management should be apprised of pertinent developments.

Although the IRM does not have the force of law, see Anderson, 44 F.3d at 799, the IRS "manual provisions do constitute persuasive authority as to the IRS' interpretation of the IRC." Grissold v. U.S., 59 F.3d 1571, 1576 n.8 (11th Cir. 1995).

b. Nature of an Alaskan limited fishing privilege.

In Alaska, fish within the jurisdiction of the state are reserved to the people for their common use and no person may have an exclusive right in fishery resources. Article VIII., Section 5, and Section 15, Alaska Constitution. Limited entry permits do not confer an exclusive right or a special privilege of fishery upon the holders: they are a use privilege authorized under Article VIII., Section 15. Accordingly, no person may assert a property right against the State of Alaska to fishery resources.(72) State v. Hebert, 803 P.2d, 866 (Alaska 1990). The permission granted in itself represents only a revocable use privilege. AS 16.43.150(e).

As such, the permission itself is not property. AS 01. 10.060; AS 16.43.150(e); In re Harrell, 73 F.3d at 220. The nature of the permission conferred upon the holder is designed to serve fundamental purposes of the State of Alaska. To avoid economic harm, Alaska ensures access to fisheries by those dependent upon them. The State maintains and requires complete control over the holders and corresponding accountability of the holders solely to the State, free from direct economic coercion, in order to ensure compliance with laws regulating Alaska's geographically vast and biologically complex fisheries. The state reserves control over the use of the privilege that may be transferred only by the state. AS 16.43.170.

The state does not confer but reserves and strictly prohibits encumbrances, retained rights of repossession, and involuntary transfers. AS 16.43.150. These reservations attached to the permission serve the State's fundamental purposes and can not stand alone any more than the Limited Entry Act can stand apart from the state's comprehensive fisheries management system.(73)

Kimura, supra at 812, held(74) the state could impose transfer conditions on a license for the state's own benefit and did not limit the benefit to money:

by: _____



Teleconference Participants

TCN: 10323

Participant List

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Testifiers



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Participants

Unidentified Testifiers:

0

Unidentified Observers:

0

DILLINGHAM (DLG)

1

Name: Mr. Jerry Liboff

Phone:

Address:

Affiliation:

City / St / Zip:

Type: Testifier

Bill: HB 238: TAX OBLIGATION LOAN PROGRAM FOR FISHERS

2

Name: Mr. Terry Hoeffler

Phone:

Address:

Affiliation:

City / St / Zip:

Type: Testifier

Bill: HB 238: TAX OBLIGATION LOAN PROGRAM FOR FISHERS

SCOMM

114:14

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 333

Revision Date/Time (Note if correction)	Dept. Affected <u>Fish and Game</u>
Title <u>Classification of Dive Fishery Assessments</u>	BRU <u>Commercial Fisheries</u>
Sponsor <u>House Rules Committee</u>	Component <u>Special Projects</u>
Requester <u>House Fisheries Committee</u>	Component No. <u>1943</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	60.0	60.0	60.0	60.0	60.0	60.0
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	140.0	140.0	140.0	140.0	140.0	140.0
Supplies	48.0	48.0	48.0	48.0	48.0	48.0
Equipment						
Land & Structures						
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous						
TOTAL OPERATING	328.0	328.0	328.0	328.0	328.0	328.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1108 Stat/Des Program Receipts						
1037 GF/Mental Health						
Other (Non-GF Program Receipts)	328.0	328.0	328.0	328.0	328.0	328.0
TOTAL	328.0	328.0	328.0	328.0	328.0	328.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill does not appropriate any funds. It specifies that dive fishery assessments, as authorized by Chapter 90, SLA 1997, are to be accounted for separately and specifies that the appropriation of the dive fishery assessments is not from the unrestricted general fund. Dive fishery assessments are a self-imposed tax in addition to the fisheries business tax. This tax was approved by the affected divers in 1999 and collections began that year. The department estimates that \$328.0 will be collected in FY 2000 for expenditures in the following year. The expenditure of the expected revenue generated by the dive fishery assessments is included in the governor's FY 2001 budget. The funding source for dive fishery assessments in the Governor's proposed FY 2001 budget is statutory designated program receipts. This bill will change that source designation to non-general fund program receipts since this is a self-assessed tax rather than a contractual agreement.

Prepared by: Robert D. Mecum
 Division: Division of Commercial Fisheries
 Approved by: Commissioner Frank Rue
 Agency: Department of Fish and Game

Phone: 465-4210
 Date/Time: 3/24/00 9:29 AM
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Special Committee on Fisheries

5:00 P.M.

Monday, March 27, 2000

Capitol Building Room 124

Representative John Harris, Representative Carl Morgan, Jr., Co-Chairs

- 1. Call to Order**
Today's Date is: March 27, 2000
The time is:
- 2. Roll Call - (Quorum - need 4)**
Representative Harris, Co-Chair
Representative Morgan, Co-Chair
Representative Dyson
Representative Whitaker
Representative Hudson
Representative Kapsner
Representative Smalley
- 3. Identify Teleconference Sites**
Ask moderator to list sites that have persons who wish to testify.
Three-minute testimony will be heard later in the meeting.
- 4. Purpose of the Meeting:**
Request of the Governor, HB 333 "An Act relating to the accounting for and appropriations of the dive fishery management assessment; and providing for an effective date."

Request of the Governor, HB 360 "An act relating to registration for commercial set gillnet fishing sites; relating to leases for shore fisheries development; and providing for and effective date."

Subject: SARDFA contact #'s

Date: Tue, 21 Mar 2000 11:32:57 -0900

From: Kyle Johansen <Kyle_Johansen@legis.state.ak.us>

Organization: Alaska State Legislature

To: Bill Lawrence <Bill_Lawrence@legis.state.ak.us>

Southeast Alaska Regional Dive Fisheries Association, SARDFA
Julie Decker, Executive Director
Gig Decker, Executive Director's Assistant
P.O.Box 2138, Wrangell, AK 99929
Ph: 907-874-3110; Fax: 907-874-4270
gigjulie@seapac.net

Kvichak Setnetters Assoc.

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

27 March 2000

Co-Chairman Harris
Co-Chairman Morgan
Fisheries Committee
Juneau, Ak.

Sirs:

My first contact with the Shore Fisheries Program was 1983 when it was a one-man operation under Ken Roehl. He was absolutely overwhelmed by new applications but did what he could. Rindi Patterson took over a short time later and was given a staff of three. The program progressed light years under her direction. Shore Fisheries waded threw the files and settled the minor disputes. It became a well-run organization working with and for the fisherman. After 5 years she reached burnout. Mostly caused by budget battles. Kathy Duggan was the next in the kettle.

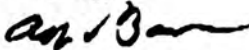
In 1993 fees were raised from \$150 to \$300 to cover the expense of this receipts program which at that time was just over \$200,000. At the time Shore Fisheries still had four employees. Kathy Duggan proceeded to fine-tune the self-paying program. It fit the needs of the fishermen. By the time she left in 1998 only she and Dennis Gall were employed there. Last year it was reduced to only Dennis. The cost of the program other than labor is between \$30-50,000 at most. Fishermen pay in \$360,000 to fund this program. Dennis Gall is now gone. Jennetta Pritchard is now there operating under the new registry system.

HB 360 and SB 258 would gut the Shore Fishery Program yet still collect the \$360,000 funds from the fishermen this voluntary receipts program generates. How the two bills would destroy the program are as follows:

1. No new lease applications and diagrams. Leases are now for 10 years.
2. No amending existing diagrams
3. No renewal of existing leases
4. No conflict mediation
5. No public notices of the new registered sites. The fishermen always paid for these notices anyway. They are crucial in averting conflicts.

What would we be paying for under the new program? No services. I don't know of any setnet organization or setnet fisherman that backs the registry program.

Sincerely,



Al Bauman

President
Kvichak Stenotters' Association

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

TONY KNOWLES, GOVERNOR

3001 C STREET, SUITE 1000
ANCHORAGE, ALASKA 99503-5937

February 23, 1998

Dear Shorefishery Lease Holders and Applicants:

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

To Contact the Shorefishery Unit:

Mailing Address:

At the top of the page

Telephone and E-mail:

Kathy 907-269-8544
Dennis 907-269-8545
Nina 907-269-8543
907-269-8913

kathy_dugan@dnr.state.ak.us
dennis_gall@dnr.state.ak.us
nina_clock@dnr.state.ak.us

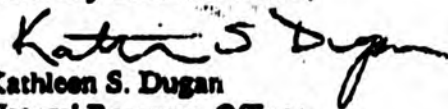
Fax:

Web Page:

<http://www.dnr.state.ak.us>, then select "Division of Land" and then, "Shorefishery Leases."

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

Sincerely and Best Fishes,


Kathleen S. Dugan
Natural Resource Officer

msinfo.98

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510-7005

October 29, 1992

Dear Setnetter:

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

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

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

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

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

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

Sincerely,


Ron Swanson
Director

01000000.100

**Sponsor Statement by Alaska Department of Fish and Game
on House Bill 333
March 27, 2000**

During the 1997 legislative session, HB 198, sponsored by Representative Bill Williams, was enacted into law by the legislature. House Bill 198 allows dive fishermen to form regional dive fishery associations. Once an association is formed and certified by the Department of Fish and Game, HB 198 allows it to conduct an election to determine whether divers harvesting in the region represented by the association wish to pay an assessment on the product they harvest. This assessment, which would be in addition to the other taxes divers pay, was to be used to fund additional research and stock assessment for the purpose of expanding the dive fisheries in the region. A portion of the assessment may also be used to offset administrative costs for the regional dive fishery association.

Since passage of HB 198, one dive association has formed, the Southeast Alaska Regional Dive Fishery Association (SARDFA). An election was conducted by SARDFA in 1999 and the divers approved assessments on geoducks, sea urchins, and sea cucumbers. These assessments are now being deposited in the state treasury. SARDFA and the department are discussing projects that would be funded by the assessments and SARDFA has approached the department about the funding for their administrative costs. Funds for all these are included in the department's FY 2001 budget requested by Governor Knowles.

It is anticipated that the legislature will appropriate the dive fishery assessments being collected in the FY 2001 budget. However, the assessments are currently classified as general funds. Since the legislature is indicating it plans to reduce general funds rather than increase them, it is likely any appropriation of dive fishery assessments will come at the cost of an equivalent reduction in other general funds available to the department.

This was not the intent of the proponents of HB 198, nor is it necessary. House Bill 333 appropriately reclassifies these funds as non-general fund program receipts, since they are recurring revenues generated by the fishing industry. Industry has clearly indicated they desire to have a higher level of government services in the form of enhanced fishery management and research and have shown they are willing to pay for it. House Bill 333 is necessary to fulfill the purpose of HB 198.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4100
FACSIMILE: (907) 465-2332

February 8, 2000

Honorable John Harris
Co-Chair
House Special Committee on Fisheries
Capitol Building, Room 110
Juneau, AK 99801

Honorable Carl Morgan
Co-Chair
House Special Committee on Fisheries
Capitol Building, Room 409
Juneau, AK 99801

Dear Representatives Harris and Morgan:

House Bill 333, relating to the accounting for and appropriations of the dive fishery management assessment, was recently introduced and referred to the House Special Committee on Fisheries. I am requesting you schedule a hearing on this bill as soon as possible.

During the 1997 legislative session, the Legislature passed House Bill 198, sponsored by Representative Bill Williams. This bill provided a means for participants in dive fisheries to form associations and approve special assessments on their catches to fund management and research in the dive fisheries. By 1999 one such association had organized, conducted an election, and approved an assessment.

It is anticipated that the legislature will appropriate the assessments being collected during FY 2000 in the FY 2001 budget. However, the assessments are currently classified as general funds. Since the legislature is indicating it plans to reduce general funds rather than increase them, it is likely that any appropriation of the dive fishery assessments will come at the cost of an equivalent reduction in other general funds available to the department.

This was not the intent of the proponents of HB 198, nor is it necessary. House Bill 333 appropriately reclassifies these funds as non-general fund program receipts, since they are recurring revenues generated by the fishing industry. Industry has clearly indicated they desire to have a higher level of government services in the form of enhanced fishery management and research and have shown they are willing to pay for it.

These questions are fundamentally financial ones, and really have little to do with resource or fisheries management issues. This bill has a finance committee referral, and one course of action available to the Fisheries Committee is to waive the bill from its

February 8, 2000

jurisdiction. Whichever course of the action you decide, we request you give this bill your immediate attention.

Thank you very much for your consideration. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank Rue", with a long horizontal flourish extending to the right.

Frank Rue
Commissioner

cc: Pat Pourchot
Representative Bill Williams
Geron Bruce

Subject: Request hearing of HB 333

Date: Wed, 16 Feb 2000 16:29:59 -0900

From: Gig & Julie Decker <gigjulie@seapac.net>

To: "Morgan, Carl" <Representative_Carl_Morgan@legis.state.ak.us>, "Harris, John" <Representative_John_Harris@legis.state.ak.us>

CC: "Dyson, Fred" <Representative_Fred_Dyson@legis.state.ak.us>, "Hudson, Bill" <Representative_Bill_Hudson@legis.state.ak.us>, "Kapsner, Mary" <Representative_Mary_Kapsner@legis.state.ak.us>, "Smalley, Harold" <Representative_Harold_Smalley@legis.state.ak.us>, "Whitaker, Jim" <Representative_Jim_Whitaker@legis.state.ak.us>

Dear Representatives Morgan and Harris,

I would like to request a hearing of HB 333 as soon as possible.

HB 333 is a non-controversial, technical amendment to the original law signed in 1997 allowing the establishment of regional dive associations with the ability to assess themselves to support the development of their fisheries. HB 333 merely allows the dive assessment to be accounted for separately and appropriated back for the development of the fisheries.

HB 333 is the finishing touch on a progressive law which combines financial and informational resources of industry users and state managers.

SARDFA, the Southeast Alaska Regional Dive Fisheries Association, is the first regional dive association to be created and begin assessing its members under this law. SARDFA has been met with great encouragement and success around the State and country by putting forward its contribution towards the development of its industry in the form of time, expertise and money. Below are some of SARDFA's successes:

- 1) SARDFA has developed an efficient and well respected working relationship with ADF&G and other state officials.
- 2) SARDFA has received a \$60,000 grant from the USDA for its administration of the association and the development of the dive industry.
- 3) SARDFA's Board was instrumental in negotiating and securing \$850,000 of federal funding for research and development of the urchin fishery.
- 4) SARDFA's Board is currently developing \$1,000,000 of federal funding for the geoduck fishery.

It is SARDFA's mission to develop and enhance the Southeast Alaska dive fisheries to a sustainable and economically feasible level, resulting in the best utilization of a State resource for the health of the economy and ecology. In order to continue developing the necessary funding in order to fulfill this mission, SARDFA needs to have assurance that its funding through the dive assessments will be returned by the Legislature in a simple and straight-forward manner.

Please help us secure our funding in order for us to help increase State funding through industry development.

Julie Decker

Southeast Alaska Regional Dive Fisheries Association, SARDFA
Julie Decker, Executive Director, SARDFA
Gig Decker, Executive Director's Assistant, SARDFA
P. O. Box 2138, Wrangell, AK 99929
Ph: 907-874-3110
FAX: 907-874-4270
e-mail: gigjulie@seapac.net

)

SCOMM

114:15

FISCAL NOTEBill Version: HB 360(H) Publish Date: 2/9/00**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____

Dept. Affected _____

Fish & GameTitle An Act relating to registration for commercial

BRU _____

Comm. Fish (Limited) Entry Commissi

set net fishing sites

Component Limited Entry Program AdministrationSponsor RulesRequester Governor

Component No. _____

471**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Roger KoldenPhone 790-6980Division Commercial Fisheries (Limited) Entry CommissionDate/Time 1/8/00 2:26 PMApproved by Commissioner Mary McDonaldDate 1/8/00Agency Commercial Fisheries (Limited) Entry Commission**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No: 2

Bill Version: HB 360

BI (H) Publish Date: 2/9/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date/Time:

Dept Affected: Natural Resources

Title: Self-registration of commercial set net fishing sites

BRU: Minerals, Land & Water Development

Component: Claims, Permits and Leases

Sponsor: Rules Committee

Requestor: Governor

Component No 2460

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
---------------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

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

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

[Cont.]

Prepared by: Bob Loeffler
Division: Mining, Land and Water

Phone: 269-8625

Date: 11-Jan-00

Approved by Commissioner:

John Shively

Date:

1-12-2000

Agency: Natural Resources

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Special Committee on Fisheries

5:00 P.M.

Wednesday, April 12, 2000

Capitol Building Room 124

Representative John Harris, Representative Carl Morgan, Jr., Co-Chairs

1. Call to Order

Today's Date is: April 12, 2000

The time is:

2. Roll Call - (Quorum - need 4)

Representative Harris, Co-Chair

Representative Morgan, Co-Chair

Representative Dyson

Representative Whitaker

Representative Hudson

Representative Kapsner

Representative Smalley

3. Purpose of the Meeting:

HB 360 Set Net Sites/Shore Fisheries Development

1-GH2006D
Utermohle
4/3/00

Harris

9/3/00

CS FOR HOUSE BILL NO. 360(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the shore fisheries development lease program account and
2 the timber receipts account; relating to the accounting for and appropriation of
3 revenue from the state land disposal program, the shore fisheries development
4 lease program, and the state timber disposal program; and providing for an
5 effective date."

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

7 * **Section 1.** AS 37.05.146(b)(4) is amended by adding new subparagraphs to read:

8 (X) state land disposal program (AS 38.04.022);

9 (Y) shore fisheries development lease program account

10 (AS 38.05.082(f));

11 (Z) timber receipts account (AS 38.05.110).

12 * **Sec. 2.** AS 38.04.022(a) is amended to read:

13 (a) The revenue from the [SALE OF] state land disposal program shall be

1 deposited in the [A SPECIAL] state land disposal income fund [ACCOUNT] in the
2 state treasury. On June 30 of each fiscal year, the portion of that fund that
3 exceeds \$5,000,000 shall be deposited in the state general fund. The legislature may
4 appropriate money from the [SPECIAL] state land disposal income fund [ACCOUNT]
5 for expenditure by the Department of Natural Resources for necessary costs incurred
6 by the commissioner in the implementation of state land disposal programs authorized
7 under this title or for any other public purpose.

8 * Sec. 3. AS 38.05.082 is amended by adding a new subsection to read:

9 (f) The shore fisheries development lease program account is established in the
10 state treasury. The rents, fees, and other proceeds received by the department in
11 connection with the issuance of shore fisheries development leases under this section
12 shall be deposited into the account. The legislature may appropriate money deposited
13 into the account for the operation of the shore fisheries development lease program by
14 the department or for any other public purpose.

15 * Sec. 4. AS 38.05.110 is amended by adding a new subsection to read:

16 (b) The timber receipts account is established in the state treasury. The
17 revenue from the sale of timber from state lands shall be deposited in the timber
18 receipts account. The legislature may appropriate money deposited into the timber
19 receipts account for implementation of the state timber disposal program by the
20 department or for any other public purpose.

21 * Sec. 5. This Act takes effect July 1, 2000.

Mr. John C Schandelmeier,
HC 72 Box 7193
Paxson, Alaska 99737
Delta Junction, AK 99737

822-5424

Distribution

Affiliation

Reg Voter

60

U

Date POM Sent

Constituency

Bill Number

Response

Subject

02/28/2000

N

HB 360

Opposes

HB360 leaves no consideration for setnet sites that change due to changing tidelands; (Bristol Bay) DNR currently requires occasional surveys. Also if permit holder dies there is no provision to allow heirs to sell, so they would lose the most valuable part of the setnet fishing operation.

Email Address

Mr. John C Schandelmeier,
HC 72 Box 7193
Paxson, Alaska 99737
Delta Junction, AK 99737

822-5424

Distribution

Affiliation

Reg Voter

60

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Date POM Sent

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HB 360

Opposes

HB360 leaves no consideration for setnet sites that change due to changing tidelands; (Bristol Bay) DNR currently requires occasional surveys. Also if permit holder dies there is no provision to allow heirs to sell, so they would lose the most valuable part of the setnet fishing operation.

Email Address

Mr. Bacci G Perata,
PO Box 1696
Seward, AK 99664

Distribution

Affiliation

Reg Voter

20

U

Date POM Sent

Constituency

Bill Number

Response

Subject

04/03/2000

N

HB 360

Opposes

I've been set netting for fifteen years and feel the lease program is a self sustaining program that WORKS. This new self registration program will not have the support of the fishers with most NOT even paying. It will be a net loss for the state and the fishers. Thanks.

Email Address

Mr. Bacci G Perata,
PO Box 1696
Seward, AK 99664

Distribution

Affiliation

Reg Voter

20

U

Date POM Sent

Constituency

Bill Number

Response

Subject

04/03/2000

N

HB 360

Opposes

I've been set netting for fifteen years and feel the lease program is a self sustaining program that WORKS. This new self registration program will not have the support of the fishers with most NOT even paying. It will be a net loss for the state and the fishers. Thanks.

Email Address

March 23, 2000

The Honorable Alan Austerman
Alaska State Representative
Juneau, Alaska

Subject: HB360 and SB258

Dear Representative Austerman,

Early in January we had not received our Salmon set gillnet shore lease invoice from the State. I called the office in Anchorage. Janetta Pritchard of the DNR told us of a new plan for shore leases due to lack of funds in their department. I went to the Internet and retrieved the Shore Fishery Lease Application. I was astonished at what I found.

I found six 6) pages of instructions and fee structures. So many dates, so much paper work for the State to collect \$300 in fees. I have to find out who owns the sites to the left, right, behind and seaward of me and provide their mailing address. I have to stake and submit the application within 30 days of each other. Then I have to hire a surveyor to resurvey something that is already on file with the DNR,

The bill requires precise locations of each net, shore side and seaward side. I don't own a GPS. This is goofy. I move my nets within the shore lease for the early and late run. Would I have to have two sets of documents?

The dates allowed in this bill and instructions are one month before most setnet fishers go to their sites. With the pull out of Pennair for the Kodiak skies this causes a problem. The cost is going to be prohibitive for a small site as mine. Let me line out the probable cost for you.

Flight from Kodiak to site - Charter	\$1,800 RT
Stake site.	
Bring surveyor to site	\$1,800 RT
Surveyor charges	1,200
Newspaper ad for public notice	50
Postage	25
DNR fee first year	550
Total Estimated Cost	\$5,420

All of these cost are weather dependent. If the weather comes down the surveyor cost goes up each day.

This proposal could make the Shore Lease Program just like the Oklahoma land rush. Someone with a Seine Boat who happens to have a Setnet permit could reek havoc with established sites. There appears to be no protection for the current leaseholder during the startup of this program. I don't know if there is a Notary Public in my fishing district. All of the signatures need the Notary stamp. This is another cost not included in the list above. One might have to fly back to town for this service.

I guess we would be allowed to fish during the registration period. Wouldn't it be better to renew the current leases for say two years and allow this registration so happen at a reasonable pace? Please slow down this process. You would be doing all the little guys like me a great favor. The expenses listed above are a major percentage of my yearly income from fishing. If you protected the current leaseholder the cost would decrease by 50% or more.

I also read the House Bill and found it to be very confusing. I didn't understand the relevance of the first three pages. Hopefully, I can find someone who can clear this up for me. Why not phase this is by notifying the leaseholders two years in advance of their renewal. Or do this only when a site is sold to someone other than a family member.

Thanks for time and consideration.

Sincerely,

Mike Nugent

Mike Nugent
PO Box 1937
Kodiak, Alaska, 99615

907-486-2047

9-12-00
To: The House Special Committee on Fisheries

From: Kachemak Bay Salmon Producers Co-op
RDO - Red Mountain
Homer AK 99603
Tel. 235-6112 or 235-2210

Dear Committee Members

We, the 16 members of the Kachemak Bay Salmon Producer Co-op would like to express our agreement and acceptance of your Committee Substitute to HB 360 concerning the set net lease program, and feel it will continue to make the Fisheries lease program work for those who use it and pay for it.

Respectfully

Dan Chalup (representative)

The Honorable Bill Hudson
The Honorable Beverly Masek
February 9, 2000
Attachment
Page 3

**LEGISLATIVELY DESIGNATED AREAS NOT "RESERVED BY LAW FROM THE
PUBLIC DOMAIN" AND OPEN TO SELECTION UNDER SB 7**

Units of the State Park System (AS 41.21):

- Pt. Bridget State Park
- Nancy Lake State Recreation Area
- Chena River State Recreation Area
- The mineral estate beneath the Kenai River Special Management Area
- Potentially all wayside parks (640 acres or less) reserved by executive action under AS 38.05.295 – 38.05.300

Multiple-Use Public Areas (AS 41.23):

- Nelchina Public Use Area
- Hatcher Pass Public Use Area
- Goldstream Public Use Area
- Caribou Creek Recreational Mining Area
- Petersville Recreational Mining Area

State Forests (AS 41.15 and AS 41.17):

- Haines State Forest Resource Management Area
- Tanana Valley State Forest

State Game Refuges (AS 16.20):

- Goose Bay State Game Refuge
- Anchorage Coastal Wildlife Refuge
- Palmer Hay Flats State Game Refuge
- Yakataga State Game Refuge
- Mendenhall Wetlands State Game Refuge
- Susitna Flats State Game Refuge
- Minto Flats State Game Refuge
- Trading Bay State Game Refuge
- Creamer's Field Migratory Waterfowl Refuge
- McNeil River State Game Refuge

State Game Sanctuaries (AS 16.20):

The Honorable Bill Hudson
The Honorable Beverly Masek
February 9, 2000
Page 4

- Walrus Islands State Game Sanctuary
- Stan Price State Game Sanctuary
- McNeil River State Game Sanctuary

State Range Areas (AS 16.20):

- Delta Junction Bison Range Area
- Matanuska Valley Moose Range

Fish and Game Critical Habitat Areas (AS 16.20):

- Port Moller Critical Habitat Area
- Port Heiden Critical Habitat Area
- Cinder River Critical Habitat Area
- Egegik Critical Habitat Area
- Pilot Point Critical Habitat Area
- Kalgin Island Critical Habitat Area
- Fox River Flats Critical Habitat Area
- Chilkat River Critical Habitat Area
- Kachemak Bay Critical Habitat Area
- Clam Gulch Critical Habitat Area
- Copper River Delta Critical Habitat Area
- Anchor River and Fritz Creek Critical Habitat Area
- Dude Creek Critical Habitat Area
- Tugidak Island Critical Habitat Area
- Willow Mountain Critical Habitat Area
- Redoubt Bay Critical Habitat Area
- Homer Airport Critical Habitat Area

Subject: Today's Hearing

Date: Tue, 11 Apr 2000 11:35:10 -0800

From: "Kenai Peninsula Fishermen's Association" <kpfa@alaska.net>

To: Representative_John_Harris@legis.state.ak.us, Representative_Carl_Morgan@legis.state.ak.us

Representative John Harris
Representative Carl Morgan
Co-Chairs House Special Committee on Fisheries

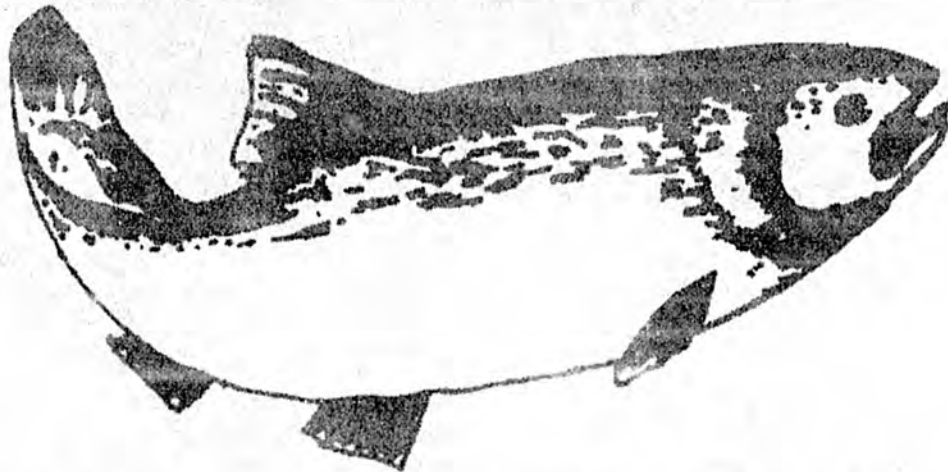
The Kenai Peninsula Fishermens Association strongly supports the CS for House Bill No.360 (FSH). KPFA thanks you for your efforts to move this CS along as quickly as possible.

Sincerely
Karl Kircher
Executive Director

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

Est. 1954

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



24 March 2000

Representatives John Harris & Carl Morgan (Co-Chairs) & members of the House Fisheries Committee
State Capitol
Juneau, Alaska 99801-1182

Re: HB 360 - DNR Shore Fishery Lease Program

Dear Co-Chairs Harris and Morgan and members of the House Resources Committee:

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

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

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

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

The existing program:

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

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

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

Est. 1954

Set Net Organizations All Support existing system



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CORRECTION

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



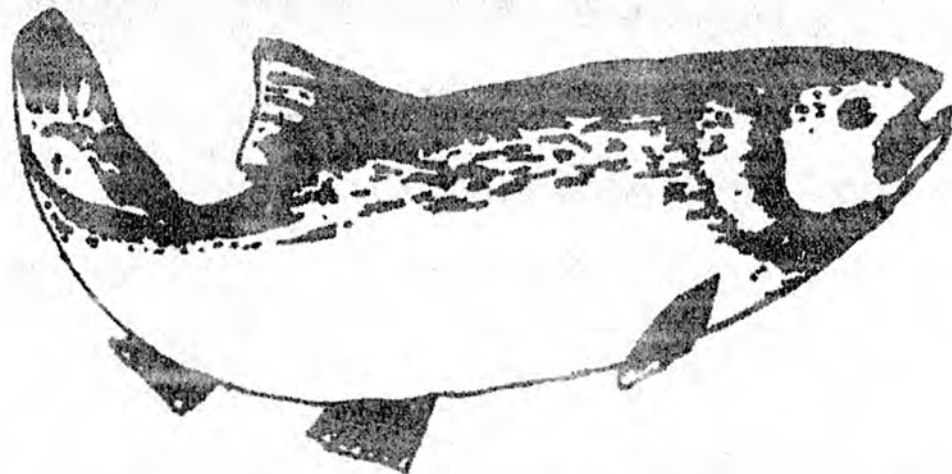
Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

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

Est. 1954



24 March 2000

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

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

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

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

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

Please support the current program.

Respectively,

Stephen Braund
President
Northern District Set Netters Association of Cook Inlet

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

Est. 1954

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

Set Net Organizations All Support existing system



24 March 2000

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State Capitol
Juneau, Alaska 99801-1182

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Respectively,

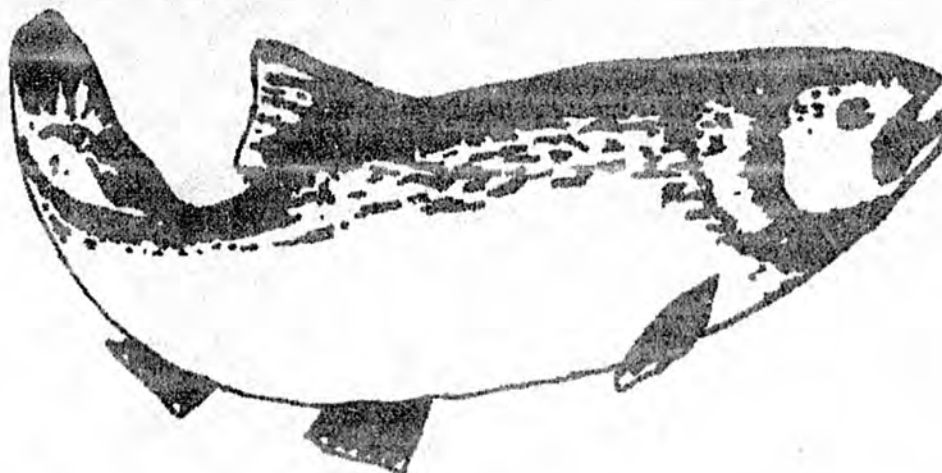
Stephen Braund
President
Northern District Set Netters Association of Cook Inlet

Monies collected
to go to DNR!
not General Fund!

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

Est. 1954

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



11 February 2000

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

Re: DNR Shore Fishery Lease Program

Dear Commissioner Shively:

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

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

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

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

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

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

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

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

Our set net association strongly opposes this change.

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

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

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

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

Why weren't users notified and asked to comment?

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Stephen R. Braund
President

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

Kvichak Setnetters Assoc.

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

27 March 2000

Co-Chairman Harris
Co-Chairman Morgan
Fisheries Committee
Juneau, Ak.

Sirs:

My first contact with the Shore Fisheries Program was 1983 when it was a one-man operation under Ken Roehl. He was absolutely overwhelmed by new applications but did what he could. Rindi Patterson took over a short time later and was given a staff of three. The program progressed light years under her direction. Shore Fisheries waded through the files and settled the minor disputes. It became a well-run organization working with and for the fisherman. After 5 years she reached burnout. Mostly caused by budget battles. Kathy Duggan was the next in the kettle.

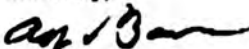
In 1993 fees were raised from \$150 to \$300 to cover the expense of this receipts program which at that time was just over \$200,000. At the time Shore Fisheries still had four employees. Kathy Duggan proceeded to fine-tune the self-paying program. It fit the needs of the fishermen. By the time she left in 1998 only she and Dennis Gall were employed there. Last year it was reduced to only Dennis. The cost of the program other than labor is between \$30-50,000 at most. Fishermen pay in \$360,000 to fund this program. Dennis Gall is now gone. Jennetta Pritchard is now there operating under the new registry system.

HB 360 and SB 258 would gut the Shore Fishery Program yet still collect the \$360,000 funds from the fishermen this voluntary receipts program generates. How the two bills would destroy the program are as follows:

1. No new lease applications and diagrams. Leases are now for 10 years.
2. No amending existing diagrams
3. No renewal of existing leases
4. No conflict mediation
5. No public notices of the new registered sites. The fishermen always paid for these notices anyway. They are crucial in averting conflicts.

What would we be paying for under the new program? No services. I don't know of any setnet organization or setnet fisherman that backs the registry program.

Sincerely,



Al Bauman

President
Kvichak Setnetters' Association

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

TONY KNOWLES, GOVERNOR

3001 G STREET, SUITE 1000
ANCHORAGE, ALASKA 99503-3637

February 23, 1998

Dear Shorefishery Lease Holders and Applicants:

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

To Contact the Shorefishery Unit:

Mailing Address:

At the top of the page

Telephone and E-mail:

Kathy	907-269-8544	kathy_dugan@dnr.state.ak.us
Dennis	907-269-8545	dennis_gall@dnr.state.ak.us
Nina	907-269-8543	nina_clock@dnr.state.ak.us
	907-269-8913	

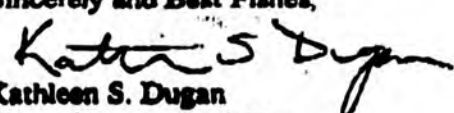
Fax:

Web Page:

<http://www.dnr.state.ak.us>, then select "Division of Land" and then, "Shorefishery Leases."

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

Sincerely and Best Fishes,


Kathleen S. Dugan
Natural Resource Officer

msinfo.98

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

October 29, 1992

Dear Setnetter:

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

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

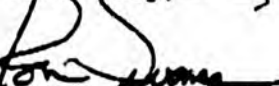
This rental increase will not affect all lessees immediately. This new rate will apply NOW to all leases issued or renewed after January 1, 1993, and to all leases first issued six or more years ago. Any leases issued between 1988 and 1992 will not increase to the new rate until they have begun their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

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

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

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

Sincerely,


Ron Swanson
Director

C:\ENTRANCE\112

"The governor has finally realized that state's rights and an amendment to Alaska's constitution on subsistence are mutually exclusive," Taylor said. "I'm pleased that the governor has awakened to the essence of the subsistence debate."



BUDGET CUTS BACK DNR OUT OF SETNET SITE REGULATION

Get along or get a lawyer could be the **Department of Natural Resources'** advice to setnetters if **HB 360** becomes law. The bill was introduced at the request of **Gov. Tony Knowles** in response to a two-thirds, or \$200,000, reduction made by the legislature last year in the budget for DNR's setnet lease management program.

The good news is no change is planned in the fees DNR charges for site "registration," which will replace leasing. The bad news is setnetters will be getting less for their money.

"We are proposing legislation to provide a similar, but lesser level of service consistent with the remaining funding. "We are proposing a program that eliminates some of the office work, but maintains the fishers' rights," DNR says in an explanatory "white paper" on the subject.

The bill says DNR "may not adjudicate conflicts between persons with competing claims of priority" for a site. In other words, if two setnetters claim the same site they work it out themselves, find or hire a mediator to help settle the matter, or take it to court.

"As I understand it, it's simply going to be a matter of you have to go to court," said **Sue Asplund**, a long-time **Naknek** setnetter. "If someone claims on, or too close to, my site DNR will not do research to determine who's right."

Asplund said fish cops in **Bristol Bay** have already warned that they may throw both parties off a site until they settle their disagreement. She worried that that policy could leave the site open to a third party, which could further complicate the problem. She's also hearing suggestions that harvesters may forget about registration if the process doesn't provide sufficient protection.

"I've already heard a lot of people say, 'Is it worth the money if DNR isn't there?'" Asplund added. "If you feel like it's not providing you any protection, why would you continue to pay the lease fee?"

The new process set out in the bill replaces site leasing with a fairly simple self-registration plan. To register a person clearly marks the site with their name and limited entry permit number and completes a registration form that DNR will provide. The form notes the "precise geographic coordinates" of the shoreward and seaward ends of the site.

DNR will maintain a record of all registered sites.

Rick Thompson, Southcentral manager of the **Division of Land & Water**, which will continue to run the setnet program, said the bill envisions the use of global positioning satellite units to mark a site. But he has heard from some **Cook Inlet** setnetters questioning whether GPS data will be accurate enough. The setnetters were concerned that on a 300-foot site, the 40 to 50 foot margin of error on some GPS units could be enough to cause a problem, Thompson said.

"One guy argued that he didn't want to give up the preciseness of a survey," Thompson said. Many traditional setnet beaches have already been surveyed, so the concern may not be important in any case, and Thompson wasn't sure whether the bill might be amended to specify a method for determination of a site's boundaries.

To transition from the old system to the new, the bill requires DNR to process, under the old system, lease applications that are pending before the effective date of the bill. That would be 90 days after the measure is passed by the legislature.



NONTANKER 'C-PLAN' BILL GETS FIRST HEARING TODAY

Factory trawlers and the bigger class of crab vessels face new expenses, and requirements with **SB 273**, up for its first hearing Monday afternoon in the **Senate Resources Committee**.

The bill requires railroads, and nontanker vessels of 300 gross registered tons, and larger, that have storage capacity greater than 6,000 gallons of oil to have state-approved oil spill prevention and contingency plans, and to demonstrate proof of financial ability to clean up their spills.

Gov. Tony Knowles had the original idea for the bill and a House version, **HB 377**, was introduced in the traditional manner by the House Rules Committee on his behalf. But no idea that comes from a Democrat, regardless of how intelligent or practical it may be, is safe around the Republican legislature, and Senate Pres. **Drue Pearce** sponsored the Senate version, which is likely to move easily to passage this session.

Just in case his diminishing band of loyal Republicans somehow got the strange idea of giving the governor any credit, **Speaker Brian Porter** referred **HB 377** to four committees. The fact that Pearce's bill is getting a hearing just six days after it was introduced is further indication that the measure will move through the legislature like a greased tanker.

Although the bill sets July 1, 2001 as the date covered craft must be in compliance with its requirements, **United Fishermen of Alaska** lobbyist **Jerry McCune** is concerned that seafood industry vessel operators who wait too long to line up their spill prevention ducks could find themselves out of compliance with the new law-to-be.

Proposed Set-Net Site Legislation

An Explanation

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

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

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

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

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

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

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

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

Journal Text



02/09/00

House Journal

Page 2149

HB 360

HOUSE BILL NO. 360 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to registration for commercial set gillnet fishing sites; relating to leases for shore fisheries development; and providing for an effective date."

was read the first time and referred to the House Special Committee on Fisheries and the Resources and Finance Committees.

The following fiscal notes apply:

Zero fiscal note, Dept. of Fish & Game, 2/9/00

Zero fiscal note, Dept. of Natural Resources, 2/9/00

The Governor's transmittal letter dated February, 8, 2000, appears below:

02/09/00

House Journal

Page 2150

HB 360

"Dear Speaker Porter:

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

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

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

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

Length of time each registrant has been set gillnet fishing in the area;

Proximity of the registrant's past fishing sites to the registered sites, and;

Present ability of the registrants to use the site to its maximum potential for commercial set gillnet fishing.

02/09/00

House Journal

Page 2151

HB 360

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

I urge your prompt and favorable action on this measure.

Sincerely,
/s/
Tony Knowles
Governor"

Bill Root:

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Alaska State Legislature

HOUSE SPECIAL COMMITTEE ON FISHERIES

Representative John Harris, Representative Carl Morgan, Co-Chairmen
State Capitol, Room 110, Juneau, Alaska 99801-1182
(907) 465-3882

AGENDA

February 28, 2000

1. Call meeting to order

2. Roll call Rep. Dyson
 Rep. Whitaker
 Rep. Hudson
 Rep. Kapsner
 Rep. Smalley
 Rep. Morgan
 Rep. Harris

3. Consideration of bills on agenda

HB 363 – Salmon reports – Rep. Austerman, sponsor

4. Announcements or other business

Next meeting: Monday, March 6 – Shellfish farming

5. Motion to adjourn

- Industry overview of Geoduck Dive Fishery
 - *Gig Decker*
- Shortcomings in Agency Reviews of Clam Farming Applications
 - *Ray RaLonde*
 - *Rodger Painter*
 - *Bob Hartley*
- Impacts on Applications from Breakdown in the Permitting Process
 - *Alaska Science and Technology Foundation*
 - *Jon Agosti (teleconference)*
 - *Scott Thomas*
- Industry Proposals to Resolve the Issues
 - *Rodger Painter*
 - *Bob Hartley*

AGENCY OVERVIEWS

- Alaska Department of Fish and Game
Department progress in Aquatic Farm Act program development
 - *Frank Rue, Commissioner; Doug Mecum, Director Commercial Fisheries; Kevin Duffy, Deputy Commercial Fisheries; Scott Marshall, Regional Supervisor, Commercial Fisheries; Ken Taylor, Director, Habitat Division. All invited, non confirmed.*
- Alaska Department of Natural Resources
Department progress in Aquatic Farm Act program development
 - *John Shively, Commissioner, Tentative*
Bob Loeffler, Ric Thompson, Kim Cruse by teleconference from Anchorage. Confirmed
- Division of Governmental Coordination
Division's Role in Coastal Management Program's consistency review process.
Numbers of permit application reviewed, issued, appealed, etc.
 - *Mr. Pat Galvin, Director. Confirmed*

7. Others wishing to testify. Please limit testimony to three minutes

8. Other Business

9. Adjournment



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

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

MEMORANDUM

DATE: February 16, 2000

TO: Representative John Harris, Co-Chair
Representative Carl Morgan, Co-Chair
House Special Committee on Fisheries

FROM: Representative Alan Austerman

SUBJECT: Hearing Request

I respectfully request the House Special Committee on Fisheries schedule a hearing for HB 363 at your earliest convenience.

This bill expands information available through fish processor's reporting to the Department of Revenue from reporting only canned salmon to including all salmon products.

Attached is a sponsor statement. I will supply you with additional information for the referral packet prior to your scheduling.

Please contact Joanie Waller of my staff at 2487 as needed.

Thank you for your consideration.

FISCAL NOTE

No. 3

Bill Version: SCS CSFB 363 (L&C)

(S) Publish Date: 4-15-00

2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____

Title Salmon Product Reports

Dept. Affected _____

BRU _____

Component _____

Revenue _____

Revenue Operations _____

Income and Excise Audit _____

Sponsor Representative Austerman

Requester (S) Finance

Component Serial No. _____

113

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	32.9	32.9	32.9	32.9	32.9	32.9
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	1.0	1.0	1.0	1.0	1.0	1.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	3.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING*	38.4	34.9	34.9	34.9	34.9	34.9

CAPITAL EXPENDITURES**	20.0	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	58.4	34.9	34.9	34.9	34.9	34.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	58.4	34.9	34.9	34.9	34.9	34.9

Estimate of current year (FY00) cost: _____

0.0

POSITIONS

Full-time	0.75	0.75	0.75	0.75	0.75	0.75
Part-time						
Temporary						

ANALYSIS: (see attached analysis and tables)

** This is a rough one-time cost estimate for FY 2001 (see attached capital expenditure narrative).

Prepared by Brett Fried, Economist and Carl Meyer, Chief of Appeals

Phone 465-3682 or 465-2343

Division Income and Excise Audit

Date/Time April 13, 2000

Approved by Wilson L. Condon

Date _____

Agency Department of Revenue

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Bill Analysis

Section 1 amends AS 16.05.680 by adding a new subsection to prohibit a person from selling salmon that was not harvested under authority of a permit.

Section 2 amends AS 16.05.690(a) to require record-keeping, by each buyer of fish, of the Department of Fish and Game statistical area in which the fish bought were taken.

Section 3 amends AS 43.80.050(a) to require all fisheries businesses selling more than 1,000,000 pounds of salmon products at wholesale in a calendar year to report to the department for each 4 month period the prices received and the quantities of the products involved in the sales, including sales by affiliates. Under current law, reporting is only required for the prices and quantities of thermally processed salmon products sold at wholesale.

Section 4 repeals and reenacts AS 43.80.050(b) to require the fisheries businesses to include in the reports:

- ◆ The total quantity of each salmon product form sold by area of production and by species; and,
- ◆ The wholesale price received.

This reporting would be required for the following product forms:

- ◆ Thermally processed salmon products by the number of each size of container
- ◆ Fresh headed and gutted salmon products by pounds
- ◆ Fresh fillet salmon products by pounds
- ◆ Frozen headed and gutted salmon products by pounds
- ◆ Frozen fillet salmon products by pounds
- ◆ Salmon roe products by pounds

Section 5 amends AS 43.80.050(c) to require all fisheries businesses selling to affiliates to report only the subsequent sales of that salmon product by the affiliates at wholesale. The information to be reported includes:

- ◆ A description of the products sold;
- ◆ The total quantity of each salmon product form sold by area of production and by species; and,
- ◆ The wholesale price received.

Section 6 amends AS 43.80.050 by adding a new section (f) to require the filing of an annual report. The annual report covers the period from January 1 through December 31 of the calendar reporting year and must be filed by January 31 of the following calendar reporting year. The report is to include a description of the products and the

quantity, by size of container for thermally processed salmon and pounds for other salmon product forms, of each salmon product form produced by the processor and affiliates in each area of production and by species.

Section 7 amends AS 43.80.055 to require the department to determine from the reports the average monthly and annual wholesale prices for the sale of salmon products. These averages are to be determined for each pound by area of production by species by product form, except that for thermally processed salmon products the averages are determined by size of container by species.

Section 8 amends AS 43.80.055 to add a new subsection to require the department to publish the average wholesale prices in a report to be entitled the "Alaska Salmon Price Report".

Section 9 amends AS 43.80.060 to require the department to make the Alaska Salmon Price Report available to the legislature by March 15 of each year. The report is to include the wholesale prices paid and the quantities of salmon products produced during the preceding year.

Section 10 amends AS 43.80.100(5) to provide that the reporting year is the calendar year after the calendar year in which the fisheries business sells more than 1,000,000 pounds of salmon products at wholesale.

Section 11 amends AS 43.80.100(7) to eliminate deductions in the nature of cash discounts allowed on sales and commissions paid to independent brokers in determining the wholesale price.

Section 12 amends AS 43.80.100 to add new paragraphs to define the following terms: the "area of production" in which a salmon product was processed means specified fisheries areas of the state; "produce" means to process salmon into a salmon product; and "wholesale" means the first sale of a salmon product at wholesale after the fisheries business tax was paid or became payable on the salmon from which the product was produced. One problem with the definition of 'wholesale' is that 'wholesale' is also included in the meaning presenting a circular conundrum. Another problem is that since the fisheries business tax is neither paid nor payable until March 31st of the following calendar year, an argument could be made that sales made before this date are not reportable. We believe the intent, however, is that wholesale is to mean the first sale of a salmon product to a person other than the final consumer that occurs after the liability for the fisheries business tax is incurred on the salmon from which the product was produced.

Section 13 amends the uncodified law to add a new section to provide that the first report required by AS 43.80.050 is due on September 30, 2000 for the period beginning May 1, 2000 and ending August 31, 2000, and must be filed by a fisheries

business that sold more than 1,000,000 pounds of salmon products at first wholesale during the 12 months ending August 31, 2000.

Section 14 provides a September 1, 2000 effective date.

Operating Expenditures

The following functions must be performed by DOR to meet the requirements of this bill: (1) public service (responding to questions from the public and processors), (2) data entry, (3) report production, (4) report and form dissemination, (5) accuracy and confidentiality checks, (6) non-filer identification, and (7) programming. We already perform these functions for the relatively simple average wholesale thermally processed salmon report (2 page report and 4 page report form). We produce this report three times a year and it takes the equivalent of one month for one individual.

The increase in estimated form length, from 4 to 20 pages does not address the increase in complexity. Table 1 (see attached spreadsheet) provides some help in understanding the change in the level of complexity. The 20 page number assumes that each page of the form includes production area, pounds (or size of container for thermally processed salmon products), wholesale price and product form by species by month. Consequently, there is a potential for 48 rows of data (8 production areas times 6 product forms). We are, however, assuming that, at most we will need to accommodate 32 rows per page. With 4 months of data and 5 species of salmon we have 20 pages. We will also have to produce an annual report using annual data. This form should be approximately 5 pages long.

Not only will the number of filers increase, by approximately 3 times, but the amount of information they must report will increase from 1 to 6 product forms, and from statewide to by 8 different regions. This increase in complexity compounds the difficulty associated with accuracy and confidentiality checks.

Because of the large increase in complexity and amount of data, we are requesting a ¾ position to meet our obligations under this bill. An Analyst Programmer I (@\$32,850) will be needed to do the following: (1) query development and execution, (2) non-filer identification, (3) data base maintenance, (4) data entry, (5) report and form development, dissemination, and production, (6) accuracy and confidentiality checks, and (7) public service. Equipment, supplies and contractual obligations will be \$5,500 the first year because of a one-time cost of \$3,500 for computers and other equipment. After the first year, equipment costs will be zero and contractual and supply costs will be \$2,000 a year.

Another way to approach this issue is to examine how this cost compares to the cost of other tax programs that the tax division currently administers. The fisheries business tax

return is the closest in similarity (in terms of complexity) to the proposed Salmon Product Report. Table 2 provides a comparison of the attributes of both of these programs.

Clearly, the fisheries business tax has more returns, species, and reporting areas. Processors must also identify whether the processing activity is established or developing and if the activity is floating, salmon cannery or shore-based. Additionally, the cost of the program includes accounting and collections costs, which would not be an issue for the Salmon Product Report. However, the fisheries business data is annual not monthly, does not include product forms, and is only received once a year, not 3 times a year. Also, because firms filing the report will be larger fishery businesses, the reports will be more comparable to the most complex of the fisheries business tax returns. Additionally, in our experience, fisheries businesses tend to fill out their tax returns more carefully than informational reports. This then requires more vigilance and time on the part of DOR. The total administrative cost of the fisheries business tax is \$229,174, which is 6.6 times the estimated \$34,850 operating cost associated with this bill.

Capital Expenditures

The only capital expenditure would be the contract for creating a database and the associated data entry interface. We currently use an excel workbook because we only need 48 spreadsheets to accommodate the current information. At a maximum we would need 640 spreadsheets (4 months x 5 species x 32 processors) to accommodate the sales data and 160 spreadsheets (5 species x 32 processors) for the production data. Each processor would have a separate spreadsheet for each month recording the pounds, product form and production area for a particular species. Although we know we would not need this many spreadsheets, even doubling the current number of spreadsheets would be too cumbersome to do in an excel workbook. We will also need to be able to execute relatively complex queries and to have a simple data entry interface.

Another advantage of using a database is it opens up the possibility of electronic filing. If electronic filing was required, we believe operating expenditures would decrease. Although we have not had time to estimate the cost of contracting out for the development of a database, from previous experience we believe it would be at least a one-time cost of \$20,000. After the database system is set up, we believe the analyst programmer will be able to maintain the system and adjust it for changes.

Revenue

There is no direct revenue effect of this bill.

ALASKA DEPARTMENT OF REVENUE

Salmon Price Reports
SCS CSHB 363(L&C)
April 13, 2000
Page 6 of 7

TABLE 1 - CHANGES TO REPORTING REQUIREMENTS: SCS CSHB 363

	<u>Status Quo</u>	<u>SCS CSHB 363 Estimates</u>
Number of processors reporting ¹	12	32
Number of product forms ²	1	6
Number of reporting areas ³	1	8
Number of species ⁴	5	5
Reporting point ⁵	sale	sale and prod.
Reporting time period ⁶	monthly	monthly
Report due ⁶	3 times a year	3 times a year
Report threshold ⁷	240,000 lbs.	1,000,000 lbs.
Pages per report form ⁸	4	20
Software ⁹	excel	database

¹ According to the Alaska Department of Fish and Game, 32 processors exceed the minimum reporting threshold.

² The following product forms are to be reported: (1) fresh headed and gutted, (2) thermally processed, (3) fresh fillet salmon products, (4) frozen headed and gutted, (5) frozen fillet and (6) salmon roe. Because thermally processed salmon products must be reported by the size of the container in which they are sold, they must be broken out separately from the other product forms. Although there are a large number of sizes, the vast majority of thermally processed salmon will fall under the four most common can sizes.

³ The eight areas of production are (1) Southeastern and Yakutat, (2) Prince William Sound, (3) Cook Inlet, (4) Kodiak, (5) Chignik, (6) Aleutian Islands, Atka-Amli Islands and Alaska Peninsula, (7) Bristol Bay, (8) Kuskokwim, Yukon-Northern, Norton Sound-Port Clarence, and Kotzebue.

⁴ Under SCS CSHB 363, there are the following five species of salmon (1) Chinook, (2) Sockeye, (3) Coho, (4) Pink, and (5) Chum.

⁵ Under SCS CSHB 363, the total quantity of salmon products produced and sold must be reported. However, production must only be reported once a year on an annual (not monthly basis).

⁶ The processor must provide monthly sales data every four months to the Department of Revenue and annual production data once a year.

⁷ Under SCS CSHB 363, a processor only has to fill out the report if during the previous calendar year the processor has sold more than 1,000,000 pounds at wholesale.

⁸ Because of the increase in the number of product forms (from 1 to 6), and the reporting by production area (8 production areas), we estimate that the report length will increase by a factor of 5. Additionally, it will increase in complexity. For example, for thermally processed salmon it will increase from three data fields (pounds or size, value and months) to 5 (pounds or size, value, months, product form and production area) data fields.

⁹ An excel spreadsheet with 48 pages linked to a summary page is all that is currently necessary. This will no longer work with 32 processors reporting 6 product forms, by 8 production areas, by species and by month (see operating expenditures discussion).

TABLE 2 - A COMPARISON OF SCS CSHB 363 REPORT & FISH. BUS. TAX

	<u>Fisheries Business</u>	<u>SCS CSHB 363 Estimates</u>
Number of processors reporting ¹	449	32
Number of product forms ²	0	6
Number of reporting areas ³	54	8
Number of species ⁴	all	5
Reporting point ⁵	proc. or trans.	sale and prod.
Reporting time period ⁶	annual	monthly
Report due ⁶	once a year	3 times a year
Report threshold ⁷	none	1,000,000 lbs.
Pages per report form ⁸	26	20
Software ⁹	database	database

¹ According to the Alaska Department of Fish and Game, 32 processors exceed the minimum reporting threshold.

² Under SCS CSHB 363, the following product forms are to be reported: (1) fresh headed and gutted, (2) thermally processed, (3) fresh fillet salmon products, (4) frozen headed and gutted, (5) frozen fillet and (6) salmon roe. Because thermally processed salmon products must be reported by the size of the container in which they are sold, they must be broken out separately from the other product forms. Although there are a large number of sizes, the vast majority of thermally processed salmon will fall under the four most common can sizes.

³ The eight areas of production are (1) Southeastern and Yakutat, (2) Prince William Sound, (3) Cook Inlet, (4) Kodiak, (5) Chignik, (6) Aleutian Islands, Atka-Amlia Islands and Alaska Peninsula, (7) Bristol Bay, and (8) Kuskokwim, Yukon-Northern, Norton Sound-Port Clarence, and Kotzebue. For the fisheries business tax, we have included the number of communities that received fisheries business shared tax revenue in FY 99.

⁴ Under SCS CSHB 363, there are the following five species of salmon (1) Chinook, (2) Sockeye, (3) Coho, (4) Pink and (5) Chum. Species are listed by species code on the fisheries business tax return.

⁵ Under SCS CSHB 363, the total quantity of salmon products produced and sold must be reported. Because both of these separate events occur at different points in time, they will be reported separately. However, production must only be reported once a year on an annual (not monthly basis). For the fisheries business tax, pounds and value must be reported once, either when the fish is processed or transported out-of-state unprocessed.

⁶ Under SCS CSHB 363, the processor must provide monthly data every four months to the Department of Revenue. The fisheries business tax return is due once a year.

⁷ Under SCS CSHB 363, a processor only has to fill out the report if during the previous calendar year the processor has sold more than 1,000,000 pounds at wholesale.

⁸ Because of the increase in the number of product forms (from 1 to 6), the reporting of salmon products produced and sold (from just sold) and the reporting by production area (8 production areas), we estimate that the report length will be 20 pages. Currently, the fisheries business tax return is 26 pages long.

⁹ An excel spreadsheet with 48 pages linked to a summary page is all that is currently necessary. This will no longer work with 32 processors reporting 6 product forms, by 8 production areas, by species and by month (see operating expenditures discussion).



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

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

Committee Substitute **HOUSE BILL 363** **SPONSOR STATEMENT** Updated March 8, 2000

House Bill 363 renames the existing **Wholesale Price Report (WPR)**, also referred to as **AWPR** or **WCPR**) to become the **Alaska Salmon Price Report (ASPR)** by updating it to include all salmon product types. This report will capture the bulk of Alaska's commercial salmon trade in a timely and accurate manner.

Currently AS43.80.050 requires processors who sell 240,000 pounds or more of thermally processed salmon in a calendar year to report three times each year, the volume and price of cans sold. The ASPR will reflect the changing times in this industry, which has evolved to include all salmon products, thermally processed plus fresh, frozen, and roe products.

HB 363 encompasses ex-vessel value, production, and wholesale price reporting to the state. In order to track the production of the state's resource, the ASPR adds a section that requires processors to report the quantity of each salmon product form and species, by area of production, along with the wholesale prices of product sold.

The tax revenue realized from the salmon fishery is generated from the ex-vessel price. Fishery business taxes, raw fish tax, landing tax, ASMI tax and aquaculture assessments are all based on the ex-vessel values of Alaska salmon products. The ASPR information is important for anyone planning income streams derived from the sale of salmon products. For example, legislators projecting revenue to the state, Alaska Seafood Marketing Institute planning their budget, or regional aquaculture associations planning production and marketing strategies. The ASPR's accurate and timely information may be used by the university system and by data collectors for up-to-date reporting. It will provide real-time wholesale inventories and values for the public, their decision-makers, and the commercial industry to the benefit of all.

History

This issue has been debated for a long time and in numerous forums. In 1984 the Department of Commerce and Economic Development published a report on the possible development of a program to determine wholesale price averages for salmon products. The arguments that were detailed in that report in 1984 are the same today.

Page 2
Committee Substitute
HOUSE BILL 363
SPONSOR STATEMENT
Updated March 8, 2000

When mediators suggest that the harvesters and the processors get together to come up with a compromise and find a way to share price information, the processors say that the information is proprietary and the harvesters say that they need a timely point of reference to begin dialogue about markets and how it can be shared. The ASPR is attempting to provide that platform that would supply accurate information without compromising confidentiality.

Introduction of this bill is the direct outcome of recommendations made in recent in-depth forums:

1) In the Governor's Alaska Salmon Forum '99, a focus group, made up of state agencies, processors and fishermen, came to mutually agreed-upon goals. Among the most important items to be addressed were 1) for the processors to "include fishermen in discussions on short and long-term marketing strategies", and 2) to "expand timely collection of salmon wholesale value and harvest information including, at a minimum, one more COAR report."

2) In November 1999, the Alaska Department of Fish and Game (ADF&G), harvesters, and processors attended meeting to directly address the United Salmon Association's proposal for a report on wholesale prices for salmon, and if this could be accomplished in the Commercial Operator's Annual Report (COAR). In that meeting, it was determined that "Option 1" was a direction follow by adding fresh, frozen, and roe salmon product forms to the Department of Revenue's already existing WPR. HB 363 pursues this avenue.

COAR (ADF&G's Commercial Operators Annual Report)

Currently, Alaska's fresh and frozen salmon information is published in ADF&G's COAR report, which is made available one time per year, approximately 12 months after the previous fishing season. Since there is no definition of FOB (freight on board) Alaska nor enforcement mechanism within ADF&G to substantiate the figures, the belated data therein is not reliable nor is it auditable. The only fresh & frozen salmon data that is available in the year 2000 is from the 1998 fishing season.

ADF&G's COAR report contains information from all processors in Alaska, for all fish species and shellfish, detailed by individual product codes and gear types, and from every commercial fishery management area. Out of the 600-700 processors with an intent-to-operate license, 154 are salmon. This is specific information valuable for ADF&G's uses. With the new ASPR, the cost to the state will be less, compared to the cost of compiling and maintaining the COAR database. The ASPR would require 51 salmon processors to report, those producing over 240,000 pounds in a calendar year (which constitutes 99.1% of the products). These reports would be in aggregate product forms, i.e. all roe products, all fillet products, etc., and the production areas will be consolidated.

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Updated March 8, 2000

WPR (Dept. of Revenue's Wholesale Price Report)

In 1997, the WPR was legislatively updated to mandate three times (3x) per year reporting, increased from twice a year. Since that time, the ex-vessel prices (for canned salmon, which is 36% of the market) have remained constant and the wholesale value has fluctuated in relation to pack size and inventory. The increased reporting has allowed harvesters and processors to enter into year-round revenue-sharing contracts. Since 1997 the 3x per year reporting has allowed for a better understanding of the canned product market without causing any disruption with the market or confidentiality concerns.

AWPR (Alaska Wholesale Price Report)

The appropriate vehicle for reporting price information on Alaska's salmon fisheries is the Alaska Salmon Price Report through the Department of Revenue. The new ASPR would publish first wholesale price averages from all processors within large geographical production areas based on reported fishery business taxes. This average price would be an aggregate of product forms and the reports would be published 3-6 months after the fish is caught, thus protecting the confidentiality issues raised by the processors. By requiring one annual report on production, released on March 15, processors' proprietary inventory information will be protected, but the information will be published in time for the coming fishing season negotiations. and will provide the harvesters and others with the information that is required.

Finally, the information provided through the ASPR will give the State of Alaska accurate information regarding the fish taxes coming to the state for general fund use.

Passage of HB 363 should help fishermen and others in their pursuit of better information. As industry contracts become the norm, sophistication involving product form and marketing partnerships will become more and more dependent on the state's collection of wholesale data. This process, in turn, should gradually bring a rise to ex-vessel prices, thus benefiting the communities and, in turn, by raising revenue, benefiting the state.

Excerpts from the MEETING NOTES from COAR Meeting
November 9-10, 1999

*Entire meeting notes available upon request from Sponsor

Meeting focus: Discussions of potential changes to the Commercial Operators Annual Report database, processor reporting requirements, and United Salmon Association proposal for a report on wholesale prices for salmon products.

Options

1. Add product forms to Revenue WPR
2. USA Proposal to use COAR.
3. Tune-up COAR
4. 3rd party reporting directly to fishermen/ processors subject to contract.

Larry Persily arrived; the group resumed discussion of Option 1 – Add product forms to WPR. Larry felt that the WPR was not a Revenue function. Revenue doesn't audit these reports nor do they have the staff to do audits. Scott and Bruce disagreed. Every tax dollar is at the exvessel level. Expansion to the wholesale level is a proprietary black hole. Harvesters pay ASMI and other taxes and it gives us a tool to negotiate and increase the exvessel price. It is in our best interest to increase world market share. This will bring up the tax base.

Larry said it would take the equivalent of one person or \$60,000. And that would not include any auditing capabilities. Revenue would have to respect confidentiality. Revenue will release summarized information for 3 or more taxpayers.

Option 1 – Add product forms (fresh, frozen, roe) to WPR

Goals/ Objectives

- a) Provide fishermen information they need
- b) Doesn't change COAR
- c) Good fit between WPR and additional reporting
- d) Reporting frozen, fresh, roe by ADF&G area

Option 1 – Add product forms (fresh, frozen, roe) to WPR

Method to achieve objectives

- a) Seek legislation
- b) Seek funding
- c) Industry agreement to support this option and the means to achieve – lobby for it

Option 1 – Add product forms (fresh, frozen, roe) to WPR

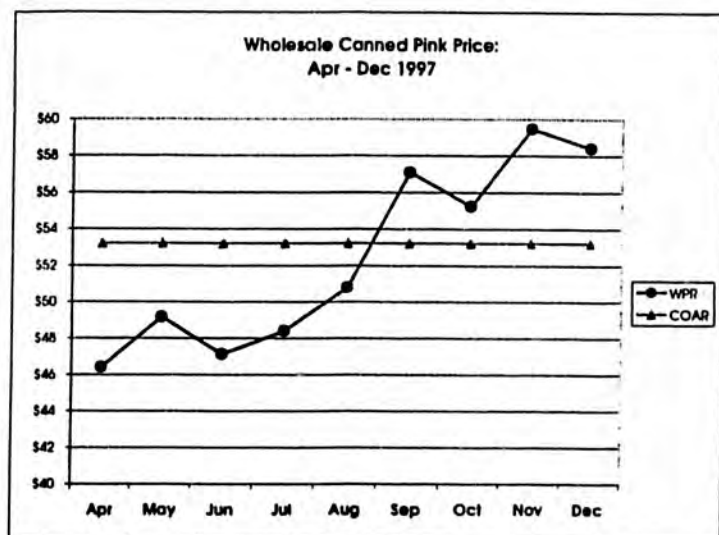
What are intended uses/ Who uses

- a) Fishermen
- b) Customers of processors
- c) Academics/ researchers
- d) Salmon Marketing Information Service
- e) Any member of the public

COAR/WPR COMPARISON

Illustrating the insufficient price data supplied by COAR

Charts & graphs provided for United Salmon Association
by the Salmon Market Information Service (March, 2000)



Canned Pink Wholesale Case Price
all sizes, converted to 48-tall case equivalent

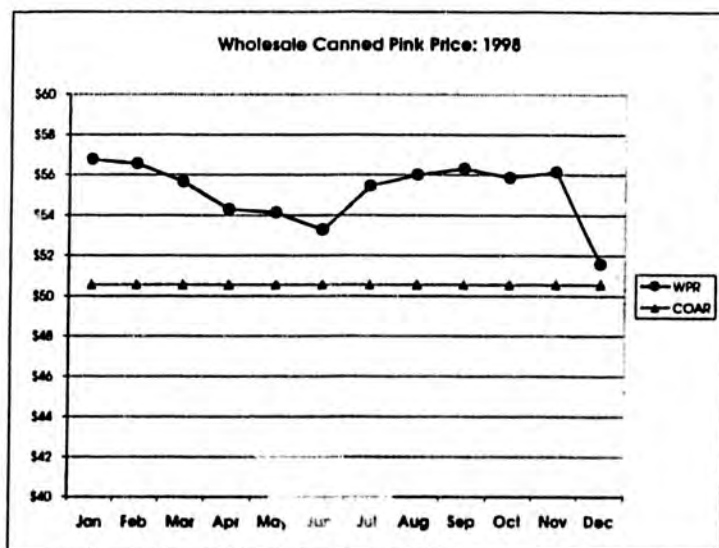
	1997 case volume	1997 value	1997 WPR price	1997 COAR
Jan				
Feb				
Mar				
Apr	222,203	\$ 10,314,632	\$ 46.42	\$ 53.23
May	119,657	\$ 5,882,405	\$ 49.16	\$ 53.23
Jun	173,072	\$ 8,158,146	\$ 47.14	\$ 53.23
Jul	150,957	\$ 7,307,643	\$ 48.41	\$ 53.23
Aug	170,328	\$ 8,652,021	\$ 50.80	\$ 53.23
Sep	204,817	\$ 11,692,446	\$ 57.09	\$ 53.23
Oct	212,719	\$ 11,748,360	\$ 55.23	\$ 53.23
Nov	197,552	\$ 11,749,878	\$ 59.48	\$ 53.23
Dec	424,112	\$ 24,768,338	\$ 58.40	\$ 53.23
Total	1,875,417	\$ 100,273,869	\$ 53.47	\$ 53.23

source: Alaska Department of Revenue Average Wholesale Price Report

Commercial Operators Annual Report (COAR)

1997	1997	1997
poundage	value	case price
114,205,145	\$ 137,382,105	\$ 53.23

source: ADF&G Commercial Operators Annual Report



Canned Pink Wholesale Case Price
all sizes, converted to 48-tall case equivalent

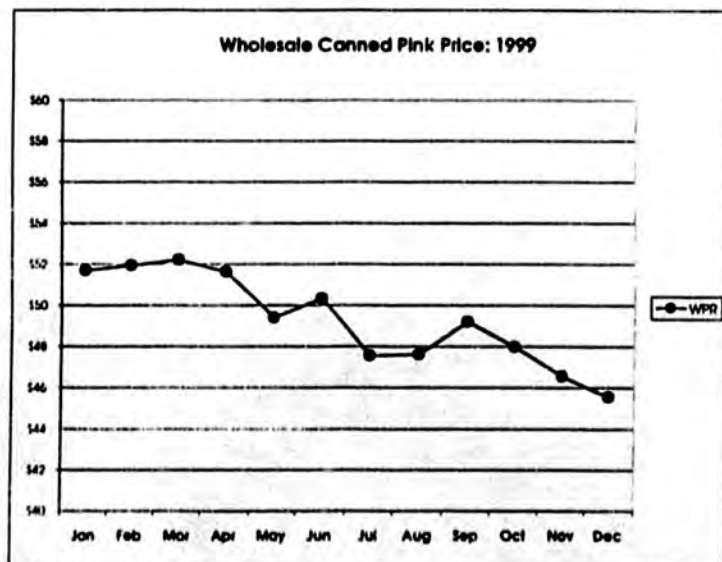
	1998 case volume	1998 value	1998 WPR price	1998 COAR
Jan	245,240	\$ 13,919,444	\$ 56.76	\$ 50.56
Feb	335,559	\$ 18,973,140	\$ 56.54	\$ 50.56
Mar	262,053	\$ 14,586,394	\$ 55.66	\$ 50.56
Apr	118,993	\$ 6,460,112	\$ 54.29	\$ 50.56
May	89,501	\$ 4,844,125	\$ 54.12	\$ 50.56
Jun	142,674	\$ 7,601,516	\$ 53.28	\$ 50.56
Jul	128,991	\$ 7,151,206	\$ 55.44	\$ 50.56
Aug	122,908	\$ 6,882,916	\$ 56.00	\$ 50.56
Sep	185,115	\$ 10,420,612	\$ 56.29	\$ 50.56
Oct	331,068	\$ 18,492,325	\$ 55.86	\$ 50.56
Nov	280,319	\$ 15,733,950	\$ 56.13	\$ 50.56
Dec	412,038	\$ 21,248,870	\$ 51.57	\$ 50.56
Total	2,654,459	\$ 146,314,610	\$ 55.12	\$ 50.56

source: Alaska Department of Revenue Average Wholesale Price Report

Commercial Operators Annual Report (COAR)

1998	1998	1998
poundage	value	case price
181,404,345	\$ 207,256,357	\$ 50.56

source: ADF&G Commercial Operators Annual Report



Canned Pink Case Price
all sizes, converted to 48-tall case equivalent

	1999 case volume	1999 value	1999 WPR price	1999 COAR
Jan	312,763	\$ 16,164,022	\$ 51.68	not known
Feb	317,162	\$ 16,469,738	\$ 51.93	not known
Mar	262,947	\$ 13,725,890	\$ 52.20	not known
Apr	232,946	\$ 12,024,657	\$ 51.62	not known
May	163,497	\$ 8,077,023	\$ 49.40	not known
Jun	224,432	\$ 11,295,826	\$ 50.33	not known
Jul	266,159	\$ 12,656,140	\$ 47.55	not known
Aug	233,160	\$ 11,101,097	\$ 47.61	not known
Sep	211,742	\$ 10,417,191	\$ 49.20	not known
Oct	303,184	\$ 14,549,072	\$ 47.99	not known
Nov	314,931	\$ 14,660,958	\$ 46.56	not known
Dec	471,722	\$ 21,486,800	\$ 45.55	not known
Total	3,314,645	\$ 162,627,413	\$ 49.06	

source: Alaska Department of Revenue Average Wholesale Price Report

Commercial Operators Annual Report (COAR)

Final Average Wholesale Price Report Recipients

US Department of Commerce, NOAA Fisheries Development Division
National Marine Fisheries Service/Statistics & Economic Division
Alaska Department of Fish and Game
Alaska Board of Fisheries
Department of Commerce and Economic Development
University of AK-Anchorage/ Gunnar Knapp
ASMI – Alaska Seafood Marketing Institute
Alaska SeaGrant – Craig Weise
McDowell Group
The Fisherman
Seafood Trend Newsletter
United Fishermen's Marketing Association.
United Salmon Association
SE AK Seiners Association
C.D.F.U. – Chris Nerison
National Food Processors Association
Alaska General Seafoods
Deep Creek Custom Packing Inc.
Icicle Seafoods Inc.
Kodiak Salmon Packers
Nelbro Packing Company
Norquest Seafoods Inc.
North Pacific Processors Inc.
Ocean Beauty Seafoods Inc.
Peter Pan Seafoods Inc.
Polar Equipment/Cook Inlet Processing
Royal Pacific Canning
Sea Catch, Inc
Trident Seafoods Corporation
Ward Cove Packing Company
Wrangell Seafoods Inc.
Woodbine Alaska Fish Company
Senator Jerry Mackie



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

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SPONSOR STATEMENT

FOR HOUSE BILL 363

HB 363 renames the existing Average Wholesale Price Report (AWPR) to become the Alaska Salmon Price Report (ASPR) by updating it to include ALL salmon product types. This report will capture the bulk of Alaska's commercial salmon trade in a timely, accurate manner.

Currently this Alaska Statute (AS 43.80.050) requires processors who sell 240,000 pounds or more of thermally processed salmon in a calendar year to report three times each year the volume and price of cans sold. The Alaska Salmon Price Report will reflect the changing times in this industry, which has evolved to include all salmon products, thermally processed plus fresh, frozen, and roe products.

HB 363 encompasses ex-vessel value, production, and wholesale price reporting to the state. In order to track the production of the state's resource, the ASPR adds a section that requires processors to report the quantity of each salmon product form by area of production (commercial fishing management areas) and species along with the wholesale prices of product sold.

Fishery business taxes, landing tax, ASMI tax and aquaculture assessments are all based on the ex-vessel values of Alaska salmon products. The ASPR information is important for anyone planning income streams derived from the sale of salmon products. For example, legislators managing the general fund, the Alaska Seafood Marketing Institute planning their budget, or regional aquaculture associations planning production and marketing strategies. The ASPR's accurate and timely information may be used by the university system and by data collectors for up-to-date reporting. It will provide real-time wholesale inventories and values for the public, their decision-makers, and the commercial industry to the benefit of all

Passage of HB 363 should help fishermen in their pursuit of better information, thereby helping them derive a higher price, or ex-vessel value, for their product. This higher price will benefit the communities and, in turn, will benefit the state. It will provide a more even playing field, eliminating the need for the fishermen to use disruptive price actions as a negotiating tactic, which has traditionally been the only bargaining angle between them and the processors.

FISCAL NOTE

BILL NO. HE 363

2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____	Dept. Affected	Revenue
Title <u>Salmon Product Reports</u>	BRU	Revenue Operations
Sponsor <u>Representative Austerman</u>	Component	Income and Excise Audit
Requester <u>(H) Special Committee on Fisheries</u>	Component Serial No.	<u>113</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	80.4	80.4	80.4	80.4	80.4	80.4
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	7.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING*	91.4	84.4	84.4	84.4	- 84.4	84.4
CAPITAL EXPENDITURES	**	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY00) cost: 0.0

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (see attached analysis and tables)

* Operating costs could be reduced by approximately \$22 thousand a year if electronic filing is required in the bill.

** Because of the short time frame available, we were not able to estimate the cost of contracting out the development of a database. However, from previous experience, we believe this cost would be at least \$20,000. This is a one-time cost that would occur in FY 2001.

Prepared by	<u>Brett Fried, Economist and Carl Meyer, Chief of Appeals</u>	Phone	<u>465-3682 or 465-2343</u>
Division	<u>Income and Excise Audit</u>	Date/Time	<u>February 25, 2000</u>
Approved by		Date	<u>February 25, 2000</u>
Commissioner	<u>Wilson L. Condon</u>		
Agency	<u>Department of Revenue</u>		

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Bill Analysis

Section 1 amends AS 43.80.050(a) to require all fisheries businesses selling more than 240,000 pounds of salmon products at wholesale in a calendar year to report to the department the prices received and the quantities of the products involved in the sales, including sales by affiliates. In addition, the fisheries business must report for each 4 month period the total quantities of salmon products produced by the fisheries business and affiliates by month. Under current law, reporting is only required for the prices and quantities of thermally processed salmon products sold at wholesale.

Section 2 repeals and reenacts AS 43.80.050(b) to require the fisheries businesses to include in the reports:

- ◆ A description of the products produced and sold;
- ◆ The total quantity of each salmon product form produced and sold by area of production and by species; and,
- ◆ The wholesale price received.

This reporting would be required for the following product forms:

- ◆ Thermally processed salmon products by the number of each size of container
- ◆ Fresh headed and gutted salmon products by pounds
- ◆ Fresh fillet salmon products by pounds
- ◆ Frozen headed and gutted salmon products by pounds
- ◆ Frozen fillet salmon products by pounds
- ◆ Salmon roe products by pounds

Section 3 amends AS 43.80.050(c) to require all fisheries businesses selling to affiliates to report only the subsequent sales of that salmon product by the affiliates at wholesale. The information to be reported includes:

- ◆ A description of the products sold;
- ◆ The total quantity of each salmon product form sold by area of production and by species; and,
- ◆ The wholesale price received.

Section 4 amends AS 43.80.055 to require the department to determine from the reports the average monthly and annual wholesale prices for the sale of salmon products. These averages are to be determined for each pound by area of production by species by product form, except that for thermally processed salmon products the averages are determined by size of container by species.

Section 5 amends AS 43.80.055 to add a new subsection to require the department to publish the average wholesale prices in a report to be entitled the "Alaska Salmon Price Report".

Section 6 amends AS 43.80.060 to require the department to make the Alaska Salmon Price Report available to the legislature by the 15th day of each regular session. This provision, like current law, is unworkable if the intent is to provide the report for the immediately preceding calendar year. Section 1 provides that the reports by the processors for the months from September through December is due on January 31 of the following year, which makes the report to the legislature due before the department receives all the reports. The department will require time to receive the reports from processors, assimilate and review the data, and prepare the reports.

Section 7 amends AS 43.80.100(5) to provide that the reporting year is the calendar year after the calendar year in which the fisheries business sells more than 240,000 pounds of salmon products at wholesale.

Section 8 amends AS 43.80.100(7) to eliminate deductions in the nature of cash discounts allowed on sales and commissions paid to independent brokers in determining the wholesale price.

Section 9 amends AS 43.80.100 to add a new paragraph to define "area of production" in which a salmon product was produced to mean the commercial fishing management area established by the Board of Fisheries by regulation for specific commercial fisheries areas of the state.

Section 10 repeals Section 12, ch. 37, SLA 1998, which would have repealed AS 43.80.050 – 100 on July 1, 2003.

Section 11 amends the uncodified law to add a new section to provide that the first report required by AS 43.80.050 is due on September 30, 2000 for the period beginning May 1, 2000 and ending August 31, 2000, and must be filed by a fisheries business that sold more than 240,000 pounds of salmon products at wholesale during the 12 months ending August 31, 2000.

Section 12 provides a September 1, 2000 effective date.

Operating Expenditures

The following functions must be performed by DOR to meet the requirements of this bill: (1) public service (responding to questions from the public and processors), (2) data entry, (3) report production, (4) report and form dissemination, (5) accuracy and confidentiality checks, (6) non-filer identification, and (5) programming. We already perform these functions for the relatively simple average wholesale thermally processed

salmon report (2 page report and 4 page report form). We produce this report three times a year and it takes the equivalent of one month for one individual.

The increase in estimated form length, from 4 to 48 pages does not address the increase in complexity. Table 1 (see attached spreadsheet) provides some help in understanding the change in the level of complexity. The 48 page number assumes that each page of the form includes production area, pounds, wholesale price and product form by species by month. Consequently, there is a potential for 84 rows of data (14 production areas times 6 product forms per page). We are, however, assuming that, at most we will need to accommodate 32 rows per page. With 4 months of data and 6 species of salmon (including salmon roe) we have 24 pages. We then doubled this number because the data must be collected for both salmon sold and produced.

Not only will the number of filers increase, by at least 4 times, but the amount of information they must report will increase from 1 to 6 product forms, from by sale to by sale and production, and from statewide to by 14 different regions. This increase in complexity compounds the difficulty associated with accuracy and confidentiality checks.

Because of the large increase in complexity and amount of data, we are requesting two positions to meet our obligations under this bill. An Administrative Clerk III (@ \$36,600) will be needed to do all data entry, report and form dissemination, initial accuracy and confidentiality checks and initial public service. An Analyst Programmer I (@\$43,800) will be needed to do the query development and execution, non-filer identification, data base maintenance, final accuracy and confidentiality checks, special projects and responses to more complex public service questions and report production. Equipment, supplies and contractual obligations will be \$11,000 the first year because of a one-time cost of \$7,000 for computers and other equipment. After the first year, equipment costs will be zero and contractual and supply costs will be \$4,000 a year.

Another way to approach this issue is to examine how this cost compares to the cost of other tax programs that the tax division currently administers. The fisheries business tax return is the closest in similarity (in terms of complexity) to the proposed Salmon Product Report. Table 2 provides a comparison of the attributes of both of these programs.

Clearly, the fisheries business tax has more returns, species, and reporting areas. Additionally, the cost of the program includes accounting and collections costs, which would not be an issue for the Salmon Product Report. However, the fisheries business data is annual not monthly, does not include product forms, is not reported two different ways (production and sales) and is only received once a year, not 3 times a year. Also, because firms filing the report will be larger fishery businesses, the reports will be more comparable to the most complex of the fisheries business tax returns. Additionally, in our experience, fisheries businesses tend to fill out their tax returns more carefully than informational reports. This then requires more vigilance and time on the part of DOR

employees. The total administrative cost of the fisheries business tax is \$229,174, which is 2.7 times the estimated \$84,400 operating cost associated with this bill.

Capital Expenditures

The only capital expenditure would be the contract for creating a database and the associated data entry interface. We currently use an excel workbook because we only need 48 spreadsheets to accommodate the current information. At a maximum we would need 2,640 spreadsheets (4 months x 6 species x 55 processors x sold x produced). Each processor would have a separate spreadsheet for each month recording the pounds, product form and production area for a particular species. Each spreadsheet would potentially be 84 rows of data (14 production areas times 6 product forms). Although we know we would not need this many spreadsheets, even doubling the current number of spreadsheets would be too cumbersome to do in an excel workbook. We will also need to be able to execute relatively complex queries and to have a simple data entry interface.

Another advantage of using a database is it opens up the possibility of electronic filing. If electronic filing was required, we believe operating expenditures would decrease by approximately \$22 thousand a year. Although we have not had time to estimate the cost of contracting out for the development of a database, from previous experience we believe it would be at least a one-time cost of \$20 thousand. After the database system is set up, we believe the analyst programmer will be able to maintain the system and adjust it for changes.

Revenue

There is no direct revenue effect of this bill.

Salmon Price Reports
HB 363
February 25, 2000
Page 6 of 7

TABLE 1 - CHANGES TO REPORTING REQUIREMENTS: HB 363

	Status Quo	HB 363 Estimates
Number of processors reporting ¹	12	50-60
Number of product forms ²	1	6
Number of reporting areas ³	1	14
Number of species ⁴	5	6
Reporting point ⁵	sale	sale and prod.
Reporting time period ⁶	monthly	monthly
Report due ⁶	3 times a year	3 times a year
Report threshold ⁷	240,000 lbs.	240,000 lbs.
Pages per report form ⁸	4	48
Software ⁹	Excel	Database

¹ We used fisheries business tax data to approximate the number of processors that would exceed the minimum reporting threshold.

² The following product forms are to be reported: (1) fresh headed and gutted, (2) thermally processed, (3) fresh fillet salmon products, (4) frozen headed and gutted, (5) frozen fillet and (6) salmon roe. Because thermally processed salmon products must be reported by the size of the container in which they are sold, they must be broken out separately from the other product forms. Although there are a large number of sizes, the vast majority of thermally processed salmon will fall under the four most common can sizes.

³ The fourteen areas of production are (1) Southeastern, (2) Yakutat, (3) Prince William Sound, (4) Cook Inlet, (5) Kodiak, (6) Chignik, (7) Aleutian Islands, (8) Atka-Amli Islands, (9) Alaska Peninsula, (10) Kuskokwim, (11) Bristol Bay, (12) Yukon-Northern, (13) Norton Sound-Port Clarence, and (14) Kotzebue.

⁴ Under HB 363, there are the following five species of salmon (1) Chinook, (2) Sockeye, (3) Coho, (4) Pink, (5) Chum and (6) Roe. Under the existing report, salmon roe is not reported.

⁵ Under HB 363, the total quantity of salmon products produced and sold must be reported. Because both of these events occur at different points in time, they will be reported separately. This effectively doubles the reporting requirement.

⁶ The processor must provide monthly data every four months to the Department of Revenue.

⁷ A processor only has to fill out the report if during the previous calendar year the processor has sold more than 240,000 pounds at wholesale.

⁸ Because of the increase in the number of product forms (from 1 to 6), the reporting of salmon products produced and sold (from just sold) and the reporting by production area (14 production areas), we estimate that the report length will increase by a factor of 12. Additionally, it will increase in complexity. For example, for thermally processed salmon it will increase from four data fields (pounds, value, months and size) to 7 (pounds, value, months, product form, production area, sold or produced and size) data fields.

⁹ An excel spreadsheet with 48 pages linked to a summary page is all that is currently necessary. This will no longer work with at least 50 processors reporting 6 product forms, by production area, by species and by month (see operating expenditures discussion).

ALASKA DEPARTMENT OF REVENUE

Salmon Price Reports
HB 363
February 25, 2000
Page 7 of 7

TABLE 2 - A COMPARISON OF HB 363 REPORT & FISH. BUS. TAX

	Fisheries Business	HB 363 Estimates
Number of processors reporting ¹	449	50-60
Number of product forms ²	0	6
Number of reporting areas ³	54	14
Number of species ⁴	all	6
Reporting point ⁵	prod. or trans.	sale and prod.
Reporting time period ⁶	annual	monthly
Report due ⁶	once a year	3 times a year
Report threshold ⁷	none	240,000 lbs.
Pages per report form ⁸	26	48
Software ⁹	database	database

¹ We used fisheries business tax data to approximate the number of processor's that would exceed the minimum reporting threshold.

² Under HB 363, the following product forms are to be reported: (1) fresh headed and gutted, (2) thermally processed, (3) fresh fillet salmon products, (4) frozen headed and gutted, (5) frozen fillet and (6) salmon roe. Because thermally processed salmon products must be reported by the size of the container in which they are sold, they must be broken out separately from the other product forms. Although there are a large number of sizes, the vast majority of thermally processed salmon will fall under the four most common can sizes.

³ Under HB 363, the fourteen areas of production for HB 363 are (1) Southeastern, (2) Yakutat, (3) Prince William Sound, (4) Cook Inlet, (5) Kodiak, (6) Chignik, (7) Aleutian Islands, (8) Atka-Amli Islands, (9) Alaska Peninsula, (10) Kuskokwim, (11) Bristol Bay, (12) Yukon-Northern, (13) Norton Sound-Port Clarence, and (14) Kotzebue. For the fisheries business tax, we have included the number of communities we share with.

⁴ Under HB 363, there are the following five species of salmon (1) Chinook, (2) Sockeye, (3) Coho, (4) Pink, (5) Chum and (6) Roe. Species are listed by species code on the fisheries business tax return.

⁵ Under HB 363, the total quantity of salmon products produced and sold must be reported. Because both of these separate events occur at different points in time, they will be reported separately. This effectively doubles the reporting requirement. For the fisheries business tax, pounds and value must be reported once, either when the fish is processed or transported out-of-state unprocessed.

⁶ Under HB 363, the processor must provide monthly data every four months to the Department of Revenue. The fisheries business tax return is due once a year.

⁷ A processor only has to fill out the report if during the previous calendar year the processor has sold more than 240,000 pounds of salmon products at wholesale. All individuals or businesses that process fisheries resources in Alaska or transport unprocessed fisheries resources out of Alaska must file the fisheries business return.

⁸ Because of the increase in the number of product forms (from 1 to 6), the reporting of salmon products produced and sold (from just sold) and the reporting by production area (14 production areas), we estimate that the report length will be 48 pages. Currently, the fisheries business tax return is 26 pages long.

⁹ An excel spreadsheet with 48 pages linked to a summary page is all that is currently necessary. This will no longer work with at least 50 processors reporting 6 product forms, by production area, by species and by month (see operating expenditure discussion).

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 363

BY REPRESENTATIVE AUSTERMAN

1 Page 3, following line 26:

2 Insert a new bill section to read:

3 **"* Sec. 7. AS 43.80.100(4) is amended to read:**

4 (4) "fish processor" means a person engaging or attempting to engage
5 in a business for which a license is required under AS 43.75.010 - 43.75.055; "fish
6 processor" does not include a person engaged solely in secondary processing of
7 salmon products; in this paragraph, "secondary processing" means additional or
8 supplemental processing performed on salmon products that were purchased at
9 wholesale and for which the fisheries business tax under AS 43.75 was paid by
10 another fisheries business:"

11 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 363

1 Page 4, lines 11 - 17:

2 Delete all material and insert:

3 "(8) "area of production" means the area in which a salmon product
4 was produced; in this paragraph, "area" means one of the following areas:

5 (A) Southeastern and Yakutat;

6 (B) Prince William Sound;

7 (C) Cook Inlet;

8 (D) Kodiak;

9 (E) Chignik;

10 (F) Aleutian Islands, Atka-Amliia Islands, and Alaska Peninsula;

11 (G) Bristol Bay; or

12 (H) Kuskokwim, Yukon-Northern, Norton Sound-Port Clarence,

13 and Kotzebue."

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 363

1 Page 3, following line 26:

2 Insert a new bill section to read:

3 "* Sec. 7. AS 43.80.100(4) is amended to read:

4 (4) "fish processor" means a person engaging or attempting to engage
5 in a business for which a license is required under AS 43.75.010 - 43.75.055; "fish
6 processor" does not include a person engaged solely in secondary processing of
7 salmon products: in this paragraph. "secondary processing" means additional or
8 supplemental processing performed on salmon products that were purchased at
9 wholesale and for which the fisheries business tax under AS 43.75 was paid by
10 another fisheries business:"

11 Renumber the following bill sections accordingly.

1-LS1298VH
Utermohle
3/1/00

CS FOR HOUSE BILL NO. 363(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:

Referred:

Sponsor(s): REPRESENTATIVES AUSTERMAN, Harris

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to salmon product reports; and providing for an effective date."

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

3 * Section 1. AS 43.80.050(a) is amended to read:

4 (a) A fish processor engaged in the business of selling [THERMALLY
5 PROCESSED] salmon products at wholesale and whose business sells more than
6 240,000 pounds of [THERMALLY PROCESSED] salmon products at wholesale
7 during a calendar year shall submit to the department during the following calendar
8 year, on a form provided by the department, reports of (1) the prices received for and
9 quantity of salmon products sold at wholesale by the processor or an affiliate of the
10 processor; and (2) the quantity of salmon products produced by the processor or
11 an affiliate of the processor [FOR THE SALE OF THERMALLY PROCESSED
12 SALMON]. Not later than May 31 of each reporting year, a processor shall submit
13 a report for the period January 1 through April 30 of the reporting year. Not later than
14 September 30 of each reporting year, a processor shall submit a report for the period
15 May 1 through August 31 of the reporting year. Not later than January 31 of each