

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

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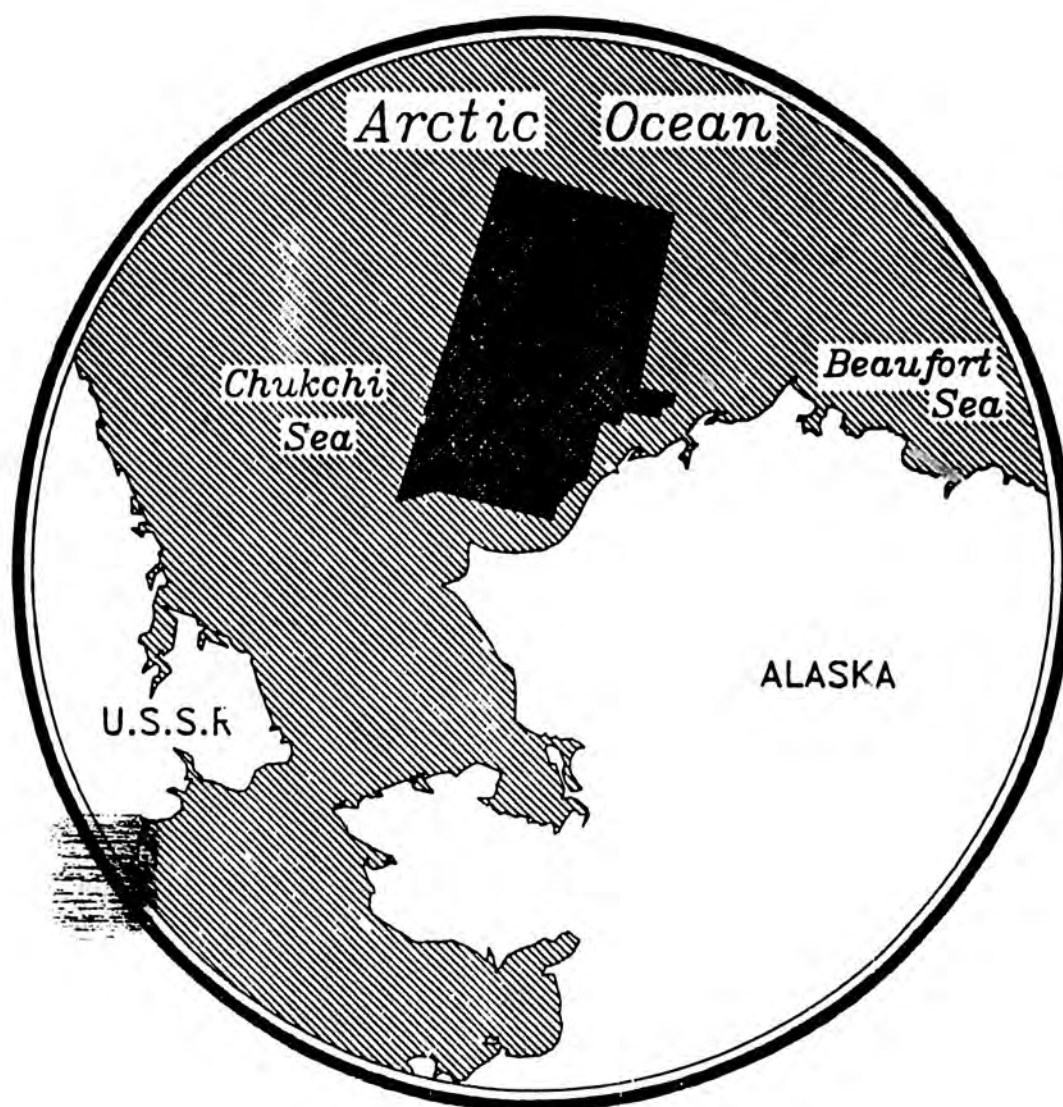
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Alaska Outer Continental Shelf

Chukchi Sea Oil & Gas Lease Sale 126

Final Environmental
Impact Statement

Volume I



U.S. Department of the Interior
Minerals Management Service
Alaska OCS Region

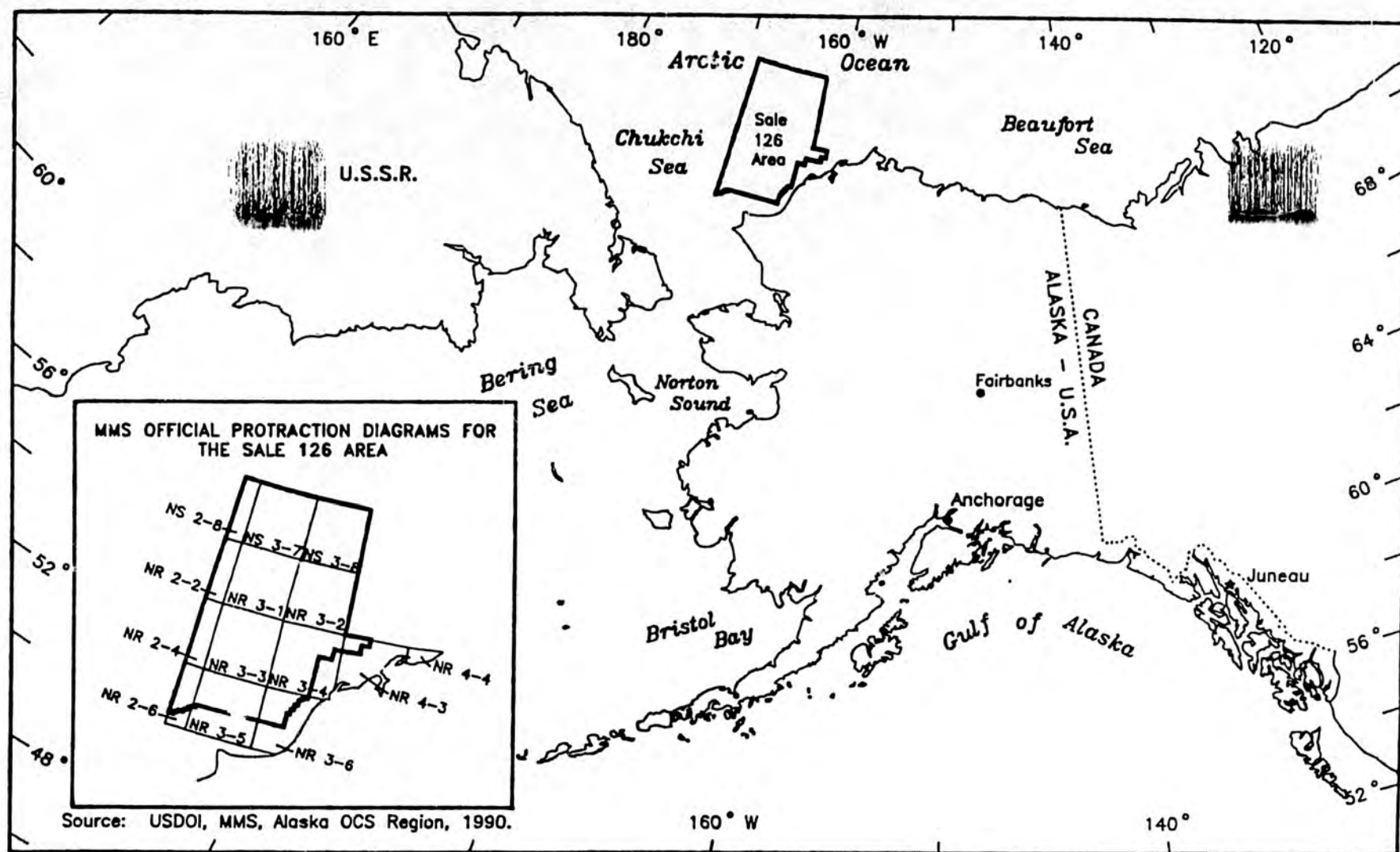


Figure I-1. Location of the Proposed Chukchi Sea Sale 126 Area

Summary of Environmental Impact Statement for Proposed Chukchi Sea Sale 126

This Environmental Impact Statement (EIS) examines a proposal for oil and gas leasing in the Chukchi Sea, three alternatives to the proposal, the major issues identified through the scoping process, and the potential mitigating measures associated with the proposal.

The proposal (Alternative I) consists of 4,319 blocks (approximately 9.58 million hectares) in the Chukchi Sea that are located about 3.5 to 200 miles (about 6.5 to 370 km) offshore in water depths that range from about 98 to 263 feet (about 30-80 m). Alternative II (No Lease Sale) would cancel the proposed lease sale, scheduled for late 1991. Alternative III (Delay the Sale) would delay the proposed lease sale for a period of up to 3 years. Alternative IV (Point Lay Deferral Alternative) would defer leasing on 501 blocks (about 1.15 million hectares) identified in the proposal, resulting in the deferral alternative being moved offshore from about 25 to 75 miles (40 to 120 km). The Secretary of the Interior will decide which of these options or combination of options will take place.

The potential effects of Alternative I (Proposal) are based on three separate cases that represent a range of possible oil and gas activities resulting from Sale 126. The cases are the low case, base case, and high case. It is assumed that natural gas resources would not be economic to produce and would not be developed (see Appendices A and B).

→ **Low Case:** The low case assumes that 430 million barrels (MMbbl) of oil would be discovered but that this volume is below the minimum economic resource required for development. As a result, two exploration wells would be drilled, plugged, and abandoned, with industry activity ceasing at this point. This case represents a minimum amount of petroleum industry activity that could occur in the Sale 126 area. The probability of a major oil spill occurring would be negligible. The only spills estimated to occur would be from minor operational spills. The environmental analysis focuses on the effects associated with exploration activities.

Base Case: The base case represents the most likely amount of hydrocarbon resources that could be assumed to be developed from leasing in the Sale 126 area if commercial quantities of hydrocarbons are discovered. It is assumed that 1,610 MMbbl of oil would be discovered and produced in the sale area. It is assumed that natural gas resources would not be economic and would not be developed. The MMS estimates a 0.21 marginal probability, which means that there is an approximately 21-percent chance of economically recoverable hydrocarbons being present in the unleased sale area. For the base-case-resource estimate, two spills of 1,000 barrels or greater ($\geq 1,000$ bbl) are estimated to occur over the life of the field, with an 87-percent chance of one or more spills occurring.

For the base case, assuming that commercial quantities of hydrocarbons are present in the area and developed, there is a 21-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the summer within 30 days. There is a 25-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the entire winter. The effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The base-case-environmental analysis focuses on oil exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be piped ashore near Point Belcher and transported overland by pipeline to connect with the Trans-Alaska Pipeline (TAP) near Pump Station No. 2. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

→ **High Case:** The high case represents a maximum resource volume of hydrocarbons likely to be present in commercial quantities. It is assumed that 3,540 MMbbl of oil would be discovered and produced in the sale

area. It is also assumed that natural gas resources would not be economic and would not be developed. The marginal probability of hydrocarbons in commercial quantities being present in the sale area is the same as in the base case (0.21). For the high-case-resource estimate, four spills of $\geq 1,000$ bbl are estimated to occur over the life of the field. Assuming that commercial quantities of hydrocarbons are present in the area and developed, there is a 41-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during summer within 30 days. There is a 46-percent chance that one or more spills of $\geq 1,000$ bbl would occur and contact land during the entire winter. The probability of one or more spills of $\geq 1,000$ bbl occurring is 99 percent. The degree of adverse effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The high-case environmental analysis focuses on exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be transported to the TAP in the same manner as in the base case. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

Alternative II (No Lease Sale) would remove the total area proposed for leasing from further consideration. Therefore, effects identified to occur as a result of the proposal would not occur. This alternative could perpetuate the need for imported oil and add to the need for developing alternative-energy resources.

Alternative III (Delay the Sale) would delay the proposed lease sale for a period of up to 3 years. Effects of this alternative would be the same as for Alternative I (the proposal), but they would be delayed up to 3 years.

Alternative IV (Point Lay Deferral Alternative) would defer leasing on 501 blocks (about 1.15 million hectares), resulting in the deferral alternative being moved from about 25 to 75 miles (40 to 120 km) offshore. The purpose of the deferral alternative is to include those marine mammal habitats not deleted from the sale area during Area Identification, provide additional protection for important coastal habitats, and furnish an additional protective buffer for offshore subsistence-harvest areas of the community of Point Lay. In this alternative, it is assumed that 1,610 MMbbl of oil would be discovered and produced in the sale area, the same as in the base case. It is also assumed that natural gas resources would not be economic to produce and would not be developed (see Appendices A and B). The marginal probability of hydrocarbons in commercial quantities being present in the sale area (0.21) is the same as in the base case. The number and probability of oil spills estimated to occur also are the same as in the base case, assuming that commercial quantities of hydrocarbons are present in the area and developed. The degree of adverse effects from oil spills would be mitigated by the extent to which weathering of oil occurred at sea and by the effectiveness of any oil-spill-cleanup measures.

The environmental analysis for the Point Lay Deferral Alternative focuses on the effects associated with exploration and development and production activities. The analysis uses a hypothetical transportation scenario in which oil production from offshore-production platforms would be transported to the TAP in the same manner as in the base case. The oil would be transported south by TAP to Valdez and shipped to the continental U.S. by tankers.

Table S-1 summarizes the possible effects that are likely to occur as a result of the leasing proposal (Alternative I) and the alternatives to the proposal on those resources identified as major concerns during the scoping process (see Table S-2 for the definitions used in assessing effects). The analyses supporting the conclusions in Table S-1 assume that all current laws and regulations are in place for the leasing proposal. If the potential mitigating measures described in Section II.F.2 of this EIS were adopted, some of the effects described in Section IV would be reduced (the effectiveness of potential mitigating measures is discussed in Sec. II.F.2).

This EIS is not intended, nor should it be used, as a local planning document by potentially affected communities. The facility locations and transportation scenario described in this EIS represent assumptions

Questions for Department of State Regarding the Proposed
U.S.-U.S.S.R. Maritime Boundary Treaty



1. What is the basis for the sovereignty over, and claims to sovereignty (formal or otherwise), of the United States to the islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta? Include acts conducted by U.S. Navy expedition commanded by Lt. George Washington DeLong and U.S. Revenue Marine expedition commanded by Captain Calvin Leighton Hooper.

2. Who or what agency is the final authority for determining which territory belongs to the U.S.? Has this source of final authority changed from 1881 to the present? Under what U. S. statute and/or regulation is this process carried out?

3. If the U.S. at one time owned these islands, but now recognizes the Soviets own them, by what method was the transfer of sovereignty effectuated? Do such transfers of sovereignty require a treaty?

4. If the U. S. never owned these islands, what was the first document by which the U.S. recognized the Soviet claim to sovereignty? What other documents by U.S. government officials acted as if the Soviets had sovereignty?

5. Was the Digest of International Law published in 1983 either by the Department of State or under the sponsorship or endorsement of the Department of State?

6. Were the five islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta excluded from Alaska in the Statehood Act of 1959.

7. Is the State Department's International Boundary Study #14 correct in its description of the U.S.-Russia Convention Line of 1867? If not, what is the correct description?

8. Has anything changed with respect to the U.S.-Russia Convention Line of 1867 since the publication of the International Boundary Study #14 (Revised) in 1965?

9. When the Department of State issued a passport for the survivors of the Lomen Brothers' settlement who were kidnapped by the Soviets from Wrangell Island in 1924, were all the people included in the passport American citizens?

10. For the many rounds of negotiations leading up to the maritime boundary treaty, who were the negotiators on the U.S. and Soviet sides, and what were the dates and locations of all of the negotiating sessions?

11. When negotiations reach the point at which it is determined by a competent authority that they will culminate in a treaty, the State Department is required by statute to notify Congress, especially the Senate for its advice. By what document was this notification made? Who was the "competent authority"? Please supply a copy. (Circular 175 requirement)

12. Are seabeds, marine life, and resources on or below seabeds in the Exclusive Economic Zone considered to be either territory of, or property of, the United States? What is the estimated value of the natural resources (oil, gas, minerals, sealife, etc.) on both sides of the proposed line in the Arctic and Bering Seas.

13. Has the U.S. assisted any American claimant of property or territory regarding Wrangell, Herald, Bennett, Jeannette, or Henrietta Islands? Who are these claimants?

14. Why were no representatives of the State of Alaska allowed to participate in any of the negotiating sessions, and why will the State of Alaska not have the power of consent regarding this treaty with respect to ceding territory or establishing its own boundary with the Soviet Union? A clear parallel exists with the negotiations between the U.S. and Great Britain over the boundary between Maine and Canada (Webster-Ashburton Treaty), in which representatives of both Maine and Massachusetts were required to be involved in the negotiations and the consent of these states was also required.

15. During the negotiations, Legal Adviser Abraham Sofaer recused himself, reportedly because of his financial interest in the oil industry. Please supply a copy of any recusal document for Judge Sofaer and any other State Department official for this treaty negotiations.

16. In establishing a maritime boundary line purportedly to follow generally the U.S.-Russia Convention Line of 1867 as described in the 1867 treaty, why was the crucial southern end of the line ignored, i.e., the part of the 1867 treaty which states "...so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian" (193 west longitude)? Copper Island, Sea Lion Rock, and Sea Otter Rock are U.S. islands as described by the 1867 treaty, but would appear on the Soviet side of the maritime boundary treaty.

17. Why have the "eastern special areas" and "western special area" been created on each side of the maritime boundary lines, which permit the U.S. to "exercise sovereign rights and jurisdiction" in the Soviet areas and the Soviets to do the same in the U.S. areas? This is a unique concession to allow a foreign government to exercise sovereign powers inside the U.S. and will require authorizing legislation. Why was not the boundary line drawn to go around these areas and thus avoid the need to create this grave sovereignty problem?

18. Why does the maritime boundary treaty re-define the U.S.-Russia Convention Line of 1867 in terms that were never included or intended in the 1867 treaty?

A. It uses a 200-mile reference from Wrangell and Herald Islands to establish the "eastern special area" in the Arctic, as if the Soviets had sovereignty over Wrangell and Herald.

B. It diverges in all material aspects from the description of the U.S.-Russia Convention Line of 1867 in the State Department's International Boundary Study #14 (Revised).

C. It creates a major "jog" away from the straight line in the Bering Sea to give the Soviets a 200-mile concession.

D. It ignores the part of the line described in the 1867 treaty for the end of the Aleutian Islands (i.e. the line at the 193 west longitude ceding all the Aleutians to the U.S.).

E. It gives in to the Soviet demand for the line to follow a "rhumb" line depiction for the thousands of miles of its length even though such a depiction does not represent the "neutral" shortest distance between two points on the globe (as the "arc of a great circle" depiction would do). The effect of this concession is that the Soviets will get thousands more square miles of outercontinental shelf in the Bering Sea.

Alaska State Legislature

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262-9269 H



State Senate

While in Juneau

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Juneau, Alaska 99811
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May 21, 1991

Carl Olson, Chairman
Watch State Department
P.O. Box 7981
Northridge, California 91327

Dear Carl:

Thank you for your letter concerning the Soviet-Alaska maritime boundary treaty.

The enclosed copy of a letter signed by Alaska State Legislators is being sent to the Subcommittee to be included as testimony. It is self-explanatory.

If I can be of further assistance, please let me know.

Cordially,

A handwritten signature in cursive script, appearing to read "Paul".

Senator Paul A. Fischer





Official Business

Alaska State Legislature



P.O. Box V
State Capitol
Juneau, Alaska 99811

May 17, 1991

Honorable Senator Joseph Biden, Chair
Subcommittee on European Affairs
Senate Committee on Foreign Relations
446 Dirksen Building
Washington, D.C. 20510-6232

Dear Senator Biden:

The undersigned members of the Seventeenth Alaska State Legislature, individually and collectively, urgently invite your attention to a pressing matter.

An issue before the Congress, presently scheduled to be heard on June 13 by your European Subcommittee of the Senate Foreign Relations Committee, is the proposed treaty to establish an Arctic maritime boundary between the United States and the Soviet Union.

We firmly believe United States interests and Alaskan interests are at stake and in jeopardy in the proposed treaty. The scenarios you have perhaps seen, selectively constructed from actual history, are only part of the misinformation contributing to support for the proposal. There is a great body of geographic and scientific geologic evidence which militates against, but which has been subordinated to, other interests in drafting the proposed treaty.

No Alaskan official has ever been invited to participate in the treaty negotiations, in spite of abiding Alaskan interests in fisheries, petroleum and other potential continental shelf resources and the considerations of navigation in the area. In the entire history of the treaty negotiations, Alaska has had no official voice. Alaska has not been officially consulted in the entire matter. There is precedent. In 1842, at the behest of Secretary of State Daniel Webster, two commissioners from the State of Maine and three from Massachusetts participated in U.S. negotiations with England over a border disputed since the time of the Revolutionary War.

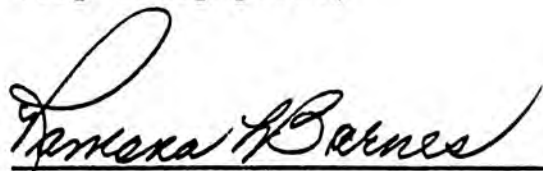
Further, in no way are Alaskan interests severable from those of the United States, but other considerations would appear to have outweighed them all. We have absolutely no interest in laying blame; only in averting possible grievous wrongs. Even though firmly-held persuasions might depend on acceptance of the proposal, they cannot be as vital to all interests as is justice.

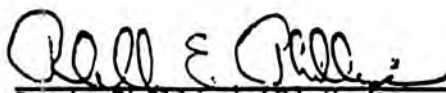
It is not our purpose to rewrite the proposal. Able diplomats could do that above our ability. It is our purpose to urgently recommend that the presently-proposed treaty not be ratified by the U.S. Senate, and that negotiations be continued to include appropriate Alaskan officials and current United States and Alaskan historic, territorial and resource interests.

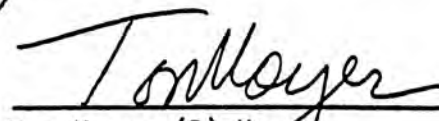
Once ratified, a treaty would be a fact of history virtually impossible to amend. The use of your influence to defer ratification of the proposed treaty and to continue negotiations might prove to have been of presently inestimable value to this and future generations of Alaskans and all Americans.

Thank you most sincerely for your attention and consideration.

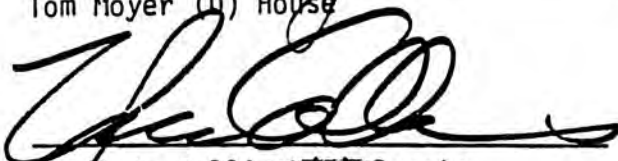
Very truly yours,

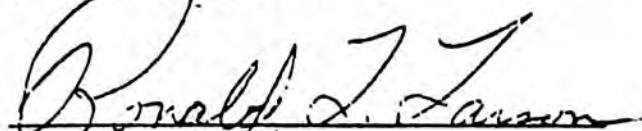

Ramona Barnes (R) House


Randy Phillips (R) House

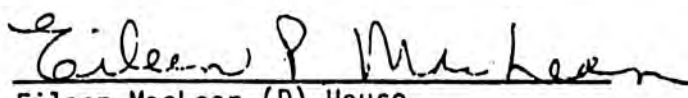

Tom Moyer (D) House

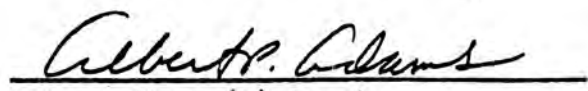

Bert Sharp (R) House

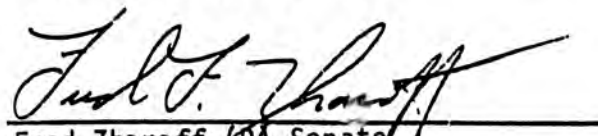

Virginia Collins (R) Senate


Ronald Larson (D) House

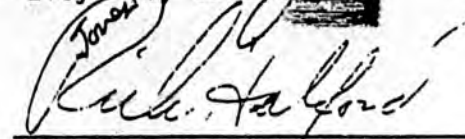

Dick Shultz (R) Senate

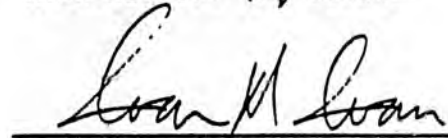

Eileen MacLean (D) House

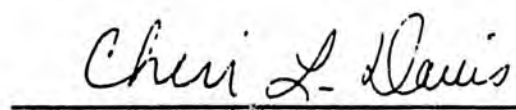

Albert Adams (D) Senate

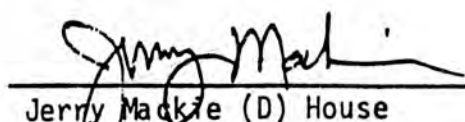

Fred Zharoff (D) Senate

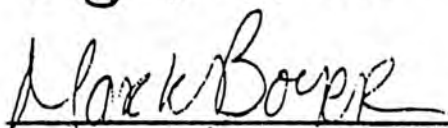

Lloyd R. Senates

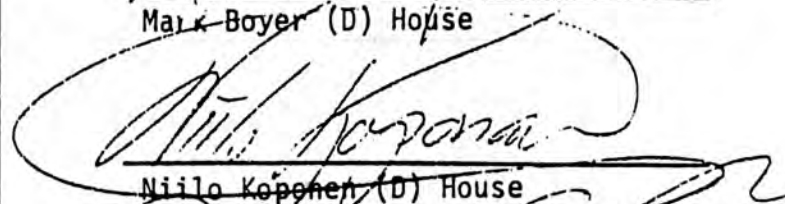

Rick Halford (R) Senate

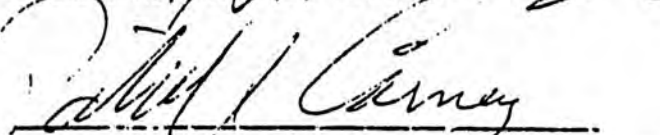

Ivan Ivan (R) House


Cheri Davis (R) House

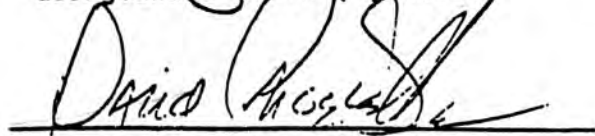

Jerry Mackie (D) House


Mark Boyer (D) House


Niilo Koponen (D) House

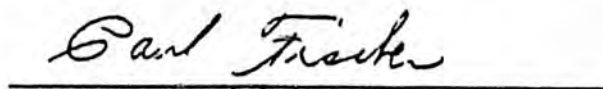

Patrick Carney (D) House

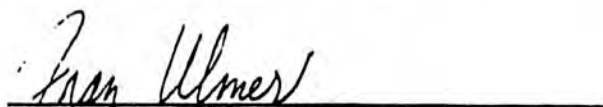

Georgiana Lincoln (R) House


David Finkelstein (D) House

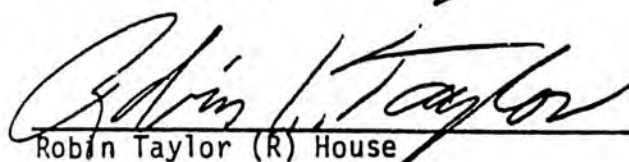

Cliff Davidson (D) House

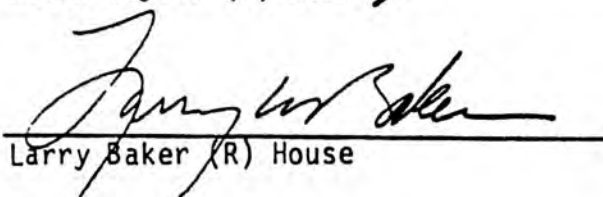

Richard Eliason (R) Senate

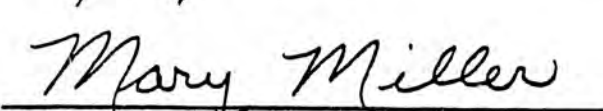

Paul Fischer (R) Senate


Fran Ulmer (D) House

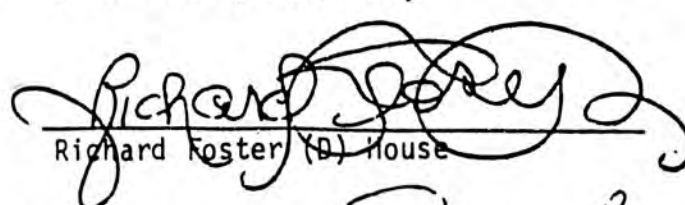

Mark Hanley (R) House

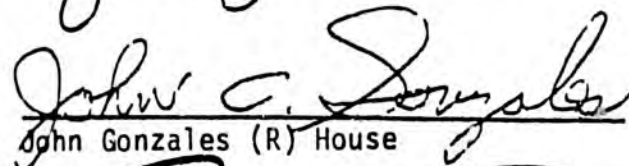

Robin Taylor (R) House

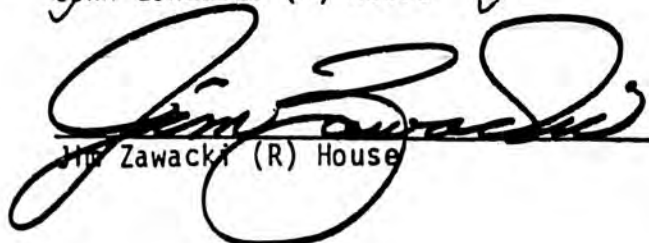

Larry Baker (R) House


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Gail Phillips (R) House


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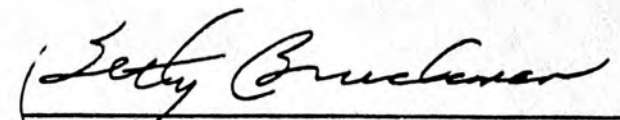

John Gonzales (R) House


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Michael Miller House


William Hudson (R) House


David Choquette (R) House


Betty Bruckman (D) House

**U.S. SOVIET MARITIME BOUNDARY AGREEMENT,
TREATY DOC. 101-22**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED SECOND CONGRESS
FIRST SESSION

JUNE 13, 1991

Printed for the use of the Committee on Foreign Relations



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(III)

COMMITTEE ON FOREIGN RELATIONS

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(II)

U.S.-SOVIET MARITIME BOUNDARY AGREEMENT, TREATY DOC. 101-22

THURSDAY, JUNE 13, 1991

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:19 p.m. in room SD-419, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr., presiding.

Present: Senators Biden and Murkowski.

Senator BIDEN. The hearing will come to order.

Senator Helms, who will be here, is unavoidably delayed and will be a few minutes late, but hopes to be here to participate because he has some interest, more than a passing interest in this subject. But we are going to begin, and I apologize for keeping you waiting.

Today the United States and the Soviet Union stand at a crossroads. One path holds a continuation of the distrust and conflict that have characterized our dealings for nearly a half century, and in truth ever since 1917. The other path holds a more constructive future. On that road, if the two sides take it together, lies the possibility of constructive cooperation in our mutual benefit and to the benefit of the world community at large.

But today the subcommittee meets to consider a measure that constitutes one small step down that path of cooperation. This measure, the U.S.-Soviet Maritime Boundary Treaty, represents the attempt of the two sides to resolve an important dispute through negotiation, compromise, and mutual pledge to abide by the solemn obligations of a bilateral treaty and international law.

The dispute this treaty would lay to rest concerns the sovereign rights and jurisdiction of the United States and the Soviet Union in the seas between Alaska and Siberia. The treaty would govern each country's right to manage fisheries and to conduct oil and gas exploration and development in a vast maritime area.

The treaty was signed by Secretary of State Baker and Foreign Minister Shevardnadze on June 1, 1990, after 9 years, 9 long years, of negotiation, and was submitted to the Senate for its advice and consent last September. The negotiations addressed four fundamental issues:

First, the basis for defining the limits of each country's maritime jurisdiction where under international law they would otherwise overlap.

Second, the method of description of the boundary lines established by the 1867 Convention, by which Russia ceded Alaska to

the United States and made it possible for Mr. Murkowski to become a U.S. Senator; and I might note parenthetically, I did not mean he could not have been a Senator from somewhere else, but at least from Alaska. I do not want to encourage you to come to Delaware, Frank.

Third, the limit of each country's maritime jurisdiction in the areas outside of the 200-mile exclusive economic zones.

Fourth, the question of jurisdiction over areas that are within one country's 200-mile zone but on the other country's side of the boundary line.

The Maritime Boundary Agreement resolves these conflicts by: One, declaring that the 1867 Convention line is the maritime boundary between the United States and the Soviet Union; two, establishing a precise geographic description of the line; and three, providing for the transfer of jurisdiction and Russia rights in four special areas.

I look forward to hearing from our three witnesses today: Senator Ted Stevens of Alaska, who will be here later; Mr. Edwin Williamson, the State Department Legal Adviser; and Mr. Carl Olson, Chairman of an organization called State Department Watch.

Senator Stevens is attending a closed briefing at this time and will arrive later to give his statement. So at this time I would like to yield to my colleague, Mr. Murkowski, and then, assuming Senator Helms is not able to be here by then, and he probably will not be able to be, we will then yield to the State Department representative, Mr. Williamson, to make his statement, and we will proceed from there.

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate your reference to the short time that Alaska has been a member of the Union, because oftentimes we try and convince our colleagues that we have a lot of catching up to do.

Senator BIDEN. We in Delaware view it that way, too.

Senator MURKOWSKI. And issues like ANWR and other controversial points of view clearly represent Alaska's effort to establish an economic pattern of support of a sound economy, when your State and others achieved that 100 years ago. We hope that we can learn by your mistakes.

Mr. Chairman, I very much appreciate you holding this hearing on the U.S.-Soviet Maritime Boundary Agreement. As you have pointed out, it is a treaty of great importance to my State of Alaska.

It is kind of unique as we address issues in the far North and find that all the Arctic in the United States happens to be in Alaska. If we had a few other States, it would be reaching a little bit to go to Delaware, but nevertheless a few other allies—

Senator BIDEN. You would get lost.

Senator MURKOWSKI. Well, you never can tell. It would allow us to pick up a few allies and have perhaps a little better understanding. But the reality is that the resources of North America are coming from the Arctic, and it is important that the decisions we make with regard to resource development be based on sound scientific evidence, where scientists are willing to basically put their reputation behind their recommendations.

Unfortunately, much of the decisionmaking process is emotional, one of who can shout the loudest or generate the most argument on any particular side.

Now, this agreement, as you pointed out, has been under negotiation for a long time. The State of Alaska has had an opportunity to be briefed on the process, and I would ask that letters from Governor Hickel and former Governor Cowper be entered into the record that substantiate the specific communications that the State has had with the U.S. Government over this extended period of time.

Senator BIDEN. Without objection.

[The information referred to follows:]

STATE OF ALASKA,
OFFICE OF THE GOVERNOR, JUNEAU, AK,
May 31, 1991.

Hon. JOSEPH A. BIDEN, Jr.,
Chairman, Senate Subcommittee on European Affairs,
Washington, DC.

DEAR MR. CHAIRMAN: I support the proposed U.S.-Soviet Maritime Boundary agreement and am satisfied that the agreement adequately addresses and protects the interests of the United States and Alaska.

This treaty would resolve longstanding boundary disputes between the U.S. and the Soviet Union that have retarded fisheries management and mineral development. The treaty would allow oil development by U.S. companies in previously disputed areas, and would facilitate fisheries management and enforcement by clearly delineating extensive areas available to U.S. fishermen. Also, the treaty would extend U.S. jurisdiction to an additional 13,200 square nautical miles, thereby placing approximately 70 percent of the Bering Sea under U.S. control.

The final resolution of the current dispute would be further evidence of the evolving cooperation and goodwill between the U.S. and the Soviet Union. In turn, this spirit of cooperation will create increased trade, scientific and medical exchanges, and other types of economic and social interchange between U.S. and Soviet citizens.

It is my understanding that the treaty negotiations never encompassed the issue of ownership of Wrangel and other Bering Sea islands and that the proposed treaty does not address this question.

Thank you for considering my views.

With best regards.

Sincerely,

WALTER J. HICKEL,
Governor.

STATE OF ALASKA,
OFFICE OF THE GOVERNOR, JUNEAU, AK,
June 27, 1988.

Hon. GEORGE SCHULTZ,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Enclosed is a copy of a joint resolution of the Alaska Legislature regarding the United States' negotiations of its boundaries with the Soviet Union and Canada.

The resolution notes that there have been several rounds of boundary negotiations between the United States and the Soviet Union regarding the nations' boundaries near Alaska. It states, among other things, that "the Department of State has never formally solicited the input or advice of the state [of Alaska] about the content or strategy of the negotiations."

It is my ministerial duty to sign all joint legislative resolutions, and I have performed that duty in this case. I think it is only fair to acknowledge, however, that your Department has consulted with my Washington, DC, office and with Alaska's Congressional Delegation both before and after each round of negotiations, and has formally solicited the state's advice.

Whatever arrangements should be made in the future for a more formal role for the state, I have appreciated your efforts to keep us informed and involved.

Sincerely,

STEVE COWPER,
Governor.

Senator MURKOWSKI. I am pleased to report that, at long last, we seem to have resolved the issue in dispute between ourselves and the Soviet Union over fishing rights and mineral exploration in the Arctic Ocean and the Bering Sea. The Congress, the executive branch, and the State of Alaska have worked closely together throughout the decade to achieve the results that we have before us today. All three are to be praised and recognized for the hard work and diligence that produced this treaty.

The U.S.-Soviet Maritime Boundary Agreement represents a very favorable outcome in terms of U.S. strategic and resource interests. It precisely defines the Convention line which was drawn when we purchased Alaska from Imperial Russia in 1867. The treaty limits the United States and the Soviet Union's territorial sea, exclusive economic zones, or EEZ's, and Continental Shelf jurisdiction when they would otherwise overlap.

As a result, it proposes to settle disputes which have in the past arisen concerning fishing rights in the area, valuable fishing rights, and oil and gas exploration.

Mr. Chairman, under the terms of the Maritime Boundary Treaty, the parties agree: One, that the 1867 Convention line is the maritime—and I stress because there may be some misunderstanding later in the hearing, I stress it is a maritime boundary—between the United States and the Soviet Union.

It also clarifies how the 1867 line is to be defined, something that was left ambiguous in the Convention because we and the Russians used different cartographic techniques. This difference resulted in almost 21,000 square miles in the Bering Sea being claimed by each nation, the Soviet Union and the United States, as falling on its individual side of the 1867 line. So each side claimed it.

The disputed area contains very rich fishing grounds, oil and gas potential. And what we have in this new agreement is a division of the disputed area between the parties.

The 1,600-mile maritime boundary it creates is the longest boundary in the world. It will definitely establish once and for all U.S. and Soviet territorial sea jurisdictions, as well as EEZ and Continental Shelf jurisdictions, in the Bering Sea and the Arctic Ocean.

The treaty also establishes a precise maritime boundary in areas where our two countries' 12-mile territorial sea or 200-mile EEZ overlap or are otherwise in dispute and delimits the parties' Continental Shelf jurisdiction beyond their 200-mile EEZ.

Finally, by adopting an innovative "special areas" formula in the treaty, we minimize the size of the so-called doughnut hole in the Bering Sea that is beyond the fisheries jurisdiction of either party. This is that area 200 miles beyond the shore of either the Soviet Union or the United States.

What we did in the doughnut hole ultimately is give approximately 20 percent to 25 percent more to the United States, which certainly supports our contention of managing that area from the standpoint of vessels that go in there and seek sanctuary and then

move out into the surrounding area within the 200-mile zone and fish.

Now, the bottomline is that this treaty places about 70 percent of the Bering Sea under U.S. jurisdiction and gives the United States an extra 13,200 square nautical miles, an area nearly equal in size to the combined area of New Hampshire and Vermont, as compared with the most favorable equidistant line. So one can conclude that we have benefited by approximately 13,200 square nautical miles in this delineation.

Now, Mr. Chairman, we have another issue here and, while I am pleased to support the maritime boundary, I am also equally pleased to note that it has the support of the State of Alaska, and I will get into what the other issue is in just a minute.

You have already indicated an acceptance of the letter from our Governor in which he states: "I support the proposed U.S.-Soviet Maritime Boundary Agreement and I am satisfied that the agreement adequately addresses and protects the interests of the United States and Alaska."

You have also indicated an acceptance of the letter of June 27, 1988, from former Governor Cowper to former Secretary of State Schultz, in which Governor Cowper notes that the State Department "has consulted with my Washington, DC, office and with the Alaska congressional delegation both before and after each round of negotiations and has formally solicited the State's advice."

Mr. Cowper concludes his letter with these words: "I have appreciated your efforts to keep us informed and involved."

Now, to get to the other issue, Mr. Chairman, I think we have a peripheral issue here before us that certainly is important. It is an issue, however, that has really nothing specific to do with the treaty that is before us, but one which nevertheless attaches itself to the treaty. This is the so-called five islands or the Wrangel Island issue.

I feel very qualified to speak on the Wrangel Island because I lived on Rangell Island for 4 years, from 1964 to 1966, and I would suggest that not only am I the only one in the room to have that distinction, but probably the only one in Washington, DC.

Now, I will concede that the island that I lived on had two l's at the end instead of one. But they are often confused, as I look at the audience and see some confusion at my profound reference to having lived on Rangell for 4 years. As a consequence, many of the 700,000 tourists that annually go through Rangell in southeastern Alaska by cruise ship and read accounts of us not claiming Wrangel Island, much of the confusion associated with the five island issue comes about.

Senator BIDEN. You mean you were not sure whether you were a Soviet or an American during that period of time?

Senator MURKOWSKI. No. I tell you, Rangell was—you are going to learn more history than you ever wanted.

Senator BIDEN. Where is it on the map?

Senator MURKOWSKI. Unfortunately, Mr. Chairman, would you believe that it is not even on the map?

Senator BIDEN. All right. Thank you.

Senator MURKOWSKI. It is on the part of Alaska that is off to the right, close to Delaware.

Senator BIDEN. Got you. [Laughter.]

Senator MURKOWSKI. Probably closer to Delaware than it is the Soviet Union. It is the archipelago down near Ketchikan, that wanders down off the Canadian coast. And unless some of the staff can produce an immediate map, I cannot show you where it is, but it is about 900 miles north of Seattle.

Senator BIDEN. Thank you.

Senator MURKOWSKI. And about 1,200 miles south of Anchorage. But I wanted to point out that distinction to either clarify or confuse those who are addressing the topic today.

Well, as we look at the five island issue, or Wrangel Island, and that is the largest of the five islands, U.S. citizens were certainly involved in the discovery or exploration of each of these islands, located in the Chukchi and the East Siberian Seas.

I would ask that the staff with a pointer or appropriate long hand go out and point to where that is. Is there a volunteer on either side? Obviously, we have not rehearsed this. Go ahead, see if you can find it, because I want to make sure the chairman—Wrangel Island is about 70 miles long.

Senator BIDEN. That is not the one you lived on?

Senator MURKOWSKI. No. No, I lived on the other one, the one that is way down near Delaware.

Senator BIDEN. I just wanted to make sure I understand.

Senator MURKOWSKI. No, that is quite all right.

Some of the other islands that are in dispute are Henrietta—would you show.

STAFF. Herald is here and the other three are—

Senator MURKOWSKI. They are on another map, to the left. Well, you have got some idea of the geography, Mr. Chairman.

Now, as I said, U.S. citizens were involved in the discovery or exploration of each of these islands located in the Chukchi and East Siberian Seas. It is alleged that by ratifying the Maritime Boundary Treaty the United States would recognize claims—excuse me. I think this is important.

It is alleged that by ratifying the Maritime Boundary Treaty the United States would recognize Soviet claims to these islands. Well, that is not true, but such an allegation has been made. The treaty, as I have emphasized time and time again, is a maritime treaty, not an instrument that addresses the issue of sovereignty over territory.

The five islands are not mentioned or alluded to in the treaty that we are now considering. Our claim to them is not properly a matter for discussion in connection with the ratification of this treaty, and a vote in favor of the treaty in no way prejudices potential future U.S. claims to these islands.

Mr. Chairman, I had an opportunity as a member of the Intelligence Committee to view some classified photos of Wrangel Island and I can tell you that Wrangel Island is inhabited. There is an air strip, there is a radar station, and there is an Arctic research station there.

But it is a very, very harsh environment, with just a few months of open sea. There is no source of food, nor is there a source of fuel, with the exception of the musk ox that were planted there some time ago and a small herd of reindeer or mixed caribou in the area.

But it is a very, very harsh environment, and the other islands are even more severe in their climatic and barren status. But that begs the issue.

In conclusion, Mr. Chairman, I would urge that my colleagues on the committee and the full Senate ratify the U.S.-Soviet Maritime Boundary Agreement because it will resolve many significant bilateral differences which have existed between the United States and the Soviet Union in the Bering Sea and will allow for the peaceful management of fisheries and mineral exploration in the area, and it will benefit my State of Alaska substantially for resolving once and for all just where that line of boundary is.

I want to commend those who are responsible for the negotiation. It took, obviously, a long time. I think it is fair to say that there is a good deal of criticism in the Soviet Union because they feel our negotiators basically achieved a better settlement than theirs, and I am inclined to agree that our people did very, very well. It took a long, long time.

Thank you, Mr. Chairman. I look forward to the witnesses' presentations.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF SENATOR FRANK H. MURKOWSKI

Mr. Chairman, I very much appreciate your holding this hearing on the U.S.-Soviet Maritime Boundary Agreement, a treaty of the greatest importance to the United States and, especially, my State of Alaska.

This agreement was under negotiation for 9 years, and I am pleased to report that it at long last resolves areas of dispute between ourselves and the U.S.S.R. over fishing rights and mineral exploration in the Arctic Ocean and Bering Sea. The Congress, the Executive Branch and the State of Alaska have all worked closely together throughout the last decade to achieve this result. All three are to be praised for the long, hard work which produced this treaty.

The U.S.-Soviet Maritime Boundary Agreement represents a very favorable outcome in terms of U.S. strategic and resource interests. It precisely defines the Convention Line which was drawn when we purchased Alaska from Imperial Russia in 1867. The treaty limits the United States' and the U.S.S.R.'s territorial sea, exclusive economic zones (EEZs) and continental shelf jurisdiction when they would otherwise overlap. As a result, it settles disputes which have in the past arisen concerning fishing rights and oil and gas exploration.

Mr. Chairman, under the terms of the Maritime Boundary Treaty, the parties agree that the 1867 Convention Line is the maritime—and I stress *maritime*—boundary between the U.S. and the U.S.S.R. It also clarifies how the 1867 line is to be defined, something left ambiguous in the Convention because we and the Russians used different cartographic techniques. This difference resulted in almost 21,000 square nautical miles in the Bering Sea being claimed by each nation as falling on its side of the 1867 line.

The disputed area contains rich fishing grounds and may have some potential for oil and gas. The new agreement divides the disputed area between the parties. The 1,600-mile maritime boundary it creates—the longest in the world—will definitively establish U.S. and Soviet territorial sea jurisdiction, as well as EEZ and continental shelf jurisdiction in the Bering Sea and Arctic Ocean. The treaty also establishes a precise maritime boundary in areas where our two countries' 12-mile territorial seas or 200-mile EEZs overlap or are otherwise in dispute, and delimits the parties' continental shelf jurisdiction beyond their 200-mile EEZs. Finally, by adopting an innovative "special areas" formula the treaty minimizes the size of the so-called "doughnut hole" in the Bering Sea that is beyond the fisheries jurisdiction of either party.

The "bottom line" is that this treaty places about 70 percent of the Bering Sea under U.S. jurisdiction and gives the United States an extra 13,200 square nautical miles—an area nearly equal in size to the combined area of New Hampshire and Vermont—as compared with the most favorable equidistant line.

I am pleased to be able to support the Maritime Boundary Treaty, and I am equally pleased to note that it has the support of the State of Alaska. In fact, I have

received a copy of a May 31st letter from Governor Hickel to you, Mr. Chairman, in which he states that "I support the proposed U.S.-Soviet Maritime Boundary agreement and am satisfied that the agreement adequately addresses and protects the interests of the United States and Alaska." I also have a copy of a June 27, 1988 letter from former Governor Cowper to former Secretary of State Schultz in which Governor Cowper notes that the State Department "has consulted with my Washington, DC, office and with Alaska's Congressional Delegation both before and after each round of negotiations, and has formally solicited the state's advice." Mr. Cowper concludes his letter with the words, " * * * I have appreciated your efforts to keep us informed and involved."

Now, I would like to take a moment to address a peripheral issue—an issue which really has nothing to do with the treaty before us today, but one which has nonetheless attached itself to it. This is the matter of the so-called "Five Islands," or "Wrangel Island," that island being the largest of the five. U.S. citizens were involved in the discovery or exploration of each of these islands located in the Chukchi and East Siberian Seas. It is alleged that by ratifying the Maritime Boundary Treaty the United States would recognize Soviet claims to these islands. But such an allegation is most definitely not true. The treaty, as I emphasized a minute ago, is a maritime agreement, not an instrument that addresses the issue of sovereignty over territory. The five islands are not mentioned or alluded to in the treaty we are now considering. Our claim to them is not properly a matter for discussion in connection with the ratification of this treaty, and a vote in favor of the treaty in no way prejudices potential future U.S. claims to these islands.

In conclusion, Mr. Chairman, I urge my colleagues on this Committee, and the full Senate, to ratify the U.S.-Soviet Maritime Boundary Agreement. It will resolve significant bilateral differences between us and the Soviet Union in the Bering Sea and will allow for the peaceful management of fisheries and mineral exploration in the area.

Thank you.

Senator BIDEN. Thank you, Senator. Mr. Williamson.

STATEMENT OF HON. EDWIN D. WILLIAMSON, LEGAL ADVISER TO THE U.S. DEPARTMENT OF STATE; ACCOMPANIED BY DAVID COLSON, DEPUTY ASSISTANT SECRETARY FOR OCEANS, INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS; ALAN KRECZKO, DEPUTY LEGAL ADVISER; AND JAMES M. HUGHES, ASSISTANT TO THE SECRETARY AND DIRECTOR OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. WILLIAMSON. Thank you, Mr. Chairman, Senator Murkowski.

I am Edwin Williamson, the Legal Adviser to the U.S. Department of State. I am here today to discuss the U.S.-Soviet Maritime Boundary Agreement. With me are: David Colson, Deputy Assistant Secretary for Oceans and Fisheries, on my left; on my immediate right, Alan Kreczko, Deputy Legal Adviser; and on my far right, James Hughes, Assistant to the Secretary and Director of Congressional and Legislative Affairs at the Department of the Interior.

I have submitted a written statement, which I would like to summarize.

The treaty before you establishes the maritime boundary between the United States and the Soviet Union in the North Pacific Ocean, the Bering and Chukchi Seas, and the Arctic Ocean. Under the treaty the two countries agree that the line described as the "western limit" in the 1867 U.S.-Russia Convention ceding Alaska is the maritime boundary.

They also agree on a precise depiction of that line. Further, the agreement contains innovative transfer of jurisdiction provisions

that will give each country the ability to exercise jurisdictional rights in new areas on its side of the boundary.

The treaty serves important U.S. national interests. First, the agreement places about 70 percent of the Bering Sea under U.S. resource jurisdiction. It allows the United States to exercise fisheries jurisdiction in several new areas and secures under U.S. jurisdiction other areas important to our fisheries interests.

In terms of hydrocarbon interests, detailed information does not exist. However, given what is known, the boundary serves the United States well both in terms of the size of the area on our side of the boundary and the quality of its resource potential.

Second, by establishing clear U.S. rights to manage fisheries and hydrocarbon activities in previously disputed areas, the agreement will permit resource activities to proceed unhampered.

Third, the agreement's special areas provision ensures that coastal state jurisdiction in accordance with international law can be exercised by one party or the other in all areas within 200 nautical miles of either or both coasts. This keeps to the minimum required by international law the size of the high seas area of the Bering Sea known as the doughnut hole beyond the 200-nautical-mile jurisdiction of both parties. That of course is particularly important to our salmon and pollock fishing interests.

Finally, the agreement removes a potentially significant source of dispute between the United States and the Soviet Union. Between any neighbors, jurisdictional disputes can give rise to serious problems. For nations with a broad-ranging and complex relationship like the U.S.-Soviet relationship, such disputes can have far-reaching political implications.

In this regard, I would emphasize that prompt U.S. ratification of the agreement could facilitate early Soviet ratification of the agreement, which is in the interests of both countries.

Thus far I have been speaking about what this agreement does. I would now like to state what it does not do. There are allegations that this agreement gives away five Arctic islands to the Soviet Union. This allegation is simply incorrect. The agreement is a maritime boundary agreement. It does not recognize Soviet sovereignty over those islands.

Mr. Chairman, this agreement is very favorable to the United States. It allocates resources in an advantageous manner. It permits fishing and hydrocarbon activity to go forward without fear of harassment or confrontation, and it resolves a long outstanding bilateral issue with the Soviet Union.

I urge the Senate to act favorably upon it. I would be pleased to answer any questions.

[The prepared statement of Mr. Williamson follows:]

PREPARED STATEMENT OF EDWIN D. WILLIAMSON

I am Edwin D. Williamson, the Legal Adviser to the United States Department of State. I am here today to discuss the Maritime Boundary Agreement between the United States and the Soviet Union, signed at the U.S.-U.S.S.R. summit in June 1990 after 9 years of negotiation. The President has recommended that the Senate give early and favorable consideration to this agreement and advise and consent to ratification. With me today are David Colson, Deputy Assistant Secretary for Oceans, International Environmental and Scientific Affairs, Alan Kreczko, Deputy

Legal Adviser, and James M. Hughes, Assistant to the Secretary and Director of Congressional and Legislative Affairs, at the Department of Interior.

The agreement, which delimits the world's longest maritime boundary, serves important U.S. national interests. It places about 70 percent of the Bering Sea under U.S. resource jurisdiction. It establishes clear U.S. rights to manage fisheries and hydrocarbon activities in previously disputed areas. It ensures that no maritime area within 200 nautical miles of either country need go unregulated. And it removes a potentially significant source of dispute between the United States and the Soviet Union. Let me elaborate:

First, the location of the agreed maritime boundary is based on the 1867 Convention line, which is favorable to U.S. resource interests however the line is defined. From the point of view of sheer square nautical miles, it is obvious from the map that the United States has secured vast amounts of area under its resource jurisdiction. This agreement allows the U.S. to exercise fisheries jurisdiction in several new areas, which enhances our ability to manage important ground fisheries, including pollock, and to protect U.S.-origin salmon. The boundary secures under U.S. jurisdiction important crabbing areas, particularly in the shallower northern Bering Sea. In terms of hydrocarbon interests, detailed data and information do not exist. However, given what is known of the general geology of this area, the boundary serves the United States well. For example, it secures the United States' rights to a large portion of the Navarin Basin in the northern Bering Sea and the large continental shelf area in the middle of the Bering Sea.

Second, the agreement's resolution of differences over where each party may manage fisheries and hydrocarbon activities, as well as exercise other sovereign rights and jurisdiction, will permit resource activities to proceed unhampered in previously disputed areas. Importantly, it removes the potential for incidents in disputed areas involving fishing or hydrocarbon activities. Such incidents, which we have had in the past, pose a risk to life and safety.

Third, the agreement's "special areas" provision ensures that coastal state jurisdiction, in accordance with international law, may be exercised by one party or the other in all areas within 200 nautical miles of either or both coasts. This keeps to the minimum required by international law the size of the high seas area of the Bering Sea, known as the "doughnut hole," beyond the 200 nautical mile jurisdiction of both parties. That, of course, is important, particularly to our salmon and pollock fishing interests.

Finally, the agreement provides the stability of an agreed and precisely defined boundary line. Between any neighbors, jurisdictional disputes can give rise to serious problems. For nations with a broad-ranging and complex relationship such as that between the United States and the Soviet Union, such disputes and incidents can also have far-reaching political implications.

I would note that U.S. negotiation of this agreement was carried out with the full involvement and concurrence of all interested U.S. agencies. Further, every U.S. negotiating proposal, as well as the final agreement, was approved at the Presidential level.

I would also like to emphasize that our prompt ratification of the agreement could facilitate early Soviet ratification of the agreement, which is in the interest of both countries. Our failure to act could delay or make difficult ratification on the Soviet side, causing us to lose the momentum that will allow us to realize the important gains we stand to achieve under this agreement, including the certainty needed for commercial investment in hydrocarbon exploration and development.

The History of the Agreement. With this introduction, I would like to turn now to a brief outline of the history of this agreement. As you probably know, in 1867 the United States purchased Alaska from the Emperor of Russia. In the 1867 Convention of Cession of Alaska, Russia ceded to the United States all "territory and dominion" up to the "western limit" specified in Article I of the Convention. At that time, the maritime jurisdiction of a coastal state over territorial sea and continental shelf was limited to one marine league (approximately 3 nautical miles).

I would now like to jump ahead by more than 100 years. By the late 1970s, an ever increasing number of countries asserted coastal state jurisdiction well beyond 3 nautical miles. In particular, there was growing recognition of a 200 nautical mile zone of economic interest. Rules for determining the outer limits of the continental shelf had also emerged.

In 1976, both the United States and the Soviet Union established 200-mile fisheries conservation zones. This presented a problem: in areas between Siberia and Alaska in which the U.S. and Soviet coasts are less than 400 miles apart, what was the limit of each state's fisheries conservation zone? Further, in U.S. outer continental shelf program planning, what should be the limits of the U.S. planning areas?

In early 1977, the United States proposed to the Soviet Union that the two sides agree to respect treaties in force between them, in particular the 1867 Convention, in establishing their respective 200 mile zones. The Soviet government agreed, and it appeared that the two sides had resolved the most pressing issue of maritime delimitation. Later that year, a fishing enforcement incident occurred. A Japanese vessel was found fishing in U.S.-claimed waters under a Soviet license. This incident led us to question whether the United States and the Soviet Union were using different cartographic methods to depict the 1867 Convention line. This disagreement over the location of the line posed the risk of inflammatory incidents involving U.S. fishing vessels in the disputed area.

In 1981, President Reagan authorized opening discussions with the Soviets aimed at resolving the dispute over the location of the Convention line. These discussions clarified that the two countries were using two different methods of depicting the Convention line. The U.S. used lines based on "arcs of great circles," i.e., lines that best approximate the shortest distance between points on the surface of the earth. The Soviets, on the other hand, used rhumb lines, i.e., lines of constant compass bearing that appears as straight lines on a Mercator projection. The difference in these depictions resulted in a significant wedge-shaped area that each side believed was under its jurisdiction. Initially, the U.S.-Soviet discussions centered on which of the two methods of depiction was the proper one, both from a technical standpoint and based on the negotiating history of the Convention. (Although various maps had been used in connection with those negotiations, there was no official map or definitive description of the Convention line).

In 1983, the United States proposed to "split the difference" between the two depictions. However, at that point it emerged that the dispute was actually broader than simply the differing methods of depiction. In 1977, the Soviets had accepted use of the Convention line in areas in which the U.S. and Soviet 200 mile zones overlapped and were now willing to depict that line on a split-the-difference basis. However, they argued that use of the Convention line would be inequitable elsewhere, i.e., in areas beyond 200 miles of both coasts and in areas within 200 miles of one coast but beyond 200 miles of the other country's coast. Use of the Convention line in those areas, the Soviets contended, would place most of the large Bering Sea continental shelf on the U.S. side of the line and would require them to give up claimed EEZ areas on the U.S. side of the line that were within 200 miles of the Soviet coast but beyond 200 miles of the U.S. coast where the United States could not claim EEZ jurisdiction.

After several years of stalemate, the core of the agreement emerged. It was agreed that the Convention line would serve as the maritime boundary throughout its entire length. Regarding the area of continental shelf beyond 200 miles of both coasts, most of this so-called "doughnut hole" lies on the U.S. side of the line. The areas on the U.S. side of the Convention line within 200 miles of the Soviet Union but beyond 200 miles of the United States were more complex. Restricting Soviet EEZ jurisdiction in these areas could have been counterproductive. Because those areas are beyond 200 miles of the U.S. coast, the United States could not, under international law, claim EEZ jurisdiction there. The result of simply applying the 1867 Convention line would therefore have been to leave these areas as high seas not regulated by either the Soviet Union or the United States. As this committee knows, this would have produced a larger "doughnut hole" in the central Bering Sea, where we and the Soviet Union share a concern about unregulated fishing. To prevent this, the two sides developed an innovative approach providing for the transfer to the United States of the Soviet right to exercise jurisdiction derived from the EEZ in such areas. Thus, rather than leaving these areas as Soviet EEZ or high seas, the United States has the right to exercise jurisdiction in these areas. To provide an equitable balance in the agreement, the U.S.-proposed split-the-difference line was shifted a corresponding amount to the east.

The Maritime Boundary Agreement. With this historical background, I would now like to summarize the agreement itself. First, the parties agree that the line described as the "western limit" in Article I of the 1867 Convention is the maritime boundary between the United States and U.S.S.R. (Article 1). That line is defined precisely using a detailed geographic description contained in Article 2 and in an annex. Second, each party agrees that, with respect to the special areas, the sovereign rights and jurisdiction derived from EEZ jurisdiction that it could otherwise exercise in the absence of the agreement of the parties on the maritime boundary may henceforth be exercised by the other party. As the text of Article 3 makes clear, these novel "special area" provisions do not constitute unilateral extension of coastal state EEZ jurisdiction beyond 200 miles. Accordingly, each party is obligated to ensure that any special area in which it exercises these rights and obligations is

represented on charts in a manner that distinguishes it from the party's exclusive economic zone.

The agreement (Article 4) also provides that the maritime boundary does not affect or prejudice either party's position with respect to the rules of international law relating to the law of the sea. It defines "coastal state jurisdiction" as referring to sovereignty, sovereign rights, or any other form of jurisdiction with respect to the waters or seabed and subsoil that may be exercised by a coastal state in accordance with the international law of the sea (Article 5). The agreement does not affect the right of hot pursuit under international law. Finally, the agreement provides that any dispute over the interpretation of the agreement is to be resolved by negotiation or other peaceful means agreed by the Parties (Article 6).

The Five Arctic Islands. Thus far, I have been speaking about what this agreement does. I would now like to state what it does *not* do. There are allegations that this agreement gives away five Arctic islands to the Soviet Union. This allegation is simply incorrect. The agreement is a maritime boundary agreement. It does not recognize Soviet sovereignty over those islands.

Conclusion. Mr. Chairman, this agreement represents a very favorable outcome for the United States. It allocates resources in an advantageous manner; it permits fishing and hydrocarbon activity to go forward without fear of harassment or confrontation; and it resolves a long-outstanding bilateral issue with the Soviet Union. I urge the Senate to act quickly upon it. I will be pleased to answer any questions.

Senator BIDEN. Mr. Williamson, thank you for your testimony.

You made reference to one of the allegations that have been made, that the treaty has "given away" the five islands. I also would like to raise a question about the administration's coordination with other Federal departments and agencies.

Would you please describe who you received input from and whether any of these agencies expressed concerns during the negotiations and how their concerns were addressed? As you know, Governor Hickel of Alaska has submitted a letter in support of the agreement, for example. Did you consult with Alaskan officials during these negotiations?

Mr. WILLIAMSON. Yes, Senator. All relevant agencies of the U.S. Government were involved in the negotiating process and support the resulting treaty. The U.S. delegation generally included representatives from State, the Department of Defense, Interior, NOAA, and the Coast Guard.

The Department consulted regularly and extensively with the Alaska congressional delegation as well as the Alaska Governor's office in Washington. We conducted such consultations before every meeting with the Soviets. Once the negotiations began, we consulted at least before and after each round of negotiations.

I would note that these were consultations in the truest sense. That is, we were always looking for the ideas, reactions, and suggestions of the Alaska representatives.

I would also add that we offered to each Alaska Governor the opportunity to be briefed on this issue, at least one of which offers was accepted.

Senator BIDEN. With regard to the special areas that are established by the agreement, can you explain why it was necessary to create them? And what action would have to be taken to take advantage of the rights to these areas that are granted by the agreement?

Mr. WILLIAMSON. The special areas constitute the areas on a particular country's side of the boundary which are not within the 200 nautical miles of the coast of that party. There are three. On the

U.S. side—and Bob Smith is going to give us a slightly different map. [Chart shown.]

There is the northernmost and one on the south, on the eastern, on the U.S. side. There is also one on the Soviet side of the boundary.

To exercise the rights that were given to us under the agreement in those special areas will require implementing legislation. The reason is that the current legislation authorizes the exercise of jurisdiction in the U.S. exclusive economic zone, the EEZ, which is the area, of course, within 200 nautical miles of the U.S. coast. Special provision would have to be made for the exercise of jurisdiction in the special areas, which lie beyond nautical miles of the U.S. coast.

Senator BIDEN. I understand that, as you have mentioned, there is a large area in the center of the Bering Sea called the doughnut hole, where there will still be some question of fishing rights even after the agreement is in place. Could you explain the situation and tell us what can be done to resolve it?

Mr. WILLIAMSON. Well, first, Senator, I would like to ask Mr. Colson to speak to this issue. He was involved in our negotiations on that.

Senator BIDEN. Mr. Colson.

Mr. COLSON. Thank you, Senator.

Last June at the same summit meeting at which the agreement was signed, Presidents Bush and Gorbachev issued a statement about the fishing in the doughnut hole, noting the concern of both Governments about that. Since that time, we initiated negotiations here in Washington here in February, working together with the Soviets and involving the four countries that fish in that area, which is beyond 200 miles of both coasts—Korea, Japan, Poland, and the People's Republic of China.

We made some progress at that meeting. We reached some interim arrangements on data collection, agreement that the foreign fishing nations would not retain salmon or herring that might be caught as bycatch in that area, and they agreed to come to another meeting.

Senator BIDEN. What do you mean by "bycatch"?

Mr. COLSON. Sir, they are there—they are not the target species of the fishery. They are there fishing for pollock and they accidentally catch salmon occasionally and, in order to create a disincentive for them to do that, they are asked to throw them back over the side.

And then they agreed to come to a further meeting. They agreed to come to a further meeting, which will be held in Tokyo in July, with a view to reach an agreement on some observer and monitoring programs, as well as development of a transponder program for that area so that we can make sure that these fishermen that are in the area, as Senator Murkowski said, are not cheating and come into the U.S. EEZ.

So it is a matter of very active negotiation. I am sure that we will probably be having a negotiating round every 3 or 4 months on this with these countries until we get it satisfactorily brought under control.

Senator BIDEN. Thank you.

Senator Murkowski.

Senator MURKOWSKI. For just a moment, gentlemen, on the issue of discovery. I have always looked at this issue as one which, while it is not necessarily part of the Maritime Boundary Agreement, nevertheless it is before us in theory with regard to discovery, and I have looked at it from the standpoint of how we could substantiate a case for discovery.

And while we acknowledge the role that Americans played in discovery and exploration of the five islands, I believe Wrangel Island was first discovered by a U.S. vessel in 1881, and the captain reportedly raised the American flag and claimed the island for the United States. And also in 1881 the crew of a U.S. naval vessel made the first recorded landings on Bennett, Henrietta, and sighted Jeannette as well.

I am told, on the other hand, that under international law discovery itself is not sufficient to establish a right of sovereignty over or valid title to territory. Instead, discovery gives rise only to an inchoate claim that temporarily bans the establishment of dominion by another country until the discovering country has had a reasonable opportunity to occupy and possess the territory.

Discovery by a national of a country does not suffice to create even an inchoate claim. The nation itself, rather than its nationals, must manifest the intention to establish dominion. To establish definite territorial sovereignty, discovery must be combined with effective occupation by which the claimant nation exercises the actual continuous and peaceful display of the functions of a State over a territory.

And even though the island was occupied by the Lomen Co. and Lomen family for a period of time, I am wondering if you could enlighten us briefly for the record concerning the differentiation between the American discovery and the question of the application of international law and claim to the islands in question.

Mr. WILLIAMSON. Senator, as you correctly point out, discovery does provide a potential claim, but it is an inchoate claim, and something else must be done. The United States has never attempted to establish territorial sovereignty over these islands.

Wrangel, Bennett, Henrietta, and Jeannette Islands were discovered by U.S. citizens. When the Russian Imperial Government asserted sovereignty over them in 1916, the United States did not respond. Similarly, when the Soviets asserted sovereignty over them in 1924 and thereafter extended Soviet administration over them in 1926, the United States did not respond.

In 1940, the Department of State was specifically asked what its position was and it declined to assert a claim.

Senator MURKOWSKI. So by not asserting, we have not necessarily abandoned the opportunity, as is pointed out, I believe, in your opening remarks. The Maritime Boundary Agreement is what is before us here, as opposed to the question of sovereignty, and we are just not addressing that matter again at this time. Is that a correct interpretation?

Mr. WILLIAMSON. That is right, Senator. The issue is just not addressed in this agreement.

Senator MURKOWSKI. But is it precluded from being addressed should we care to address it with the Soviets?

Mr. WILLIAMSON. I would say the agreement does not preclude addressing it. I think the ability of the United States to make a claim on these islands has been significantly affected by many events which occurred prior to the negotiation of this agreement.

Senator MURKOWSKI. But by adopting the Maritime Boundary Agreement, are we placing ourselves in an adversarial position should we want to negotiate on the issue of sovereignty? Or does it really make any significant difference?

Mr. WILLIAMSON. I do not think it makes any significant difference as far as our ability to assert a claim.

Senator MURKOWSKI. If we were to pursue a claim for territorial status and we reached an impasse, what is the procedure for arbitration? The World Court? Or does it have to be agreed upon by both sides?

Mr. WILLIAMSON. Well, if there is a dispute between the two parties under the agreement, the agreement does not specify a dispute resolution mechanism, but simply provides that the parties will try to peacefully settle their dispute. A claim asserted by the United States I do not believe would be a matter covered by the agreement.

Senator MURKOWSKI. Well, if we were to initiate a claim against the Soviet Union and could not resolve that claim, is there a historical precedent set for resolving claims of this nature through an arbitration or a World Court, from the standpoint of the record?

Mr. WILLIAMSON. There is no mandatory procedure. The parties could certainly agree to either arbitration or agree to submit to World Court jurisdiction.

Senator MURKOWSKI. Or they could just agree to disagree and leave the issue?

Mr. WILLIAMSON. Yes.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Senator BIDEN. I have one last question for you, Mr. Williamson. How serious is the opposition to this treaty in the Soviet Union?

Mr. WILLIAMSON. Senator, we know that there are some hardliners and some fishermen in the Soviet Far East who have voiced opposition to it. But we do not know whether that is strong enough to keep it from being approved by the Supreme Soviet of the Soviet Union.

Senator BIDEN. It may sound like a silly question, but has Mr. Yeltsin or anyone in the Russian Republic in the upcoming election spoken to this issue? Has it reached that dynamic in their fledgling attempts at democracy?

Mr. WILLIAMSON. I am not aware of any comments by Yeltsin. Of course, Yeltsin is running for President of the Russian Republic and we are talking about the Soviet Union.

Senator BIDEN. Is this not within the Russian Republic? It is, is it not?

Mr. WILLIAMSON. Well, the agreement, though, is with the Soviet Union, the central government.

Senator BIDEN. I understand, I understand that.

Mr. WILLIAMSON. And if the Russian Republic were to secede and become an independent republic, an independent State, we believe that this is the kind of agreement that it would be as obligated under the agreement as the Soviet Union.

Senator BIDEN. I guess this is just more of a point of curiosity than of legal consequence. If the United States were negotiating the boundary between Canada and the United States at Vermont, I assure you those running for Governor in Vermont would have a view of where that boundary would lie, and it would lie well into Canada, I am sure. And that is all I meant.

But that is more a matter of curiosity, not of legal consequence. Mr. WILLIAMSON. I understand that Yeltsin has complained, more about the process and that he was not consulted.

Senator BIDEN. See, he is sounding like a Governor already. [Laughter.]

I see our colleague from Alaska is here and, with the permission of the committee, since he has other committee hearings himself to be part of, I would invite him to come forward. You all stay right there. I am sure he would not mind you staying there.

If you would join us, and if the staff would pull the microphone over for the Senator. I know he has a statement to make. Welcome, Senator.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Thank you very much, Mr. Chairman and members of the committee.

I am involved in a hearing in which we are inquiring of General Schwarzkopf what may be necessary to improve the armed forces. So I appreciate your courtesy in letting me proceed so I may return.

I am really here today because I think that this agreement is important to our State, and I would like to state the reasons for that. It is going to improve the management of the international fisheries area in the North Pacific. The area between the United States and the Soviet Union is most important. This is the most prolific area left in the world for the production of seafood products, and I believe the Soviet Union in ceding jurisdiction to the United States in three special areas has made a significant concession to us.

These areas, with a combined total area of 3,850 square nautical miles, are actually now within what would technically be the 200-mile exclusive economic zone of the Soviet Union and under this agreement would now be on our side of the maritime zone.

In terms of this agreement, we grant control over one special area which is 300 nautical miles, as I understand, that would be under Soviet jurisdiction. So we really gained control over 12 times the amount of ocean surface we give up.

It is, I think, indicative really of the need for management in the area. The existing situation of the dispute is detrimental to our fisheries and it has left us with a situation of unregulated fishing that already threatens the total system.

In order to reach what we call the doughnut in the North Pacific, a fishing vessel must pass through waters which are either under the jurisdiction of the Soviets, in their 200-mile zone, or the United States in our 200-mile zone. The doughnut which is in between the two 200-mile zones, approximately 48,000 square nautical miles, does not now fall under the jurisdiction of either nation.

The Coast Guard has caught a number of vessels, foreign vessels, that illegally fish in our waters, because they go through one zone or the other, the Soviet zone or others, and then dart back into our waters to fish for our fish. In these raids, over 1 million metric tons of pollock have been taken. I am talking about the illegal raids of these fishing vessels into our waters, and increasingly they are taking salmon, herring, cod, and other species.

The reported catch the past year from the doughnut of 1.4 million metric tons of pollock is more than the amount that is legally taken inside our own exclusive economic zone, and foreign fishing vessels operating out of the doughnut, in other words, have out-fished us, taking the same species that we harvest.

It is a key element of the food chain in the North Pacific. Pollock is extremely important to the total ecosystem of our Bering Sea and the North Pacific.

I think that without the control that will be established with the approval of this agreement, we would face disaster in the long run in the North Pacific.

For instance, salmon caught by foreign fishing vessels operating out of the doughnut would normally go either to Soviet or Alaska streams, and they are anadromous fish. Neither country allows the harvesting of salmon on the high seas, and yet these foreign fishing vessels operating in the doughnut can continue to do this terrible damage on our major species, the salmon.

In 1988 the Senate unanimously approved S. Res. 396. That was a resolution I introduced, that this committee supported, and I thank you for your help. It called upon the State Department to work with the Soviet Union to bring about a moratorium on fishing in that doughnut.

Since that resolution, I am informed there are negotiations underway between our two countries to try and address the problems. Next month the United States and the Soviet Union will be meeting with Japan, Korea, the People's Republic of China, and Poland in Tokyo to discuss this very agreement, that is the control of fishing in the doughnut area between the two 200-mile limits.

The approval of this agreement that you have before you, in our opinion, will strengthen the efforts to work jointly with the Soviets to achieve a common goal, and it is a common goal because the Soviet Fisheries Minister was in Alaska and explained to us that they do understand the problem of unregulated fishing in the doughnut.

This agreement that is before you is supported by U.S. fishermen, I am sure of that. It grants the U.S. jurisdiction over 13,200 square miles more than the waters that we now have control of under our former theory of using a line that would be equidistant between the two competing claims.

What I am saying to you, Mr. Chairman and members, my colleague Senator Murkowski, I think that this agreement will settle a longstanding dispute over who controls the waters of the Bering Sea. A clearly defined boundary will prevent this harassment of our species. It will also prevent harassments of U.S. boats by the Soviet Union.

I will never forget when the *Frieda K*, a small boat from Homer, was seized and taken into Providenya by the Soviet Navy. We have

had as recently as 1987 Soviet gunboats and planes threaten U.S. fishing boats in the disputed area.

I brought with me a letter from the Alaska Crab Coalition that I would ask you to place in your record if you have not got it already. The total crab coalition that works in the North Pacific and the Bering Sea from both the State of Washington and Alaska support the approval of this agreement, and I would ask that you put that in the record.

[The information referred to follows:]

ALASKA CRAB COALITION,
SEATTLE, WA, June 11, 1991.

HON. TED STEVENS,
SH-522, Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS:

The Alaska Crab Coalition ("ACC") strongly supports ratification of the Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary which would delimit the coastal state jurisdiction of the two countries in the maritime areas between Alaska and Siberia. The ACC is a trade association representing owners of approximately 70 United States-flag fishing vessels which operate in the crab fisheries of the Bering Sea. Although the ACC is based in Seattle, it represents vessels which are based not only in Washington, but also in Alaska. In addition, the ACC represents companies which engage in the processing of crab and in support services for the crab fishing industry.

The ACC believes that the Agreement is in our national interest. The resolution of the long-standing difference of view between the United States and the Soviet Union concerning the depiction of the maritime boundary, and the proposed establishment of an arrangement to avoid enclaves beyond the limits of national jurisdiction, are important to the orderly conservation and management of the fisheries of the area.

The Agreement also removes a source of potentially dangerous friction between the two countries. You will recall that Soviet vessels challenged U.S. fishing vessels operating in the boundary area. This gave rise to difficulties both for the American fleet and for the United States Government which is responsible for the security of its citizens.

The ACC hopes that the Senate will promptly give its advice and consent to the Agreement and that the Congress will expeditiously enact the requisite implementing legislation. The ACC would be grateful if you would bring its position on this matter to the attention of the Senate Committee on Foreign Relations.

With best regards,

Sincerely,

KEVIN KALDESTAD,
President.

Senator STEVENS. In summary, I believe the benefits to U.S. fishermen and the protection of the marine ecosystem that will come from the U.S. control over the Bering Sea make this boundary agreement very worthy of Senate approval. And let me emphasize this, Mr. Chairman: No representative of any industry with interests in the affected area has contacted me or my office to express opposition to this agreement.

And on that basis I recommend your prompt approval of the agreement, and I thank you for your courtesy.

Senator BIDEN. Thank you, Senator. If there is anyone in this Congress who ever has been jealous of the prerogatives of the State of Alaska and Alaskan interests, it is the Senator from Alaska, the senior Senator, as well as the junior Senator. But you have been here longer, hollering about it more.

And I must tell you, if you come and approve this, recommend the approval of this agreement, I doubt whether there is a woman or man in the Senate who would not conclude from that alone that

it is beneficial to U.S. interests, clearly to Alaskan interests. And I know, as you pointed out to me on many occasions, whatever is in Alaska's interests is in the interests of the United States.

Senator STEVENS. I am pleased you noted that, Mr. Chairman. Let me tell you further than that. I want you to know that I cannot think of an issue that has affected our State that the State Department has been more forthcoming on. We have been in a series of meetings on this agreement going back to the days of Lloyd Cutler, and it has been ongoing ever since then.

We have been kept informed. The negotiations have been fully disclosed to us and to our Soviet counterparts. We did have a meeting, as I indicated, in Anchorage to discuss this with our fishermen. And I think the full disclosure has led to the position that I can disclose to you now: No one that I know of in Alaska involved in industry that is related to the North Pacific objects to this agreement.

Senator BIDEN. You are fully supportive of this agreement?

Senator STEVENS. I am absolutely supportive.

Senator BIDEN. I have no questions. Senator? [No response.]

Senator STEVENS. Thank you very much.

Senator BIDEN. Senator Helms is still necessarily tied up in another meeting, so I can say to Mr. Williamson and his colleagues that we are delighted to have them stay, but there is no need for that—I know they are busy as well—as we turn now to our final witness, Mr. Carl Olson, Chairman of State Department Watch. Thank you very much for being here and thank you for your testimony.

Mr. WILLIAMSON. Thank you very much, Mr. Chairman.

Senator BIDEN. Mr. Olson, in light of the decision made by the Department to leave at this time, why do you not come up here and take a seat in the middle. Mr. Olson, would you identify yourself for the stenographer, and also who is accompanying you.

STATEMENT OF CARL OLSON, CHAIRMAN, STATE DEPARTMENT WATCH, ACCOMPANIED BY MARK SEIDENBERG, VICE CHAIRMAN

Mr. OLSON. Good afternoon, Mr. Chairman. My name is Carl Olson. I am the Chairman of State Department Watch. With me today is our Vice Chairman, Mark Seidenberg.

Senator BIDEN. Welcome Mr. Seidenberg.

Mr. OLSON. State Department Watch is a nonpartisan, nonprofit foreign policy watchdog group.

I want to thank you very much for this opportunity to testify on the proposed U.S.-U.S.S.R. Maritime Boundary Treaty. This is something of an historic occasion, since this is the first time that the public has had an opportunity to provide input on consideration of the content, process, and consequences of this proposed treaty.

At the outset here, I would like to suggest that the committee proceed slowly, since much of the material will take considerable analysis. Our group has done extensive original research on these matters and has conducted a campaign to bring public attention and sentiment to bear.

Inasmuch as this is an initial interchange of information and views, I respectfully request from the Chair to have the right to respond on the record to the materials the Department of State is providing today and to respond to any answers that the State Department might provide to questions on this issue and to keep the record open so that we can provide more materials as they come in.

Senator BIDEN. Without objection, we will allow that. We will allow you 3 days to respond to what you heard here today, and if there are any written questions submitted by the committee to the Department, we will allow you 3 days to have an opportunity to respond to their answers.

Mr. OLSON. We appreciate that.

Mr. SEIDENBERG. Thank you.

Mr. OLSON. Our presentation is divided into three areas. We have a very extensive briefing here, with about 65 exhibits attached. I will talk about it in a concise fashion and then discuss any issues that want elaboration.

Senator BIDEN. We will allow your entire statement to be placed in the record as if read.

Mr. OLSON. We appreciate that.

The three areas are: The secrecy under which the proposed treaty was negotiated; the threat to the constitutional principles of Federal-State relations; and the substance of the agreement, including the giveaway implications of U.S. and Alaskan territory and seabeds to the Soviet Union.

Although the proposed treaty involves areas in and around Alaska, it encompasses not only the major concerns of the State of Alaska, but also the interest of every other State and person in the United States and the sovereignty of the U.S. Government.

First of all, the secrecy. Negotiations on this proposed treaty have been carried out in the utmost secrecy for almost a decade. The public, the State of Alaska, and the Congress have been systematically excluded from any meaningful information and/or participation.

According to the Department of State, the negotiations began in 1981. It says that several rounds were held on setting a boundary line between the United States and the Soviet Union. As can be appreciated, these were always intended to be historic and unprecedented talks, since there has never been any boundary agreement between the United States and Russia or its successor Government of the Soviet Union.

If anything, the Department of State should have been inviting all manner of inputs over these negotiations of monumental consequences. But for reasons not yet revealed, it decided not to publicize the negotiating sessions. We never saw any news briefings on them, nor were there any typical public ceremonious events such as we are all accustomed to for significant issues, such as the START talks, Helsinki Accord discussions, and so on.

As a matter of fact, the Department of State still regards the entire series of negotiating sessions to be a deep, dark secret, to be kept from the public and congressional view. It even continues to refuse to divulge the dates and places of negotiations and the names of the United States and Soviet negotiating teams.

Our group has been working diligently since we found out about this in 1984. We did not find out about it by an announcement from the Department of State, but rather from something from the Department of the Interior. The Department of the Interior was leasing out the Navarin Basin and in their announcement they noted that they did not have a western boundary there in the Bering Sea because there was a dispute going on.

Now, when it was mentioned in the Federal Register that "the United States depicts the 1867 Convention line as the maritime boundary," this announcement was very startling. Two adverse consequences were immediately apparent. First, somehow the Department of State wanted to elevate the 1867 United States-Russia Convention line from its role as a line of demarcation, indicating what territory is being ceded to the United States by Russia in 1867, into a maritime boundary. It never had been considered a boundary line in the past and there is no reason to believe it would be an advantageous or equitable boundary line.

Now, the second implication was that if the entire 1867 Convention line were to become a maritime boundary, not just the portion in the Bering Sea in the vicinity of the Navarin Basin, then it would extend due north from the Bering Straits. This would effectively cut off the American islands of Wrangell, Herald, Bennett, Henrietta, and Jeannette, which are west of that line, and the immense amount of Outer Continental Shelf and exclusive economic zone that attaches to those islands and cede them de facto to the Soviet Union. No quid pro quo was even mentioned.

To get a perspective of what the Outer Continental Shelf and exclusive economic zone in this area, I think the panel that is up here in the committee room up to the right gives an absolutely perfect view of it. If you look in the Arctic up north of the Bering Straits, all that light shaded area is Outer Continental Shelf. It is the shallow part of the ocean.

In most parts of the United States, the shallow part of the ocean goes out maybe 5, 10 miles and drops right off. There we are looking at it extending about 200 miles north into the Arctic, and that is the area that we fear is going to be lost to the United States.

Well, as you can imagine, we considered this very disturbing news. Our group made several attempts to uncover substantive information about negotiations from the Department of State. Well, upon constant rebuff we had to begin a campaign of our own, and in that regard I want to report on our success of gathering information.

First, as to public response to this issue. The public has responded overwhelmingly in opposition to the Department of State's position. We know of at least 30,000 letters from members of the public delivered to the Department of State, with virtually unanimous disapproval of the apparent secrecy and the giveaway in progress.

Numerous organizations have become concerned and have passed resolutions of opposition, and in our testimony we present 15 organizations, nationwide ones and local ones, of all shades of opinion. As a matter of fact, just yesterday another organization sent me this entire booklet here. It is a group of the chamber of commerce of Rhode Island, especially the Newport area, which is very concerned about the implications to our petroleum, ocean export, and

transportation industries. That part of the country is suffering very much. I believe they sent copies to every member of the committee also in this respect.

Now, also considerable national and local news coverage has been given to the campaign to open up the negotiations. Editorials and articles have been published in the Wall Street Journal, the Knight-Ridder chain, Associated Press, Anchorage Times, Chicago Tribune, several front page articles along this line, and we submitted 10 of them here for the record also.

In congressional action, Members of Congress were approached to see if they would have any better success in obtaining cogent answers about the boundary negotiations. In the House, bills were introduced in successive Congresses, in the 99th, the 100th, the 101st, and with a cumulative total of approximately 60 cosponsoring Congressmen, including the Member from Alaska, Don Young.

These bills would establish in statute form the constitutional principle that a treaty would be required for the setting of a boundary line with a foreign country and the transfer of territory and seaward zones from the United States to a foreign country. We have exhibits here of those bills that were introduced.

In the Senate, S. Res. 279 in the 99th Congress and S. Res. 20 in the 101st were introduced to express the same sentiments. And further in the Senate, in the 101st Congress amendment 387 was included in the Department of State's authorization bill to require a treaty for "all agreements with the Soviet Union which relate to boundaries of the United States."

These measures were all sponsored by Senator Helms and at the time they were introduced several pages were inserted in the Congressional Record of substantiating background materials, and we have included that for the record.

Also, on the 100th anniversary of a significant congressional act, it was memorialized in the Congressional Record on September 20, 1990, by Senator Pete Wilson, then a Senator from California. On September 30 back in 1890, Congress had awarded medals to the crew members of the U.S.S. *Jeannette* for their heroic deeds in the expedition into the Arctic Ocean that resulted in discovery and bringing into the American sovereignty the heretofore undiscovered islands of Bennett, Henrietta, and Jeannette.

These three islands are collectively known as the DeLong Islands after the ship's captain, George Washington DeLong. The islands themselves are named for the expedition's cosponsor, the famous New York City Herald publisher, James Gordon Bennett, his mother Henrietta, and his sister Jeannette.

Now, in addition to these actions in Congress, the Constitution calls for the "advice and consent" by the Senate on treaties. This proposed treaty is currently in the "consent" phase and I am troubled that it appears that the Department of State made next to no effort to involve the Senate in the "advice" capacity.

The second area of concern has to do with the State and Federal constitutional crisis. All 50 State governments have a vital stake in the procedure of establishing boundaries between a State and a foreign country, and if land territory is to be ceded it would not only be at a loss to the State's sovereign territory, but it would be a loss

of the State government's property in the tidelands and their other holdings.

The State of Alaska, the State government of Alaska, has never been meaningfully involved in negotiations, nor has its consent been solicited on any of its terms. These attitudes on behalf of the Department of State violate very clear precedents regarding setting boundaries between States and foreign countries.

In the famous case of Secretary of State Daniel Webster in 1842 negotiating with Great Britain over the boundary between Maine and Canada, President John Tyler and Secretary Webster required the representatives of Maine and Massachusetts, which had residual interests in the area of Maine, be involved in the negotiations and that the two State governments consent to the outcome that was obtained.

Now, at no time during the Department of State's negotiations with the Soviet Union were representatives of the State of Alaska consulted on an official basis. The Department of State represents that it occasionally gave briefings to the Alaska Governor's staff. The Department of State also represents that everything concerning the substance of its negotiations is secret, classified material. Such material cannot be divulged to anyone who lacks a proper security clearance. We are informed that for most of the decade between 1981 and 1990 no Federal security clearances were obtained for the Alaska Governor's staff or for the Governors themselves.

Now, at the State level in Alaska, upon hearing that the Navarin Basin dispute over the boundary line in 1984 was going on, Alaska State Representative Roger Jenkins with 17 cosponsors introduced their H.J. Res. 53, which urged the Department of State "to adopt a firm stance and aggressively pursue resolution of the Bering Sea boundary dispute favorable to the interests of the Government and the people of the United States." It passed unanimously in both houses and was signed by Gov. Bill Sheffield in April 1986.

When it became apparent that the Department of State was going to continue to exclude representatives from the State of Alaska from the negotiating sessions, State Senator Rick Uehling introduced S.J. Res. 12, which passed both houses unanimously and was signed by Gov. Steve Cowper in May 1988.

It asked the Department of State "to include a representative of the State, appointed by the Governor with the consent of the legislature, on all delegations that negotiate the boundaries between the State and the Soviet Union or Canada" and asked Alaska's congressional delegation to intercede in this on behalf of the State of Alaska. The Department of State never replied.

In the same session, State Senator Paul Fischer introduced S.J. Res. 61, which reiterated Alaska's sovereignty over Wrangell, Herald, Bennett, Henrietta, and Jeannette, and it passed the State Senate on a unanimous vote in February 1988.

In this regard, the State legislators in Alaska have sent, I believe, a letter here which is included in our testimony to the committee, reiterating their total opposition to the adoption of the treaty at this point and to refer it back for negotiations. I believe 36 of the current legislators signed that, both Republicans and Democrats, in the house and on the senate side. We have enclosed a copy here for the record.

Joining the controversy on the side of Alaska has been the California legislature. In September 1987, its two houses passed nearly unanimously Assembly J. Res. 37, sponsored by Assemblywoman Marian LaFollette, which supported Alaska's right to be represented on boundary negotiations and to have the power of consent over the outcome for its boundaries.

Subsequent to the submission now of this proposed boundary treaty, State Senator Don Rogers introduced in May S.J. Res. 20 to reiterate California's support for Alaska, and this is pending at this moment.

In Pennsylvania, H.R. 88, introduced in April, urges the Department of State to include Alaskan State representatives in any boundary negotiation. The measure, sponsored by Representatives George Hasay and Italo Cappabianca and Fred Serafini—the latter two are the Chairman and the Cochairman of the Pennsylvania House's Federal-State Relations Committee.

During the 1989-90 session of the Ohio legislature, S.J. Res. 1 was introduced by Senator Gary Suhadolnik to support Alaska's rights to ensure that any boundary be in the form of a treaty.

Now, third, the proposed boundary line and the giveaway, we believe, of land and seabed territory. The drawing of the proposed maritime boundary line defies rational—

Senator BIDEN. Mr. Olson.

Mr. OLSON. Yes.

Senator BIDEN. I am happy to listen to you, but you were told that you had about 3 to 5 minutes. You have gone 20 already. Can you give us an idea of how much more you are going to go?

Mr. OLSON. I am sorry. May, e about 1 or 2 minutes.

Senator BIDEN. Great.

Mr. OLSON. Our contention about the boundary line is that this boundary line is in fact going to be inextricably tied up with the sovereignty over those islands. Let me point out a couple of reasons why we believe that, if I could point to the chart here.

Senator BIDEN. Sure.

Mr. OLSON [pointing to chart]. The proposed maritime boundary line here would basically give the Soviet Union all this exclusive economic zone and Outer Continental Shelf. Well, normally when you are deciding on that you decide it from the territory of a particular country.

What this is basically doing is saying that all this territory over here [indicating] on which this is being declared is Soviet. It is in fact conceding that, and it is specifically conceding it up in this little area up here, because this arc up here in here [indicating] is drawn from Wrangell and Herald, stating, oh, this belongs to the Soviets because this is Soviet territory right now.

Senator BIDEN. That special area which the Soviets are ceding is 200 miles from Wrangel. Your argument is that, if that is the case, then obviously by implication Wrangel has been ceded by this treaty? Is that the idea?

Mr. OLSON. That is the underlying assumption that is sitting right in front of us.

Senator BIDEN. I just wanted to make sure I understood what you were saying.

Mr. OLSON. OK. Then there is one other part of this. If you read the treaty back in 1867 stating where this line is, because this line was never drawn out in the treaty, it drew a line that basically came like this [indicating], went through the Straits, and came down in this area.

But the last line of the treaty stated that all of the Aleutian Islands to the west of this line here [indicating], this meridian 167 east, this line here, belonged to the United States. So what this does is it includes Copper Island and a couple of little rocks right next to it. Well, the way the line is now being drawn it goes like this [indicating] and leaves these two on the Soviet side and asserts some territory down here based on those islands staying in Soviet hands.

Senator BIDEN. You are suggesting that the line, the 200-mile limit, is drawn from those islands? Is that the Soviet territory from which it is drawn?

Mr. OLSON. Yes. It allows this here, this Copper Island and the two rocks next to it, Sea Lion and Sea Otter Rocks, to be on the Soviet side, whereas now if you went to the 1867 treaty, the 1867 treaty said that we, the United States, were being given or sold all of the land to the west—I am sorry, to the east of this meridian here, which goes between Bering and Copper Islands. That is the literal last line of the treaty.

Senator BIDEN. Thank you.

Mr. SEIDENBERG. Excuse me. It is the last line of article 1.

Mr. OLSON. Yes, I am sorry, the description of the line.

There were a couple of other points I wanted to make in this regard. There are some very good legal arguments. There is a law journal article that is included in the record.

Second, there is a court challenge now in Federal court in Anchorage specifically on these issues that is proceeding right now. And we also have positions that are somewhat contradictory from the legal advisor's office, correspondence with the State of Alaska on this issue about our ownership, our claims, our sovereignty of these islands.

I want to make sure that these are in the record. And the last thing I want to make sure is in the record is a letter that we just recently received from Rear Adm. J. Austin Yeager, who is the Director of the Coast and Geodetic Survey. Now, part of this boundary line goes to the Bering Strait, so if I could just go back up here one more second.

It goes between Little Diomedé and Big Diomedé. Little Diomedé is on our side and Big Diomedé is on their side. They are about 2½ miles apart. In order to establish territorial seas, they are supposed to be drawn from a baseline that is based on a survey of the territory.

The head of the NOAA office that is in charge of the Coast and Geodetic Survey has written back to us as to whether or not any survey ever has been done of Little Diomedé Island, and let me just give you a couple lines about that: "The National Ocean Service surveyed the Bering Strait area in 1960, but did not cover the area of the Diomedé Islands. We have never performed a hydrographic survey, nor have we ever compiled a shoreline manuscript of Little Diomedé Island. Determining bottom foot ice conditions would re-

quire extensive field work, which NOS has no plans to pursue at this point."

So what we are saying is that there is no data to be making a drawing of a line on our side. We believe that the line the State Department has done not only disregards that, but also draws it right through a reef of Little Diomed and gives half the reef to the Soviets.

[The prepared statement of Mr. Olson follows and other information referred to is in committee files:]

PREPARED STATEMENT OF MR. CARL OLSON

Good afternoon, Mr. Chairman. My name is Carl Olson, And I am chairman of State Department Watch. With me today is our vice chairman Mark Seidenberg. State Department Watch is a nonpartisan nonprofit foreign policy watchdog group.

Thank you very much for this opportunity to testify on the proposed U.S.-U.S.S.R. maritime boundary treaty. This is something of an historic occasion, since it is the first time that the public has had an opportunity to provide input on consideration of the content, process, and consequences of this proposed treaty. At the outset here, I would like to suggest that the committee proceed slowly since much of the material will take considerable analysis.

Our group has done extensive original research on these matters and has conducted a campaign to bring public attention and sentiment to bear. Inasmuch as this is the initial interchange of information and views, I respectfully request from the chair to have the right to respond on the record to the materials that the Department of State is providing today and to respond on the record to answers the Department of State provides to questions on these issues.

Our presentation is divided into three areas: 1. The secrecy under which this proposed treaty was negotiated. 2. The threat to constitutional principles of federal-state relations. 3. The substance of the agreement including the giveaway implications of U.S. and Alaskan territory and seabeds to the Soviet Union. Although the proposed treaty involves areas in and around Alaska, it encompasses not only the major concerns of the State of Alaska, but also the interests of every other state and person in the United States, and the sovereignty of the United States government.

1. THE SECRECY

The negotiations on this proposed treaty have been carried out in utmost secrecy for almost a decade. The public, the State of Alaska, and the Congress have been systematically excluded from any meaningful information and/or participation.

According to the Department of State, the negotiations began in 1901. It says that several rounds were held on setting a boundary line between the United States and the Soviet Union. As can be appreciated, these were always intended to be historic and unprecedented talks, since there has never been any boundary agreement between the United States and Russia or its successor government of the Soviet Union. If anything, the Department of State should have been inviting all manner of inputs over these negotiations of monumental consequence. But for reasons not yet revealed, it decided not to publicize the negotiating sessions. We never saw any news briefings on it, nor were there any typical public ceremonious events, such as we are all accustomed to for significant issues such as the START talks, Helsinki Accord discussions, and so on.

As a matter of fact, the Department of State still regards the entire series of negotiating sessions to be a deep, dark secret to be kept from public and Congressional view. It continues to refuse to divulge the dates and places of the negotiations and the names of the United States and Soviet negotiating teams.

Our group has worked diligently to try to bring this issue out into public discussion. It was only by chance that we discovered in 1984 that the negotiations had been ongoing for 3 years. There was obviously no announcement from the Department of State, but rather it was an indirect announcement by the Department of the Interior. In publishing the invitation for bids for oil and gas exploration in the Navarin Basin in the Bering Sea, the Department of the Interior admitted that it did not have a specific western boundary to the Navarin Basin and therefore any bids on these tracts were subject to cancellation. The problem was that no maritime boundary existed between the United States and Soviet Union, and that a dispute was ongoing in negotiations for setting the boundary. Along with the revelation about the existence of the talks was the startling statement of the Department of

State's position. The Federal Register on March 16, 1984, page 10065, noted, "The United States depicts the 1867 Convention line as the maritime boundary." * * *

Two adverse consequences were immediately apparent. First, somehow the Department of State wanted to elevate the 1867 United States-Russia Convention Line from its role as a line of demarcation (indicating what territory is being ceded to the United States by Russia in 1867) into a maritime boundary. It never had been considered a boundary line in the past, and there was no reason to believe that it would be an advantageous or equitable boundary line.

The second implication was that if the entire 1867 Convention Line were to become a maritime boundary (not just the portion in the Bering Sea in the vicinity of the Navarin Basin), then it would extend due north from the Bering Straits. This would effectively cut off the American islands of Wrangell, Herald, Bennett, Henrietta, and Jeannette (which are west of that line) and the immense amount of outer continental shelf and exclusive economic zone that attaches to these land areas, and cede them de facto to the Soviet Union. No quid pro quo was even mentioned.

As you can imagine at this disturbing news, our group made several attempts to uncover substantive information about the negotiations from the Department of State. Upon constant rebuff, we began a campaign to enlist the aid of the Congress, state governments, and the public to open up the negotiating process.

Public Response

The public responded overwhelmingly in opposition to the Department of State's position. We know of at least 30,000 letters from members of the public delivered to the Department of State, with virtually unanimous disapproval of the apparent secrecy and giveaway in progress.

Numerous organizations have become concerned and have passed resolutions of opposition. Included are the Veterans of Foreign Wars, the American Legion (Department of California), the National Society of the Daughters of the American Revolution, the Military Order of the World Wars, the Ohio Society of the Colonial Dames XVIIth Century, the California Republican Party, the California Republican Assembly (two resolutions), the Los Angeles County Federation of Republican Women, the Women's Republican Club of Grosse Pointe (Michigan), the California Federation of Women's Clubs, the Legislative Research Associates (Springfield, IL), and Young Americans for Freedom. (Exhibits 1-15)

Considerable national and local news coverage has been given to the campaign to open up the negotiations. Editorials and articles have been in the Wall Street Journal, Knight-Ridder chain, Associated Press, Anchorage Times, Chicago Tribune, etc. (Exhibits 16-26)

Congressional Action

Members of Congress were approached to see if they would have any better success with obtaining cogent answers about the boundary negotiations. When their inquiries were either ignored or incompletely answered, it became necessary to take legislative action. One constitutional threat to Congress was the fear that the Department of State would circumvent Congress by attempting to make a maritime boundary in the form of an executive agreement, rather than in a proposed treaty. No indication was forthcoming that the intended outcome of the negotiations would be in the form of a treaty.

In the House, bills were introduced in successive Congresses (H.R. 3766 in the 99th Congress sponsored by Mark Siljander (R-Michigan), H.R. 341 in the 100th Congress sponsored by William Dannemeyer (R-California), and H.R. 2383 in the 101st Congress sponsored by Dan Burton (R-Indiana)) with a cumulative total of approximately 60 cosponsoring Congressmen (including the member from Alaska Don Young). The bills would establish in statute form the constitutional principle that a treaty would be required for the setting of a boundary line with a foreign country and the transfer of territory and seaward zones from the United States to a foreign country. (Exhibits 27-28)

In the Senate, S. Res. 279 in the 99th Congress and S. Res. 20 in the 101st Congress were introduced to express the necessity for a treaty in any transfer of territory or seaward zones to a foreign government (specifically noting Wrangell, Herald, Bennett, Jeannette, and Henrietta Islands). Further in the Senate in the 101st Congress, amendment 387 was included in the Department of State's authorization bill to require a treaty for "all agreements with the Soviet Union which relate to boundaries of the United States." These measures were all sponsored by Senator Jesse Helms (R-North Carolina). Extensive background appears in the Congressional Record for Dec. 18, 1985 (pp. S 18002-18021), Jan. 25, 1989 (pp. S 779-787), and July 20, 1989 (pp. S 8438-8447). (Exhibits 29-32)

The 100th anniversary of a significant Congressional act was memorialized in the Congressional Record of September 20, 1990 by Senator Pete Wilson (R-California). On September 30, 1890, Congress awarded medals to the crew members of U.S.S. Jeannette for their heroic deeds on the expedition into the Arctic Ocean that resulted in the discovery and bringing into American sovereignty the heretofore undiscovered Bennett, Henrietta, and Jeannette Islands. (They are collectively named the DeLong Islands after the ship's captain Lt. George Washington DeLong. The islands are named for the expedition's cosponsor, the famous New York City Herald publisher James Gordon Bennett, his mother Henrietta, and his sister Jeannette.) (Exhibits 33-35)

The constitution calls for the "advice and consent" by the Senate on treaties. This proposed treaty is currently in the "consent" phase. I am troubled that it appears that the Department of State made next to no effort to involve the Senate in its "advice" capacity. If any advice were sought, it was neither extensive nor well publicized. As such, I would suggest that the current form of the proposed treaty is premature.

II. STATE-FEDERAL CONSTITUTIONAL CRISIS

All 50 state governments have a vital stake in the procedure of establishing boundaries between a state and a foreign country. Moreover, if land territory is to be ceded, it not only would be a loss of a state's sovereign territory, but it would be a loss of a state government's property in the tidelands and other holdings.

The State of Alaska has never been meaningfully involved in the negotiations, nor has its consent been solicited on any of the terms. These attitudes on behalf of the Department of State violate very clear precedents regarding setting boundaries between states and foreign countries. In the famous case of Secretary of State Daniel Webster in 1842 negotiating with Great Britain over the boundary between Maine and Canada, President John Tyler and Secretary Webster required that representatives of Maine and Massachusetts (which had a residual interest in the area of Maine) to be involved in the negotiations and that the two state governments' consent to the outcome be obtained. (Exhibit 36)

At no time during the Department of State's negotiations with the Soviet Union were representatives of the State of Alaska consulted on an official basis. The Department of State represents that it occasionally gave briefings to the Alaska governor's staff. The Department of State also represents that everything concerning the substance of its negotiations is secret classified material. Such material cannot be divulged to anyone who lacks a proper security clearance. We are informed that for most of the decade from 1981 to 1990, no federal security clearances were obtained for the Alaska governor's staff and for the governors themselves.

(As an indication of the forcefulness with which the Department of State guards classified materials, an incident regarding our organization should be mentioned, inasmuch as it deals with the Alaska governor's office. Our group had made an inquiry to the Department of State with regard to the briefings that the Department of State said it had given in late 1987 to the Alaska governor's staff. Immediately the Legal Adviser's office tasked the FBI to raid the residence of our vice chairman Mr. Seidenberg looking for classified material. Mr. Seidenberg suffered the indignity of being detained without cause, without any charges pressed, and without being allowed to contact his attorney.) (Exhibit 37)

Upon hearing of the Navarin Basin dispute over the boundary line in 1984, Alaska State Representative Roger Jenkins (R-Anchorage) with 17 cosponsors introduced H.J. Res. 53 which urged the Department of State "to adopt a firm stance and aggressively pursue a resolution of the Bering Sea Boundary dispute favorable to the interests of the government and the people of the United States." It passed unanimously in both houses and was signed by Gov. Bill Sheffield in April 1986. (Exhibit 38)

When it became apparent that the Department of State was going to continue to exclude representatives from the State of Alaska from the negotiating sessions, State Senator Rick Uehling (R-Anchorage) introduced S.J. Res. 12 which passed both houses unanimously and was signed by Governor Steve Cowper in May 1988. It asked the Department of State "to include a representative of the state, appointed by the governor with the consent of the legislature, on all delegations that negotiate the boundaries between the state and the Soviet Union or Canada"; and asked Alaska's congressional delegation to intercede in this on behalf of the State of Alaska. The Department of State never replied. (Exhibit 39)

In the same session, State Senator Paul Fischer (R-Soldotna) introduced S.J. Res. 61, which reiterated Alaska's sovereignty over Wrangell, Herald, Bennett, Henrietta,

Jeannette Islands. It passed the Senate on a unanimous vote in February 1988. (Exhibit 40)

Joining the controversy on the side of Alaska has been the California Legislature. In September 1987 its two houses passed nearly unanimously Assembly J. Res. 37 sponsored by Assemblywoman Marian LaFollette (R-Northridge), which supported Alaska's right to be represented on boundary negotiations and to have the power of consent over the outcome for its boundaries. Subsequent to the submission of the proposed maritime boundary treaty, State Senator Don Rogers (R-Bakersfield) introduced in May 1991 S.J. Res. 20 to reiterate California's support for Alaska and to ask that the proposed treaty either be withdrawn or to be rejected by the Senate until such time as Alaska has been properly involved. This measure is pending. (Exhibits 41-42)

In Pennsylvania, H. Res. 88, introduced in April 1991, urges the Department of State to include Alaskan state representatives in any boundary negotiations. The measure, sponsored by Representatives George Hasay (R-Wilkes Barre), Italo Cappabianca (D-Erie), and Frank Serafini (R-Lackawanna), is pending. (Exhibit 43)

During the 1989-90 session of the Ohio legislature, S.J. Res. 1 was introduced by Senator Gary Suhadolnik (R-Akron) to support Alaska's rights and to ensure that any boundary be in the form of a treaty. (Exhibit 44)

III. THE PROPOSED BOUNDARY LINE AND THE GIVEAWAY OF LAND AND SEABED TERRITORY

The drawing of the proposed maritime boundary line defies rational assertion of America's best interests. It concedes just about everything to the Soviets. There is no quid pro quo.

The proposed treaty is defective in three areas: 1. It wrongfully elevates a version of the old 1867 Convention Line into a boundary line. 2. It places on the Soviet side several Alaskan islands and vast seabeds with enormous resource potential. 3. It gives the Soviets "sovereign rights and jurisdiction" over U.S. territory.

1. Erroneous Use of 1867 United States-Russia Convention Line

The proposed treaty starts out in Article I by elevating the old 1867 Convention Line into the proposed maritime boundary. "The Parties agree that the line described as the 'western limit' in Article I of the 1867 Convention, as defined in Article 2 of this Agreement, is the maritime boundary between the United States and the Soviet Union."

The version of the 1867 line, as defined in Article 2, is at best a tortured depiction. Included in the concessions is the deviation from the arc of a great circle in the Bering Sea (i.e. the normal shortest distance measurement on the globe) toward the Soviet-demanded "rhumb line" depiction (which gives the Soviets several thousand more square miles on their side of this thousand-mile line).

It should be realized that the 1867 line never was a boundary line. It was merely a line of demarcation to define what territory was being sold to the United States by Russia. It never touches land anywhere. Countries did not divide up oceans and seabeds in those days, and no language in the 1867 Convention even hints at it being some sort of boundary line. Unfortunately, many mapmakers have printed on their maps showing the 1867 line with the word U.S.S.R. on one side and U.S. on the other, erroneously implying that this is a boundary.

This practice was so widespread that even the Geographer of the Department of State issued Boundary Study #14 in 1965 on the "U.S.-Russia Convention Line of 1867" with the following clarifications: "Rather than a boundary line *per se*, this report concerns a convention line." * * * Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used." (Exhibit 45)

Authoritative Dr. William E. Butler, Dean of the Faculty of Law at University College in London, wrote in 1978 in *International Straits of the World*, "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

Arbitrarily using the 1867 line has meant that the Department of State is ignoring the basic principle of equidistance in dividing up the seabeds, is ignoring the value of the seabed resources to the United States, and is ignoring the history of American acquisition of considerable territory west of the 1867 Convention line in the Arctic subsequent to 1867.

2. Surrender of Several Alaskan Islands

In 1867 the Russians did not own the Arctic islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta. They had never even set foot on any of them. Moreover, the United States made no agreement explicitly or implicitly in 1867 to avoid or

renounce any subsequent territory acquired in the Arctic west of the 1867 Convention line.

Some of the most heroic and adventuresome episodes of American history brought these islands into American sovereignty.

Wrangell Island is the largest of the five. At approximately 2,800 square miles, it is equal to Rhode Island and Delaware combined. It was first landed on by the crew of the U.S. Revenue Marine ship Thomas Corwin, commanded by Captain Calvin Leighton Hooper, on August 12, 1881. (The Revenue Marine was the predecessor of the current day Coast Guard.) The Treasury Department effectively administered Alaska at that time, and that made Captain Hooper the de facto governor. Hooper described the discovery in a report printed by the U.S. Senate.

Following prolonged battles with close-packed icebergs in the Arctic 80 miles north of the mainland, Hooper recorded, "At 7.30 we reached the open space and dropped anchor within a cable's length of the land in 5 fathoms of water. We immediately landed and, raising the American flag, took possession in the name of the United States of America." * * * At 9.30 a.m., being unable to maintain our position any longer, a gun was fired to recall the parties sent out to explore the cliffs in search of cairns or other signs of human life, and we began to work out towards the lead, which we reached at 11 a.m. We left the American flag flying and also a record of our visit. * * * Upon taking possession of the land in the name of the United States, the name New Columbia was provisionally given to it. The provision being the approval and concurrence of that portion of the Government having the authority to issue charts, etc., the decision of that body was adverse to my suggestion, and by its action I cheerfully abide not only on account of its undoubted right to decide according to its own judgment in this and all other matters over which it has jurisdiction, but because the size of the island, as now known, does not justify the bestowal of a name of this character, the name of one of the early Arctic navigators being much more appropriate." (Exhibits 46-47)

Another distinguished authority confirms this account. Professor John Muir, the famous explorer and naturalist, was aboard the landing party onto Wrangell. In his book *The Cruise of the Corwin*, Muir writes glowingly, "A notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land, and took formal possession of it in the name of the United States. We landed near the southeast cape, at the mouth of a river, in latitude 71 degrees 4', longitude 177 degrees 40'30" W." The text has illustrations of the landing party and the U.S. flag flying over this new part of America. (Exhibit 48)

Two weeks later, U.S.S. Rogers landed at Wrangell and conducted a complete official survey ending on September 13. One party proceeded overland to the mountains, and the other found the cairn left by the Corwin. This Navy crew also raised the American flag over Wrangell.

As can be appreciated, being so far north in the icepack, Wrangell was rather remote for settlement. Nevertheless, various U.S. parties utilized Wrangell over the years, and in 1924 the Lomen Brothers of Nome, AK, took over the settlement it had bought from Vilhjalmur Steffanson. Unfortunately, on August 20, 1924, the Soviet government sent the gunboat Red October to Wrangell, armed with a 6-pound cannon and a company of Soviet infantry. In an act of war, they attacked the settlement, chopped down the American flag pole, confiscated all the possessions, and shanghaied the 14 Americans off to Siberia. Two died in the process, and the remaining 12 were eventually released by the Soviets. The process of release was made more difficult by the fact that the United States did not maintain any diplomatic relations with the Bolshevik government; it continued to recognize the Russian government in exile until 1933. (Exhibits 49-50)

A memorandum by the Solicitor of the Department of State on November 25, 1924, pointed out, " * * * so far as the (1867) treaty is concerned, it would appear that the United States would not be prevented from preferring a claim to Wrangell Island if it so desired." (Exhibit 51) The authoritative *Digest of International Law* by Green Haywood Haywood Hackworth in 1973 made this unequivocal statement: "The United States has not relinquished its claim to Wrangell Island."

Military conquest is not a recognized or acceptable method of transferring sovereignty from one civilized country to another. The United States does not recognize this method as legitimate, and in this case it would be an unprecedented embarrassment. It would be the only territory lost by the United States to military conquest by a foreign government. As a matter of fact, the Department of State ought to initiate a negotiation process to end the military hostilities that continue with the Soviet occupation of Wrangell.

Bennett, Henrietta, and Jeannette Islands (DeLong Islands) became part of the United States in 1881 as a result of the famous expedition of U.S.S. Jeannette, a

joint venture of the U.S. Navy and the New York City Herald publisher James Gordon Bennett. Commanded by Lt. George Washington DeLong, U.S.S. Jeannette entered the Arctic Ocean in 1879 in search of the North Pole and Northwest Passage. To the northeast of Wrangell Island it got trapped in the ice, and it drifted with the icepack to the northwest for 2 years. It came across Bennett, Henrietta, and Jeannette Islands and took possession in 1881 in the name of the United States. Unfortunately, at this point the ship was finally crushed in the ice, and the crew had to head south in lifeboats across about 200 miles of ice and open water. About half the crew returned safely. A famous large monument with icicles stands at the U.S. Naval Academy at Annapolis, and the U.S. Congress awarded the crew with special medals. The book *Icebound* published by the Naval Institute Press gives a terrific account. (Exhibit 52)

Little Diomed Island in the Bering Strait is in danger by the way the Department of State has drawn the proposed boundary. The proposed boundary runs north and south through the middle of the western reef of the island. The determination of the geographic baseline around Little Diomed is especially important to the tide-lands that the State of Alaska has there. Unfortunately, we understand that no survey has yet established the baseline, including the requisite study of the ice attaching onto the island. Thus, it would appear that the drawing of the proposed boundary was done in disregard of any actual U.S. territorial measurement. (Exhibit 53)

Copper Island, Sea Lion Rock, and Sea Otter Rock are at the western end of the Aleutian chain, lying east of the 167 East (or 193 West) longitude meridian line. In the treaty ceding Alaska to the United States, the last clause in Article I which describes the territory being sold to the United States, says all the islands east of the 193 West meridian are being conveyed to the United States. That particular meridian seems to have been chosen since it clearly runs between Copper Island and Bering Island (which remained as Russian territory). (Exhibit 54)

3. Soviets to Exercise "Sovereign Rights and Jurisdiction" Within the United States

The proposed treaty in Article 3 specifies a "western special area" of U.S. territory, and then states "the United States agrees that henceforth the Soviet Union may exercise the sovereign rights and jurisdiction derived from exclusive economic zone jurisdiction that the United States would otherwise be entitled to exercise." * * *

Other than embassy property, no foreign government is ever allowed to exercise sovereign rights and jurisdiction within the United States. There is no compelling need to allow an exception here. To do so would require the passage of revolutionary enabling legislation by the House and Senate. Perhaps it would be better to redraw the boundary lines around these "special zones" so as to leave them on the side of the line which would receive them anyway.

Opposition to Proposed Treaty by State Legislators

In contemplation of this hearing, 36 members of the Alaska legislature (Republicans and Democrats of both houses) have written their opposition to the proposed treaty. In part, the letter states, "We firmly believe United States interests and Alaskan interests are at stake and in jeopardy in the proposed treaty." * * * No Alaskan official has ever been invited to participate in the treaty negotiations, in spite of abiding Alaskan interests in fisheries, petroleum, and other potential continental shelf resources and the considerations of navigation in the area. In the entire history of the treaty negotiations, Alaska has had no official voice. Alaska has not been officially consulted in the entire matter. * * * It is our purpose to urgently recommend that the presently-proposed treaty not be ratified by the U.S. Senate, and that negotiations be continued to include appropriate Alaskan officials and current United States and Alaskan historic, territorial and resource interests." (Exhibit 58)

Support for State of Alaska by State of California

In contemplation of this hearing, State Senator Don Rogers and State Assemblywoman Paula Boland have written their support for the rights of Alaska and all states. Senator Rogers is the sponsor of the pending S.J. Res. 20, which reiterates the California Legislature's support for the rights of Alaska and all states in negotiations over the state's territory and/or boundaries. (Exhibits 59 and 60)

Law Journal Article on Wrangell Island

A good law journal article on asserting the maximum American position on Wrangell Island was published in 1981. It was just coincidental that this was the same year as the beginning of the negotiations, inasmuch as the author Don Eric

Salom and the rest of the American public were kept completely in the dark about the negotiations for the entire series of negotiations. (Exhibit 61)

Court Challenge to Prospective Giveaway of Five Islands

A federal court challenge has been mounted in Alaska by R.M. Christiansen to prevent the impending giveaway of the five Alaskan Arctic islands. To quote the most recent court order filed May 23, 1991, "The complaint seeks injunctive relief and a declaratory judgment declaring null and void an agreement signed June 1, 1990, by James Baker and Foreign Minister Eduard A. Shevardnadze on behalf of the United States and the Soviet Union, respectively, under the terms of which the United States surrenders any claim it may have to the Wrangell, Herald, Bennett, Henrietta and Jeannette Islands in the Arctic Ocean and fixes an ocean boundary between the two nations. Plaintiff further asks this Court to declare the ownership of the aforementioned islands, their seabeds, natural resources and sovereign limits." The order goes on, "In a separate pretrial motion for preliminary injunction, Plaintiff seeks a preliminary (temporary) injunction halting any further action either Executive or Legislative until this matter is decided by the Court."

In the interests of the Congress, the order continues, "As grounds for his complaint Plaintiff alleges that the Executive branch of the U.S. Government does not possess the authority to divest the United States of its property and that the agreement therefore is repugnant to the U.S. Constitution under Article IV, Section 3, Clause 2 which provides: 'The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'"

This court action is a very important proceeding, and it may be well worth holding off on any action on the proposed treaty until the Federal Court has had a chance to make rulings in the case. (Exhibit 62)

Position of U.S. Department of State Concerning Wrangell Island

In 1975 the Department of State's Assistant Legal Adviser for European Affairs made very plain and cogent representations regarding Wrangell Island. The noteworthy positions included the following: "The United States has never had occasion to formally recognize Soviet ownership of Wrangell Island and early Soviet claims based on a sector principle in the Arctic were rejected. The United States, however, has long adopted the practice of dealing with authorities in *de facto* control of territory, and we do not consider that scientific cooperative activities with the U.S.S.R. with respect to Wrangell necessarily import any recognition of legal status." (Exhibit 63)

Previous Attempt to Turn Over Alaskan Land and Oil to Foreign Country

Revelations have come to light about a previous attempt by the Department of State to trade off a part of Alaska. According to the Associated Press story, "Americans might be buying much of their oil from Denmark if a plan to trade parts of Alaska for military sites in Greenland had been approved after World War II. The proposed swap came to light in newly discovered documents in the National Archives that also showed the United States proposed in 1946 to buy the entire arctic island from the Danes." * * * One alternative that was discussed was for the United States to trade land in the Point Barrow district of Alaska for those portions of Greenland that the United States considered of military value. Under this plan, the Danes would have received the rights to any oil discovered in the district and would have had to sell the oil to the United States. The richest oil strike in U.S. history was made in 1967 in the Prudhoe Bay area, 200 miles east of Point Barrow. The Point Barrow area now is part of the National Petroleum Reserve, which is reserved for national defense." This is a lesson from history that America's oil resources should be protected better, especially in today's world aftermath of a \$50 billion military effort in the Persian Gulf to secure control over worldwide petroleum supplies. (Exhibit 64)

Lack of Coastal Baseline Survey for Little Diomed Island

In order to determine a proper measurement of the boundary of Alaska around Little Diomed Island, including tidelands and the territorial sea, a thorough survey would have to have been done. According to a letter from Rear Adm. J. Austin Yeager, Director of the Coast and Geodetic Survey, National Oceanographic and Atmospheric Administration, "The National Ocean Service (NOS) surveyed the Bering Strait area in 1960, but did not cover the area of the Diomed Islands. We have never performed a hydrographic survey, nor have we ever compiled a shoreline manuscript of Little Diomed Island." * * * Determining bottom foot ice conditions would require extensive field work which NOS has no plans to pursue." (Exhibit 65)

Recommendations

The Senate should gather more information regarding the circumstances and consequences surrounding the proposed treaty. Toward that end, we are submitting several questions that we request this committee direct to the Department of State. (Exhibit 57)

The proposed treaty should be referred back to the President and the Department of State for considerable revision of content and process:

1. More study of the oil, gas, fishery, and other resource potential should be made so that an adequate economic assessment can be made of the exclusive economic zone and outer continental shelf. As an indication of the oil potential in the area, consider these statistics: Four major oil companies (Shell, Amoco, ARCO, and Unocal) were willing to pay over \$108,000,000 for the rights to explore in the blocks along the western edge of the Navarin E. in where the proposed maritime boundary will run. In the Chukchi Sea north of the Bering Strait adjacent to the proposed maritime boundary, the Department of the Interior estimates that between 430 million and 3.54 billion barrels of oil will be found. (Exhibits 55-56)

2. The State of Alaska must be represented in the negotiations that affect its territory and its boundaries, and its consent must be obtained for same.

3. The Department of State must involve the Senate every step of the way as part of the "advice" requirement for a treaty.

4. The Department of State should be encouraged to assert the maximum sovereignty for Wrangell, Herald, Bennett, Henrietta, Jeannette, Little Diomed, and Copper Islands and Sea Lion Rock and Sea Otter Rock. It should not accede to any military incursion.

5. If any of these islands are ceded *de facto* or *de jure* to the Soviet Union, then adequate provision should be made for just compensation for this unprecedented taking of property.

6. The Department of State should be requested to prepare a definitive statement on how it decides on what territory the United States has sovereignty over. The current process is not now codified and is an uncoordinated assemblage that is subject to uncertain results.

Thank you very much, Mr. Chairman, for this opportunity to present our preliminary views on these matters. We look forward to a continuing dialogue and a favorable outcome for the American public's interest.

COMMENTS REGARDING TESTIMONY OF THE LEGAL ADVISER TO THE U.S. DEPARTMENT OF STATE

1. On page 4, Mr. Williamson asseverated "As you probably know, in 1867 the United States purchased Alaska (sic.) from the Emperor of Russia (sic.)."

This statement is not correct in both fact and law. Even though the Department of State titled the Convention of Washington 1867 on Bevans (our exhibit 54) as "Cession of Alaska", the word Alaska does not appear in that convention. By Article I "the Emperor of all the Russias" ceded to the United States on June 20, 1867 "all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands."

The western limit by this convention conveyed to the United States, from Russia, "the whole of the Aleutian islands east of that (193 degree west longitude) meridian." The term Aleutian islands as used in this convention was a term of art.

The only Aleutian islands west of the 193 degree west longitude we are aware of is Bering Island and maybe a couplet of islets. The Solicitor of the Department of State by "MEMORANDUM" dated November 25, 1924, stated "that the United States on its part entered into no commitment which could be interpreted as an undertaking not to press claims to any land west of the particular line above described." (see our exhibit 51)

The term "Alaska" was proposed in 1867 for official acceptance by William Henry Seward, U.S. Secretary of State, the Hon. Charles Sumner, Chairman of the Senate Foreign Relations Committee, and by Maj. Gen. Henry Wager Halleck, U.S.A., in command of the military division of the Pacific. There is controversy over which of these three men proposed the name "Alaska" first. For a comprehensive analysis of the origin of the name "Alaska" and the controversy, read G.R. Stewart, "The name Alaska", *Names*, v. 4, no. 4, p. 193-260. (1956).

During the stewardship of Capt. Adolph Karlovich Etolin, IRN, the Russian American Company reorganized the western Aleutian Islands into six districts from the one district named "Athka". Two of these six districts were Bering and Copper.

The 193 degree west longitudinal meridian separated those districts. Capt. Etolin was governor of the Russian American colonies from 1841-1845. Capt. Etolin a Finn in the Imperial Russian Navy was the last Russian administrator over its mainland holdings in California. On December 20, 1841, Petr Kostromitinov (Etolin's subordinate agent) of the Russian American Company sold the mainland California lands to John Augustus Sutter. Therefore, Russian lands on islands west of the California coast remained with the Russian American Company. Note these California islands were not included in the cession because they were south of the 51 degree north latitude (57 degree north latitude was the northern limit of the Aleutian islands) the southern limit of the Aleutian Islands. See P.A. Tikhmenev, *History of Russian American Company*, Seattle: University of Washington Press, 1978.

The legal advisor erred in his use of tsarist title. He gave the title as "Emperor of Russia" (sic.). The form of title should be *Emperor of all the Russias*.

After the 1721 Peace of Nystadt, Chancellor G.I. Golovkin, in the name of the senate and state officials, presented Peter with the title "Emperor of all the Russias". In Germany a series of publications appeared proving the unfoundedness of the claim of Russian tsar. The following are some of those works:

F.L. Berger, *Politisches Bedencken uber die Frage: Ob der kayserliche Titul und Nahmen, ohnbeschadet kayserl: Maj. und des rom. Reiches allerhochsten Wurde* * * *

dem Czaaren von Russland communiciret werden konne? * * * Fernere grundliche Untersuchung der russischen Praetension

auf Beylegung des kayserlichen Tituls, ingleichen auf das orientalische oder griechische Kayserthum, verfertigt von dem Auctore des politischen Bedenckens (Leipzig, 1722), 68 pp.

M. Schmeizel, *Oratio inauguralis de titulo imperatoris, quem Tzaaru ruserum sibi dari practendit* (Jena, Sumptibus Auctoris, (1722)), 69 pp.

E. Otto, *Tractatio iuris gentium de titulo Imperatoris Russorum*. Vom Titul des russischen Kayserers, rev. edition (Magdeburg, I.C. Hendelii, 1724), 80 pp.

Jacob Paul von Gundling (1673-1731) wrote to the order of the Russian government a refutation of those arguments published at Riga in 1724. See the following:

J.P. von Gundling, *Bestand des russischen kaysertitels, worbey der von Kayser Maximilian dem Ersten 1514 den 4 augusti zu Brundenach geschlossene alliantztractat gegen alle bissher gemachte nichtige einwurffe vertheidiget wird* (Riga, 1724) 28 pp.

An account of these two arguments is covered in;

J. Rousset de Missy, *Les interets presens et les pretensions des depuis ceux d'Utrecht inclusivement, et sur les preuves*

de leurs droits particuliers, augmentez d'un supplement de diverses pretensions, entre autres de celles du Roi de Prusse sur la Silésie etc. (3rd edition; The Hague, Adrien Moetjens, 1741), 1, pp. 516-520.

2. On page 4, Williamson further asseverated "At that (1867) time; the maritime jurisdiction of a coastal state over territorial sea and continental shelf was limited to one marine league (approximately 3 nautical miles)."

This statement too is not correct in both fact and law. There had been no international agreement on limiting the maritime jurisdiction of a coastal state over territorial sea and continental shelf to one marine league, now or at any time period covered by the above asseveration.

Even though it has been a keystone of American foreign policy since, 1793, the U.S. Government has not always been consistent with the 3 nautical mile view. For example on June 25, 1868 Congress approved a 3-league boundary for Florida (25 Fla. Stats. Ann. 411, 413) See *United States vs. Florida*, 363 U.S. 121, 123 (1960).

For the Russian view on the subject read:

Ignatii Ioakimovich Ivanovskii, *O pravakh Danii na Zundskii i Bel'tskii prolyvy, preimushchestvenno v otnoshenii sobiraniia poshlin* (Spb., n.p. 1848), 31 pp.

COMMENTS ON THE U.S.-U.S.S.R. MARITIME BOUNDARY AGREEMENT

1. Failure of U.S.S.R. to Ratify the Agreement for Over a Year

On page 3 of the testimony of Legal Advisor Edwin D. Williamson is the statement: "I would also like to emphasize that our prompt ratification of the agreement could facilitate early Soviet ratification of the agreement." * * *

It would be worthwhile to find out what opposition has arisen in the Soviet Union to this agreement and why it has become such a low priority that no ratification has been forthcoming in over a year since the signing on June 1, 1990.

2. Legitimacy and Substance of the 1977 U.S.-U.S.S.R. Maritime Boundary Agreement

On page 5 of the testimony of Edwin D. Williamson is the statement: "In early 1977, the United States proposed that the two sides agree to respect treaties in force between them, in particular the 1867 Convention, in establishing their respective 200 mile zones. The Soviet government agreed." * * *

This is a significant revelation about a heretofore undisclosed 1977 U.S.-U.S.S.R. maritime boundary agreement. It must be presumed that this agreement is currently operative and carries the force of law. I strongly suggest that the following be made a part of this hearing record: 1. the full text of any documents by which the U.S. made the proposal in 1977, and any discussion papers and legal opinions leading up to the proposal; 2. the full text of any documents by which the Soviet government agreed to the proposal; 3. any documents by which any terms of the agreement were implemented; 4. any legal opinions rendered regarding interpretation, application, or other aspect of the agreement; 5. any documents showing any modification of the agreement; and 6. any documents showing any rescission, revocation, or termination of the agreement.

3. Cession of Sovereignty Over Several Alaskan/U.S. Islands

On page 9 of the testimony of Edwin D. Williamson is the statement: "There are allegations that this agreement gives away five Arctic islands to the Soviet Union. This allegation is simply incorrect. The agreement is a maritime boundary agreement. It does not recognize Soviet sovereignty over those islands."

First of all, it should be understood that the five islands referred to are the American Alaskan Arctic islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta. In addition to these, other Alaskan islands are being given away. A portion of Little Diomed Island is being given away by drawing the boundary line north and south through the middle of the southwestern reef of Little Diomed, thus putting part of the reef on the Soviet side. Moreover, the westernmost Alaskan Aleutian chain is being given away by placing Copper Island, Sea Lion Rock, and Sea Otter Rock on the Soviet side.

The proposed maritime boundary agreement speaks of recognizing the sovereign rights and jurisdiction of each government with regard to fishery zones, exclusive economic zones, and outer continental shelves. Such rights attach solely and exclusively from the sea coastline of sovereign land—to the seaward from which these zones and areas are measured. Recognizing the sovereignty of a government over these zones and areas directly concedes that such government obtained them by right of sovereignty to the land territory. The only other possibility would be that a government obtained such rights by cession from some other government.

If the proposed maritime boundary agreement indeed does not recognize Soviet sovereignty over any of these islands, but does recognize Soviet sovereignty over the zones and areas extending from them, then such a significant proviso must be explicitly included in the agreement. Otherwise, the plain and presumptive interpretation of the agreement would be that the U.S. is indeed abandoning and surrendering any sovereign rights it had to these islands.

4. Immediate Property Loss by State of Alaska Under the Agreement

This proposed maritime boundary agreement would bind the United States to accept Soviet sovereignty and ownership of the fishery zones, exclusive economic zones, and outer continental shelf from all these islands. As such, this agreement would constitute an immediate taking of considerable property of the State of Alaska. Under the Submerged Lands Act of 1953, states have property rights to all submerged lands up to 3 miles from the coastlines. The fishery zones, EEZ, and OCS also begin at the same coastlines. Thus, all of the submerged lands belonging to Alaska around these islands (amounting to hundreds of square miles) will have been taken from the State of Alaska and ceded to the Soviet Union by the U.S. government. The State of Alaska would be immediately entitled to just compensation for these submerged lands, which are understood to be rich in hydrocarbon and other resources.

5. Warnings of Legal Consequences of Policy of Using the 1867 U.S.-Russia Convention Line as a Boundary

Because of the unprecedented nature and immense consequences of the boundary setting policy, there have been times that legal warnings have been issued to the

U.S. federal government about possible civil and criminal offenses being committed and the possible financial liability being assumed by the federal government by taking property. (Exhibits 66-69)

LIST OF EXHIBITS

1. Resolution of National Convention of the Veterans of Foreign Wars, August 1980
2. Resolution of Post 2238 of the Veterans of Foreign Wars, Shreveport, LA, March 1988
3. Resolution of District 12 of the Veterans of Foreign Wars, Mansfield, LA, April 1988
4. Resolution of the American Legion (California Department) June 1987
5. Resolution of the Continental Congress of the National Society, Daughters of the American Revolution, April 1985
6. Resolution of the Midwinter General Staff Meeting of the Military Order of the World Wars, January 1985
7. Resolution of the Ohio Society of the Colonial Dames XVIIth Century
8. Resolution of the California Republican Party Convention, September 1987
9. Resolution of the California Republican Assembly Board Meeting, January 1987
10. Resolution of the California Republican Assembly Convention, March 1987
11. Resolution of the Los Angeles County Federation of Republican Women, February 1989
12. Resolution of the Women's Republican Club of Grosse Pointe (Michigan), March 1987
13. Resolution of the California Federation of Women's Clubs, May 1988
14. Resolution of the Legislative Research Associates (Springfield, IL), September 1986
15. Resolution of the Young Americans for Freedom National Convention, August 1985
16. Wall Street Journal editorial "Border Dispute", November 13, 1985
17. Wall Street Journal letter to the editor from Senator Frank H. Murkowski, December 2, 1985
18. Miami Herald article "Oil deposits shift Cold War to drab, icy Arctic islands", March 26, 1986 (comments by Senator Ted Stevens)
19. Wall Street Journal article "Crusade to Reclaim Arctic Island for U.S. May End at Summit", December 7, 1987
20. Washington Times article "U.S. to resume talks with Soviets over 5 islands; Alaska unhappy", March 2, 1988
21. Detroit Free Press article "Longtime dispute over Arctic proves an island unto itself", February 1, 1989
22. San Diego Union article "Concern shown on possible giveaway of isles to Soviets", January 28, 1989
23. Chicago Tribune article "Teacher fights U.S. 'giveaway' of island", March 3, 1989
24. Houston Post article "Teacher wants U.S. to claim islands", September 9, 1990
25. Bismarck Tribune column "Soviets may be snookering us out of an oil field", September 19, 1990
26. Chico (Calif.) Enterprise-Record opinion article "Giveaway or good deal?", March 24, 1991
27. Bill H.R. 341, 100th Congress
28. Bill H.R. 2383, 101st Congress
29. S. Res. 20, 101st Congress
30. Numerous background materials upon introduction of S. Res. 279, Congressional Record, December 18, 1985, pp. S 18002-18021
31. Numerous background materials upon introduction of S. Res. 20, Congressional Record, January 25, 1989, pp. S 779-787
32. Numerous background materials upon introduction of Amendment 387, Congressional Record, July 20, 1989, pp. S 8438-8447
33. Statement by Senator Pete Wilson on "The 100th Anniversary of the U.S.S. Jeannette Arctic Expedition", Congressional Record, September 20, 1990
34. Congressional medal for U.S.S. Jeannette crew (front)
35. Congressional medal for U.S.S. Jeannette crew (reverse)
36. "The Northeastern Boundary Negotiations", *Treaties and Other International Acts of the United States of America*, Volume 4

37. Wall Street Journal article "Crusader for Island in Soviet Union Says the FBI Paid a Visit", December 11, 1987
38. Alaska H.J. Res. 53, 14th Legislature
39. Alaska S.J. Res. 12, 15th Legislature
40. Alaska S.J. Res. 61, 15th Legislature
41. California Assembly J. Res. 37, 1987
42. California S.J. Res. 20, 1991
43. Pennsylvania H. Res. 88, 1991
44. Ohio S.J. Res. 1, 1989-1990 Regular Session
45. International Boundary Stud. #14 (revised) "U.S.-Russia Convention Line of 1867," The Geographer, U.S. Department of State
46. "Report of the Cruise of the U.S. Revenue Marine Steamer Thomas Corwin in the Arctic Ocean 1881" by Captain C.L. Hooper, Senate Executive Document No. 204, 1884 (excerpt)
47. "The Discovery of Wrangel Island" by Samuel L. Hooper, California Academy of Sciences, 1956 (excerpt)
48. *The Cruise of the Corwin*, by John Muir, Houghton Mifflin Co., chapter 25 (excerpt)
49. Affidavit of Hilda Koonuknowruk Weber on Wrangell Island (a member of the party shanghaied in 1924 by the Soviet gunboat Red October)
50. Telegram of October 16, 1924, to State Department from Northwestern Chamber of Commerce protesting the removal by Soviet government vessel of Lomen Brothers' settlement on Wrangell Island
51. Memorandum of The Solicitor of the Department of State, F.M. Anderson, November 25, 1924
52. Flyer on *Icebound*, by Leonard F. Guttridge, Naval Institute Press; book details the expedition of U.S.S. Jeannette
53. Hydrographic chart 16200 (detail of Little Diomed Island and vicinity)
54. "Cession of Alaska" treaty 1867
55. "Giveaway of Alaskan Islands and Oil-Rich Seabeds to the Soviet Union Imperils Investments of 500,000 Stockowners of ARCO, UNOCAL, Amoco, and Shell", *The Stockowners' News*, No. 4, December 1984
56. Final Environmental Impact Statement, Chukchi Sea Oil and Gas Lease Sale 126, Department of the Interior, January 1991 (excerpts)
57. Questions for Department of State regarding the proposed U.S.-U.S.S.R. Maritime Boundary Treaty
58. Letter of May 21, 1991, from Alaska State Senator Paul Fischer enclosing a copy of a letter of May 17, 1991, to Senator Joseph Biden Jr., Chair, Subcommittee on European Affairs, opposing the proposed U.S.-U.S.S.R. maritime boundary treaty, signed by 36 members of the Alaska Legislature (The typed names and identifications under the signatures have been added for clarity by State Department Watch.)
59. Letter of June 5, 1991, from California State Assemblywoman Paula Boland to Senator Joseph Biden Jr., supporting "the State of Alaska, or any State, in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union."
60. Letter of June 11, 1991, from California State Senator Don Rogers to Senator Joseph Biden Jr., supporting the rights of the State of Alaska to participate in negotiations that affect its boundaries and territory and to have the power of consent over such terms.
61. Law journal article "The United States Claim to Wrangel Island: The Dormancy Should End", by Don Eric Salom, California Western International Law Journal, Winter 1981, Volume 11, No. 1.
62. Court document "Order Directing Service" in case of R.M. Christiansen, plaintiff, versus George Bush, et al., defendants, No. A90-362 civil (United States District Court for the District of Alaska).
63. Letter of October 3, 1975, from Harold S. Russell, Assistant Legal Adviser for European Affairs, U.S. Department of State, to Robert M. Johnson, Assistant Attorney General, State of Alaska, regarding Wrangell Island
64. Associated Press news article "U.S. Considered Plan to Sell Part of Alaska to Denmark", San Francisco Chronicle, April 15, 1991.
65. Letter of June 6, 1991, to Carl Olson from Rear Adm. Yeager, Director of Coast and Geodetic Survey, National Oceanographic and Atmospheric Administration, regarding surveys (and lack thereof) for Little Diomed Island.
66. Letter dated May 31, 1990, from Everett P. Wood, Administrator of the Estate of Ralph Lomen, to Senator Jesse Helms
67. Telegram dated July 22, 1984, from Mark Seidenberg to Elizabeth Verville, Deputy Legal Advisor, c/o U.S. Embassy, Moscow

68. Telegram dated April 8, 1986, from Mark Seidenberg to Elizabeth Verville, Deputy Legal Advisor, c/o U.S. Embassy, Moscow
69. Mailgram dated July 24, 1988, from Carl Olson to George Shultz, Secretary of State, Washington, DC

Senator BIDEN. Thank you very much for your testimony. It has been very helpful.

I yield to my colleague from Alaska for any questions he may have.

Senator MURKOWSKI. Thank you.

I wonder, Mr. Olson, if you claim responsibility for the publication "Bad News Bulletin: U.S. State Department Policy Actions"? And there are a number of attachments here relative to the issue before us, the claim for the islands and so forth.

Mr. OLSON. Yes, they look like publications from our organization.

Senator MURKOWSKI. Have you ever been to Wrangel Island?

Mr. OLSON. In the Arctic?

Senator MURKOWSKI. Either Wrangel Island.

Mr. SEIDENBERG. Excuse me. There are four Wrangell Islands, Senator, all spelled with two l's. That was the determination of the U.S. Board of Geographic Names by resolution in 1901.

Senator MURKOWSKI. Can you tell me where they are, please?

Mr. SEIDENBERG. Yes, I can. Two are in the Alexander Archipelago, one that you alluded to earlier—

Senator MURKOWSKI. Slow down, slow down.

Mr. SEIDENBERG. OK.

Senator MURKOWSKI. The two in the archipelago?

Mr. SEIDENBERG. Alexander Archipelago.

Senator MURKOWSKI. Just 1 minute. Where are they in the archipelago?

Mr. SEIDENBERG. One is within about—I do not have a map to show you.

Senator MURKOWSKI. I have a map here, but just tell me where they are.

Mr. SEIDENBERG. They are near—one is a little island by the name of Wrangell, near the bigger island by Wrangell which you mentioned that you have been on. The other Wrangell Island is the one we were looking to on the map, which is the largest Wrangell Island, which was discovered in 1867 by the captain of the ship Nile and formally annexed by the U.S. Revenue Marine Service.

Senator MURKOWSKI. And where is the fourth one?

Mr. SEIDENBERG. The fourth one is way off in the western, northwestern Siberia, which truly is Soviet territory.

Senator MURKOWSKI. I see.

Mr. SEIDENBERG. They are all named after the same individual, Senator.

Senator MURKOWSKI. Would you provide for the record the location, if you care to, of the four Wrangell Islands that you have identified.

And Mr. Olson, would you indicate why, when the spelling, as I understand it, of the Wrangel Island that we are concerned with here is one "l," your publication throughout its identification contains two l's?

Mr. OLSON. Oh, I would be glad to, because this is kind of a controversy that goes back and forth. The reason we have adopted the two "l" spelling is that is the spelling that the U.S. Board of Geographic Names has given to it; and second, it was the spelling that Baron von Wrangell himself used.

I think that a single "l" is a Russified version of "Wrangell" and has gotten usage in that respect.

Mr. SEIDENBERG. Baron Wrangell was a Baltic, from the Baltic, and his family name was spelled with two l's. And all four islands are named after the same individual, who used to be the administrator or governor of the Russian-American Co. and an Arctic explorer in his own right.

Senator MURKOWSKI. So your explanation is that somewhere along the line they just simply dropped the one "l" from the Arctic Wrangel and proceeded to just let it go, when in reality your contention is that it should be two l's?

Mr. SEIDENBERG. Partially correct, Senator. Two l's is a spelling that was adopted by the U.S. Board of Geographic Names for the Wrangell in the Arctic and the two Wrangell Islands in the Alexander Archipelago. They did it by resolution in, I believe it was, July 1901. I could give you the exact date in response, but I am doing this from memory.

But they determined in a publication, U.S. Geological Survey Bulletin that was issued, that all islands which were included, the three that I mentioned, were all part of Alaska. This is called Dictionary of Alaska Place Names.

Senator MURKOWSKI. The four that you mentioned.

Mr. SEIDENBERG. Only three, Senator. The one that is in the western, northwestern Siberia was not included within that publication.

Senator MURKOWSKI. You indicate under certain recommendations in your testimony, specifically No. 5: "If any of these islands are ceded de facto or de jure to the Soviet Union, then adequate provision should be made for just compensation for this unprecedented taking of property."

Who would that consideration be made to?

Mr. OLSON. Well, these five islands are, we believe, part of the State of Alaska, and every State, if they do not themselves own the territory, they own the rights of the seabed and the territorial sea, which have tremendous value to them.

In the case of Wrangell Island, the Lomen brothers, who had acquired the island from Vilhjalmur Stefansson, still wants to have their island back. They were invaded in 1924 by the Soviet Union and they want their island back.

Senator MURKOWSKI. So it is your contention that compensation would be due the Lomen family, is that right?

Mr. OLSON. That is true, or their successors and heirs.

Senator MURKOWSKI. Now, who are some of the successors and heirs that are identifiable?

Mr. OLSON. Well, the administrator of the estate is Everett Wood, who was one of the clerks, I believe, or managers of the Lomen brothers business there. I guess it was headquartered in Nome, AK.

Senator MURKOWSKI. Are there any others?

Mr. OLSON. There are a couple others that—at the time that we found out about this activity, I believe Mr. Seidenberg had talked with, was it, Ralph Lomen or Carl Lomen?

Mr. SEIDENBERG. Ralph Lomen, Senator.

Mr. OLSON. Yes. And in order to help in the controversy, acquired a corner, so to speak, of whatever they had of the island.

Senator MURKOWSKI. A corner?

Mr. SEIDENBERG. The southeastern portion, Senator.

Senator MURKOWSKI. How much of the island is the southeastern portion? One-quarter of the island?

Mr. SEIDENBERG. No, no, no, Senator. Probably about one-sixteenth the island. I basically was concerned—in 1973, Senator Gurney held hearings February 1 and 2 of that year, and Wrangell Island, the one in the Arctic, came up at those hearings, which were dealing with forced labor and concentration camps in the U.S.S.R.

They were discussing Soviet gulags around those islands. I acquired the area basically accompanying those gulags. That was the reason I got involved, because of Raoul Wallenberg, who was allegedly incarcerated there in 1962. So I basically wanted to get the area where I believed Wallenberg was at the time, to see if I could get him rescued.

Senator MURKOWSKI. And what was your interest, then? What kind of a transfer of evidence do you have for ownership?

Mr. SEIDENBERG. I have a warranty deed, Senator, recorded in Nome recording district.

Senator MURKOWSKI. Warranty deed by whom?

Mr. SEIDENBERG. Ralph Lomen, the owner of Lomen Bros. Co.

Senator MURKOWSKI. And what does Mr. Lomen have from the standpoint of any documentation?

Mr. SEIDENBERG. He has recorded title documents, also recorded at Nome, dated April 1, 1924.

Senator MURKOWSKI. Do you know what kind of a document that is?

Mr. SEIDENBERG. It was the rights to the island. I do not know exactly what you would call it. It is a deed of some sort. I am not too sure. I am not an attorney.

Senator MURKOWSKI. Is it a crown deed from the Soviets?

Mr. SEIDENBERG. No, Senator. It was a deed from the Stefansson Arctic Development Co., which maintained the colony on Wrangell Island.

Senator MURKOWSKI. If you would care to provide for the record a—I am sure you have got one—a title search, which any title company can provide in checking the record back to whatever type claims might be recorded.

It is not a fact, then, that there is a chain of title that is evidenced by a quitclaim deed?

Mr. SEIDENBERG. I am sorry, I did not understand the question.

Senator MURKOWSKI. I said it is not a fact, then, that there is any effort to claim title through a quitclaim, recorded quitclaim deed that one or another of the parties who are claimants may have or hold?

Mr. SEIDENBERG. No, they were warranty deeds, Senator.

Senator MURKOWSKI. No quitclaim deeds?

Mr. SEIDENBERG. No quitclaim deeds.

Senator MURKOWSKI. Fine.

Mr. Chairman, I think it would be interesting for the claimants, since Mr. Seidenberg claims an interest in the island, to provide whatever evidence he has. I think that we have seen a situation here where obviously the administration spent a good deal of time on the treaty. The State of Alaska and the Alaskan congressional delegation has expressed its opinion with regard to the necessity of resolving a maritime dispute.

The legitimacy of the claimants, as represented by Mr. Olson, may or may not have any valid interest in the islands themselves, but again that is not a question that is before this committee and the matter which we are attempting under this maritime boundary agreement to resolve is a boundary line between the two countries.

So I think we have summed up the attitude prevailing in Alaska among the delegation and the citizens of our State with regard to the maritime boundary. The other issue is certainly a legitimate dispute between those who claim to have an interest in the islands and the interest in the U.S. Government in making a determination at some point in time of the validity of their claims.

So with that, Mr. Chairman, I have no further questions.

[The information referred to follows:]

QUIT CLAIM DEED

THIS DEED

Made this 18th day of October in the year one thousand nine hundred and eighty-five by and between

Estate of Ralph Lomen (Everett P. Wood, Administrator, 900 University St. #15R, Seattle, Wash. (98101) Party of the first part,
Carl Olson and Paula Olson, as joint tenants with right of survivorship (324 Sherwood Dr., Vienna, Virginia 22180) parties of the second part:

WITNESSETH, that the party of the first part, for and in consideration of One thousand Dollars and other considerations, has granted, released, and forever quit-claimed, and does hereby grant, release, and forever quit-claim unto the parties of the second part the following described land and premises, situate, lying and being in the State of Alaska/Arctic Ocean and distinguished as One-quarter undivided interest in the lands of Ralph Lomen known as Wrangell Island (a.k.a. New Columbia Land), which was re-recorded at the Nome Recording District in Book 281, Pages 822-823, less that portion conveyed to Mark Seidenberg on June 24, 1976 recorded at the Nome Recording District in Book 278, Pages 481-482.

Wrangell Island is about 2,800 square miles in area and is located in the Polar Sea (Arctic Ocean) about three hundred miles northwest of Point Hope. The crew of the U.S.S. John Rodgers made the official survey for the U.S. Government between 26 August and 13 September 1881. Captain Calvin Leighton Hooper, USRM, (de facto governor of Alaska) with a party from the U.S. Revenue Marine steamer Thomas Corwin landed on Wrangell Island on 12 August 1881 and took formal possession in the name of the United States Government based on the right of discovery by the American Barque Nile in 1867. The U.S. Coast and Geodetic Service then placed Wrangell Island in the district of Alaska.

It should be noted that Atherton Mountain is situated on Wrangell Island and is listed as part of Alaska as follows: U.S. Geological Survey Bulletin #169 by Henry Gannett "Altitudes in Alaska" (Washington GPO 1900); U.S. Geological Survey Bulletin #187 by Marcus Baker "Geographical Dictionary of Alaska" (Washington GPO 1902); U.S. Geological Survey Bulletin #274 by Henry Gannett "A Dictionary of Altitudes in the United States" (Washington GPO 1906); U.S. Geological Survey Bulletin #299 by Marcus Baker and James McCormick "Geographic Dictionary of Alaska" (Washington GPO 1906); U.S. Geological Survey Professional Paper #567 by Donald J. Orth "Dictionary of Alaska Place Names" First printing (Washington GPO 1967); U.S. Geological Survey Professional Paper #567 by Donald J. Orth "Dic-

tionary of Alaska Place Names" Revised, Second printing (Washington GPO 1971); U.S. Geological Survey Professional Paper #567 by Donald J. Orth "Dictionary of Alaska Place Names" Revised, Third printing (Washington GPO 1975); and U.S. Geological Survey Professional Paper #567 by Donald J. Orth "Dictionary of Alaska Place Names" Revised, Fourth printing (Washington GPO 1977).

together with all and singular the improvements, ways, easements, rights, privileges, and appurtenances to the same belonging, or in anywise appertaining, and all the estate, right, title interest and claim, either at law or in equity, or otherwise however, of the party of the first part, of, in, to, or out of the said land and premises.

TO HAVE AND TO HOLD, the above released land and premises unto and to the use of the parties of the second part and their heirs and assigns forever.

WITNESS my hand and seal the day and year hereinbefore written.

Signed, sealed and delivered in the presence of—

Everett P. Wood

[SEAL]

Administrator of the Estate of Ralph Lomen

State of Washington

County of King

TO WIT:

I, Grace Lane Crosson a Notary Public in and for the do hereby certify that Everett P. Wood, Administrator of the Estate of Ralph Lomen, party to certain Deed bearing date on the 18th day of October 1985, and hereto annexed personally appeared before me in said City of Seattle, Washington, the said Everett P. Wood being personally well known to me as the person who executed the said Deed, and acknowledged the same to be his act and deed.

GIVEN under my hand and seal this 29th day of October 1985.
Grace Lane Crosson.

Senator BIDEN. I have one question, if I may. Mr. Olson, can you think of any circumstance anywhere else in the world where there is a maritime boundary where one of the countries that is a party to that boundary has sovereign jurisdiction over a piece of land that is on the other side of the maritime boundary?

Is there any such place anywhere?

Mr. OLSON. I really could not speak to that, because we have not looked at any other negotiations in that respect.

Senator BIDEN. I am not suggesting you should. I am just curious.

Mr. OLSON. In that respect, I just could not say.

Senator MURKOWSKI. Macao may meet that criteria.

Senator BIDEN. Macao may meet that criteria.

Senator MURKOWSKI. If you are reaching, you might as well reach.

Senator BIDEN. I was curious, just wondering.

Gentlemen, thank you very, very much for taking the time. I assume you are both from Alaska, is that right, or are you?

Mr. SEIDENBERG. We both visited Alaska.

Senator BIDEN. Oh.

Mr. OLSON. We have been there.

Senator BIDEN. I am sorry. I was going to thank you for the long trip. Where did you make your trip from, downtown?

Mr. SEIDENBERG. For me, yes, that is correct, Senator.

Senator BIDEN. Well then, I withdraw the thanks.

Mr. OLSON. I came from Los Angeles.

Senator BIDEN. So I will not thank you for the trip, but thank you for the time, all kidding aside. Thank you very much, gentlemen, for coming up.

[Whereupon, at 3:41 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

○

ANNUAL REPORT

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1881
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OF THE

SECRETARY OF THE NAVY.

NOVEMBER. 28, 1881.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1881.

U. S. S. RODGERS,
Off Herald Island, September 14, 1881.

SIR: I have the honor to report that the U. S. S. Rodgers sailed from St. Lawrence Bay at 10.20 p. m. August 19, and the next morning entered the Arctic Ocean in company with the Russian Corvette Strelack, but was separated from her by a fresh westerly wind followed by thick weather.

Touched at Serdze Kamen August 21, and sent a boat on shore to inquire about a reported wreck, but could get but little information, experiencing great difficulty in communicating with the natives. From them we learned that the United States revenue cutter Corwin had visited that point and sent a search party on shore near Kolientchin Island.

I sailed the same evening for Herald Island, and August 23 at 7 p. m. sighted Cape Hawaii, Wrangel Island, bearing W. N. W. distant about 12 miles with the ice extending about 10 miles off the shore. At 8 a. m. the next morning both Wrangel Island and Herald Island were in plain sight, and we arrived off the latter at noon of the same day.

A boat was sent on shore in charge of Master H. S. Waring to search for tidings of the Jeannette and missing whalers, and an examination of the western extremity of the island was made and the remainder scanned from the summit of the highest land with glasses, without discovering any tracings.

The wind having shifted from N. W. to S. W. the surf on the beach increased to such an extent that it became necessary for the boat to leave shore without having finished the examination. After the return of the boat to the ship we steamed along the southern shore of the island without discovering any cairn and then headed for Cape Hawaii.

August 25, at 10 a. m., sighted Cape Hawaii and shortly after made the ice along the starboard beam, seemingly densely packed; skirted it, and at 4 p. m. sighted a lead from the masthead and followed it in. Progress was at first very slow, but soon we had the satisfaction of finding the ice more open, and at 10 p. m., having passed through about 10 miles of ice, we dropped anchor about one-half mile from shore in 6 fathoms of water. Sent a boat on shore the next morning to examine a lagoon, which was seen by a party that landed as soon as the ship was anchored, and found at its mouth an excellent small harbor, a rough draft of which is inclosed.

The vessel was moved into the harbor and preparations commenced for three search parties to explore the island for traces of the missing parties.

The parties got off August 27 between 3 and 4 p. m. Master H. S. Waring, with a whaleboat and crew, was ordered to explore the coast, passing to the northward of the island, and was accompanied by Assistant Surgeon J. D. Costille. At the point marked on the chart of the island inclosed he found a cairn, left by Capt. C. L. Hooper, U. S. R. M., the contents of which I inclose. A copy was left in the cairn. Great difficulty was experienced in working the boat through the ice, and on August 30, having entered a shallow bay, a northerly wind sent the boat down and imprisoned the boat there. After waiting three days, without any prospect of getting out, he returned overland with his party to the ship, leaving the boat and her equipments. The place where the boat is left will be found on the chart.

Ensign H. J. Hunt was ordered to explore the coast, passing by southward of the island in a whaleboat, and was accompanied by Passed-Assistant Engineer A. V. Zane. He skirted the coast to the southward,

the westward, and to the northward as far as the position marked on the inclosed chart. Finding it impossible to proceed farther, on account of the ice, without delay of uncertain duration, and being instructed not to remain beyond the 10th of this month, he returned to the ship, passing again to the southward.

The third party I took charge of, and was accompanied by Surgeon M. D. Jones and four men. After having penetrated 20 miles in a N. W. by N. direction in the interior, I ascended a mountain which, by barometric measurement, was 2,500 feet high, and could see from its summit the sea in all directions, except between S. S. W by W. per compass. The day was very clear, and no land except Herald Island was visible from this height. There was no ice in sight to the southward. A strip seemingly 10 miles wide to the westward, with open water between it and the shore, densely packed ice to the northward, in which no openings could be seen, but open water between it and the shore and narrow streaks of ice to the eastward.

It will be seen from the chart that the whole coast line, with the exception of a few miles of outlying sandspits, has been examined, and I believe it impossible that any of the missing parties ever landed here.

I found among the drift-wood, about six miles west of the ship when in harbor, the slings of a topsail yard, about 12 feet long and 11 inches in diameter, which looked as if it had been in the water about two years, and I should judge that it had belonged, from its appearance, to a merchant vessel.

We sailed from Rodgers Harbor, Wrangel Land, yesterday morning at 9.20, and last evening at 5.30 visited the bay where the whaleboat was left, but were unable to penetrate but a short distance, owing to grounded ice and shoal water.

I shall finish the examination of Herald Island, and then proceed to the northward as far as possible in search of some other land where the Jeannette or missing whalers may have touched. I shall try and communicate again with the whalers to inform the department of my plans for the winter. All well on board.

Respectfully, your obedient servant,

R. M. BERRY,

Lieutenant, United States Navy, Commanding.

Hon. WM. H. HUNT,

Secretary of the Navy.

U. S. S. RODGERS,

Latitude 71° 55' N., longitude 175° 10' W., September 27, 1881.

SIR: I have the honor to report that after putting my letter of the 14th instant aboard the whale bark Coral I sent a boat on the following morning, with Master H. S. Waring in charge, to examine the remainder of Herald Island. After pulling around the eastern end of the island he returned to the ship and reported that he could effect no landing, and the ship was headed due north. At 3.50 a. m. of the 16th ran into loose ice, and at 4 came up to a dense pack, the weather being thick and snowing. At 8.30, the weather having cleared somewhat, the ship was headed to the westward, and soon after discovering an apparent lead to the northwest it was followed, but soon ended in a dense, impenetrable pack, with smooth, unbroken field-ice beyond as far as the eye could reach. Upon returning out of the pocket the ice to the westward was seen to trend so much to the southward that I thought best to turn to the eastward, and skirting the pack came to a lead the next morning.

which we followed, forcing our way through small ice and floe-pieces until 5 p. m., when we came up to the pack, so dense as to discover neither leads nor open patches of water ahead.

After working from daylight until dark we had only penetrated 15 miles. It was now too dark to see our way, and the ship was secured to a floe for the night. The temperature fell to 8° below freezing, and young ice from 1 to 3 inches was formed around the ship, cementing the floes together. At 3 a. m. the ship was cast loose from the floe and headed for a lead about 100 yards distant, which was reached after steaming full power for an hour and fifteen minutes through the ice that had closed around us after securing the vessel.

Having followed the lead to open water, we again skirted the pack to the eastward and entered a third lead, which we followed to its end, meeting again the ice in serried masses.

Having now reached latitude $73^{\circ} 44'$ north, longitude $171^{\circ} 48'$ west, without discovering any indications of land with a bright lookout kept at the crow's nest, but, on the contrary, from soundings, that the water invariably deepened as we proceeded north, and finding also that the main pack from this point trended well to the southward of east, I thought it best to return to the northeast point of Wrangel Island, and proceed from here in a northerly and westerly direction in hopes of finding the high land north of Wrangel Island reported "as situated in 175° west longitude and extending as far north of 73° north latitude as the eye could reach" by Captain Smith of the whale bark *New Bedford*.

We found that a part of the ice had drifted out of the bay where one of the exploring boats was deserted, and we picked the boat up, then headed to the northward and westward, having ice in sight along our port beam as far as we went. We crossed the one hundred and seventy-eighth meridian and reached a position the latitude of which is $73^{\circ} 28'$ north and the longitude $179^{\circ} 52'$ east, then recrossed the one hundred and seventy-eighth meridian in 73° north without sighting land, with the horizon throughout and the sky to the northward clear.

Except where we attempted to follow the leads referred to above, I have found the northern ice of such a nature that it would not be possible to pass its outer edge, consisting in places of heavy pack and in others of unbroken fields of miles in extent.

The field-ice was from 2 to 3 feet out of water. Believing that it would be useless to try and proceed farther in that direction this season, and that by an attempt to do so the vessel would be in danger of being caught in the pack and have to winter there without an adequate prospect of accomplishing anything, for it is difficult to conjecture in what direction the *Jeannette* drifted after she was once fast in the pack, being at the mercy of winds and currents, I propose next to proceed from here to the coast of Siberia and follow it to the westward, looking there for tidings of the missing vessels and for a suitable harbor to winter in from which to send out sledge parties and be in a position to succor any one who might reach that coast. Failing to find a suitable harbor, I will leave a party with dogs, sledges, and provisions for one year to make the search, and will winter the vessel in St. Lawrence Bay and send parties from there also.

In the spring I will proceed to Plover Bay, fill up with coal, and continue the search.

Since Wrangel Land has proved to be an island of so small an extent, with no other land near it, I deem it useless to winter there, as recommended by the *Jeannette* Relief Board under the false supposition that it extended far to the northward.

In my letter of the 19th ultimo from St. Lawrence Bay I referred a report of men with dogs having gone to the eastward from Point Barrow, which report I am assured by the whalers is wholly without foundation.

The other report that a vessel drifted on the coast of Siberia west of Kolintchin Bay last November they believe to be true, and from the description given of her by the natives that she was the Vigilant. They described her as having deer's horns on the flying jibboom, with the masts cut away and hanging over the side and dead bodies within her.

After some of the natives had visited her and gone for more to the north from her what they wanted she drifted off the coast again. They state that some small articles obtained from these natives, and now in the possession of Captain Hooper, were recognized as belonging to the Vigilant.

We still have 250 tons of coal on board; the vessel, in every respect, is in good condition, and the crew and officers all well.

Very respectfully,

R. M. BERRY,

Lieutenant United States Navy, Commanding

Hon. WILLIAM H. HUNT,
Secretary of the Navy.

UNITED STATES REVENUE MARINE,
REVENUE CUTTER CORWIN,
August 12, 1881.

Landed here this date, having previously landed at Herald Island, "cairn," with information inclosed, may be found on the N.E. summit of the island. The finder is requested to send the contents of this bottle to the New York Herald.

J. C. ROSSE.

UNITED STATES REVENUE MARINE, U. S. S. CORWIN,
Wrangel's Land, August 12, 1881.

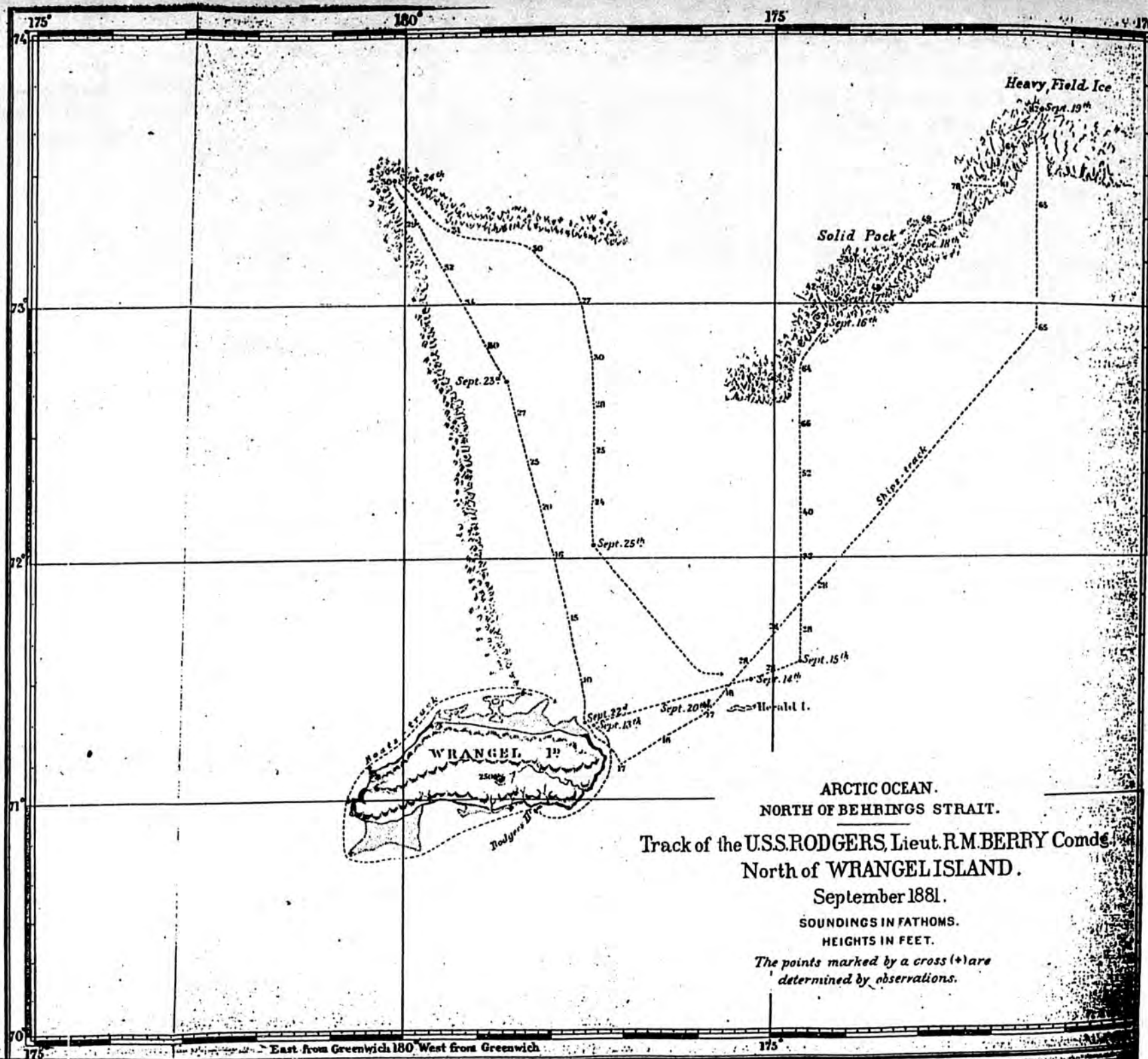
The U. S. S. Corwin, Capt. C. L. Hooper commanding, visited the island, in search of tidings from the United States exploring steamer Jeannette. A cask of provisions will be found on the second cliff to the northward. All well on board.

U. S. S. RODGERS,
St. Lawrence Bay, October 16, 1881.

SIR: I have the honor to report that this vessel arrived at this port from the Arctic Ocean yesterday morning at 8 a. m.

After sending my report of 27th of September by the steam whaler Belvedere, I proceeded to Herald Island and finished its examination without finding any traces of the Jeannette or missing whalers. A cairn was found on the N. E. summit left by Dr. Rosse, of the United States revenue cutter Corwin, containing simply the information that he landed there in July last and that all were well.

I next proceeded to the coast of Siberia in search of winter quarters, sighting it just east of Cape Jakan, a strong north wind blowing at the time, and a heavy sea running so that it was not possible to send a boat on shore. I coasted to the eastward, examining the shore from the ship; but towards evening the wind freshened, and falling snow drove us out the shore altogether. I stood off from shore and laid to for the night.



ARCTIC OCEAN.
NORTH OF BEHRING'S STRAIT.

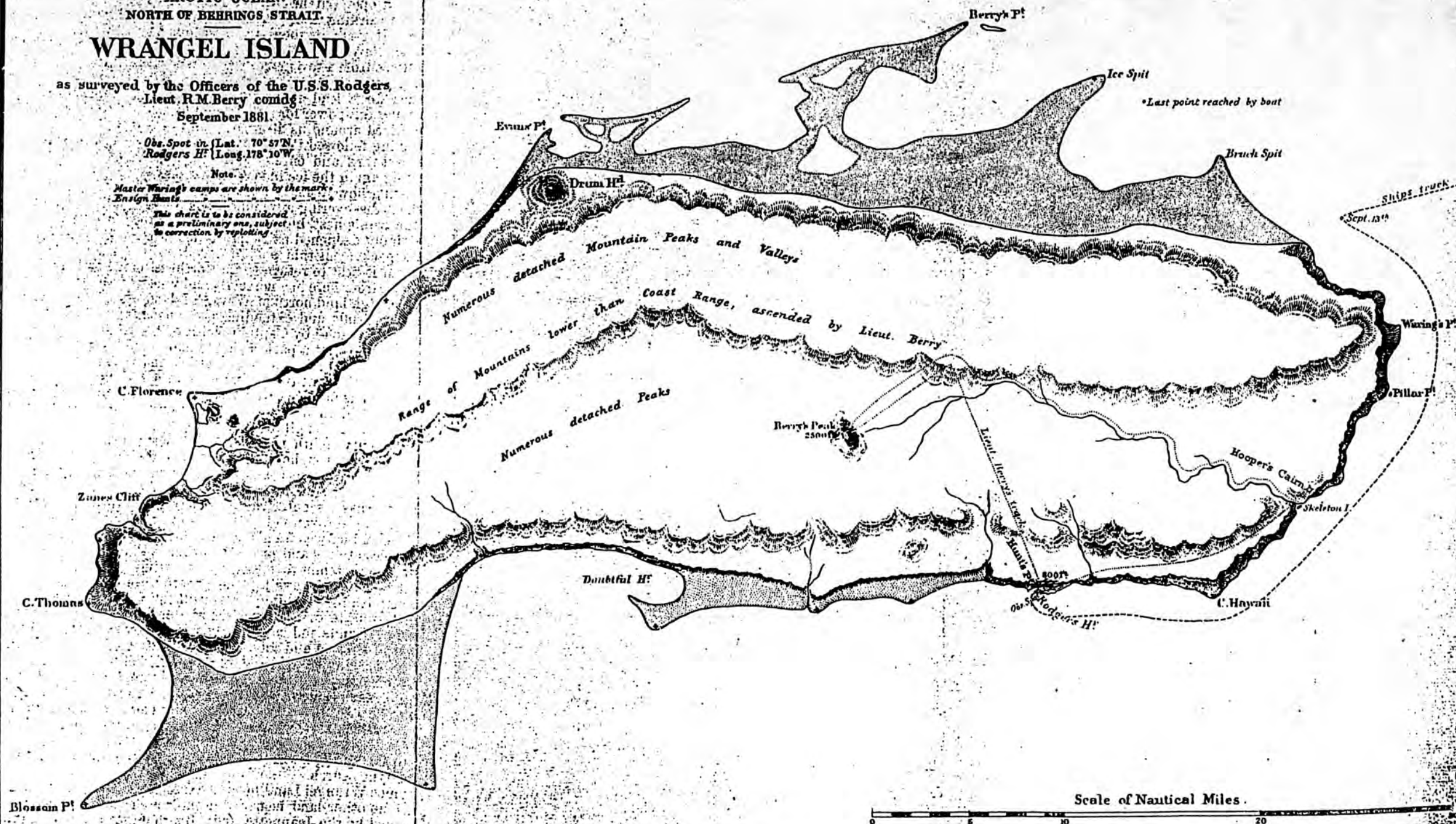
WRANGEL ISLAND

as surveyed by the Officers of the U.S.S. Rodgers,
Lieut. R.M. Berry comdg.
September 1881.

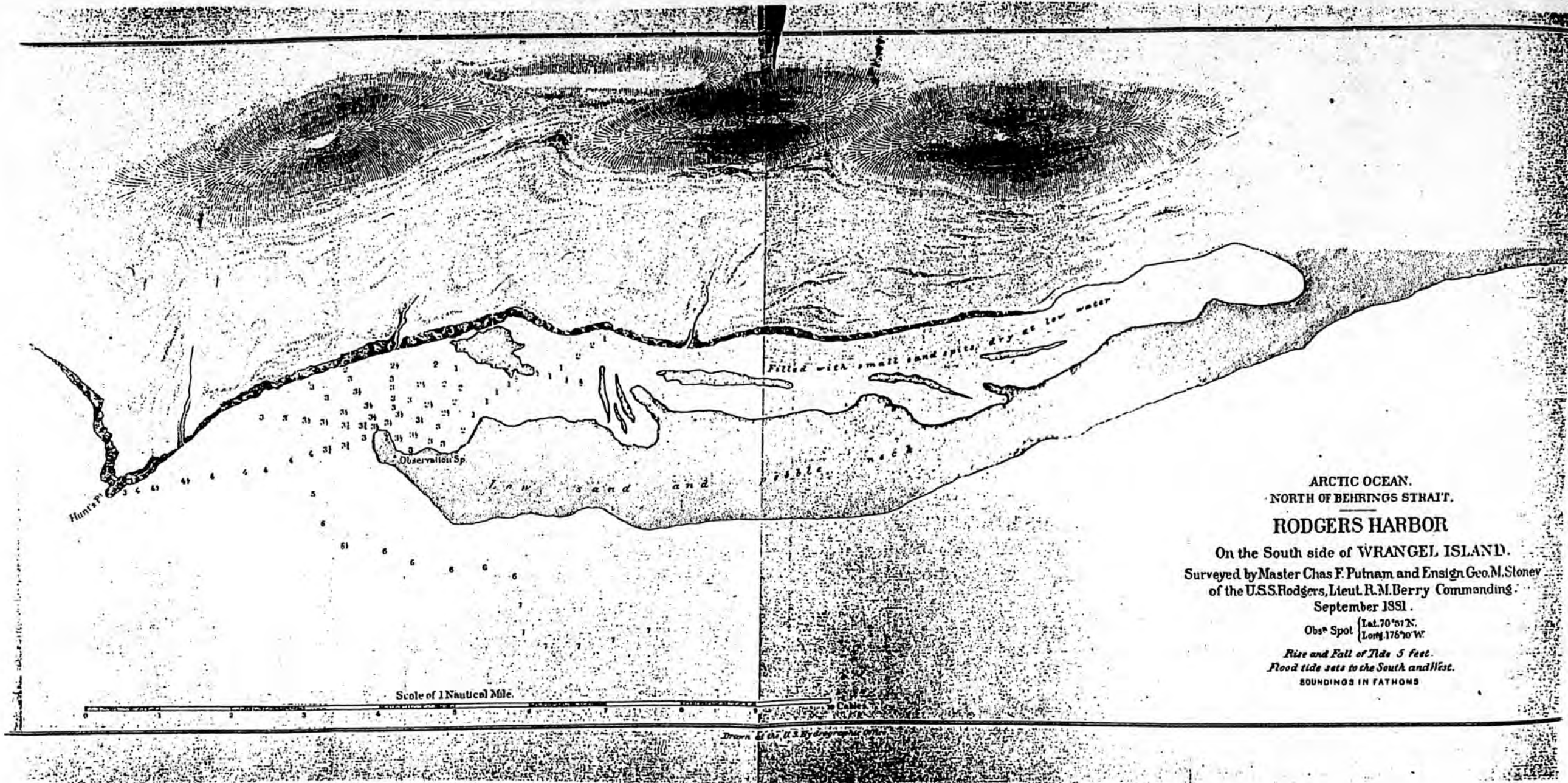
Obs. Spot in (Lat. $70^{\circ} 57' N$.
Rodgers H^t Long. $178^{\circ} 10' W$.

Note.
Master Whaling camps are shown by the marks
Ensign Bants.

This chart is to be considered
as a preliminary one, subject
to correction by reploting.



Drawn at the U.S. Hydrographic Office.



ARCTIC OCEAN.
NORTH OF BEHRING STRAIT.

RODGERS HARBOR

On the South side of WRANGEL ISLAND.
Surveyed by Master Chas F. Putnam and Ensign Geo. M. Stoney
of the U.S.S. Rodgers, Lieut. R. M. Berry Commanding.
September 1881.

Obsⁿ Spot { Lat. 70° 51' N.
Long. 176° 10' W.

Rise and Fall of Tide 5 feet.
Flood tide sets to the South and West.
SOUNDINGS IN FATHOMS

Oil deposits shift Cold War to drab, icy Arctic islands

By SUE CROSS
Associated Press

JUNEAU, Alaska — For more than 60 years, since Russian sailors landed on Wrangel Island, raised the Red flag and kicked out a dozen people, the Soviet Union and the United States have been arguing over who really owns five Arctic islands off Siberia.

Depending on whose version of history is believed, the people forced off the island by sailors from the ship Red October in 1924 were either American colonists or Eskimo hunters.

The American claim to Wrangel and the other five islands has been reincarnated recently by politicians who say the area includes vast oil reserves and submarine access to the Arctic.

In Congress, Sen. Jesse Helms, R-N.C., and Rep. Mark Siljander, R-Mich., have introduced resolutions seeking what they call reassertion of the United States' control over the islands. And the Alaska Senate passed a resolution this month echoing that request and asking that the islands be made part of Alaska.

"I think there's far more at stake here than five islands covered by ice and snow," said Democratic State Sen. Bill Ray. "If we surrender these islands, we'll be surrendering more than half our continental shelf."

Wrangel and Herald islands lie about 100 miles north of Siberia and 200 miles west of the recognized United States border. The other islands are farther west and north, part of the DeLong group named for U.S. Navy Commander George DeLong, who explored the area around 1880.

REPORT FROM ALASKA



U.S. Sen. Ted Stevens, R-Alaska, told a joint session of the Alaska Legislature that the state should stay out of the fight over the disputed islands.

Regardless of whether the islands ever were American, they never were Alaskan, and that's a major point in arguments that the state should not dabble in foreign policy.

"Alaskans don't belong in that fight," U.S. Sen. Ted Stevens, R-Alaska, told a joint session of the Alaska Legislature.

The islands were not part of Russia's sale of Alaska to the United States in 1867, and the

United States repeatedly has declined to claim them, said State Sen. Jay Kerttula, a Democrat.

Though Americans are credited with discovering some of the islands, they never formally claimed them, said U.S. Sen. Frank Murkowski, R-Alaska.

"I don't want to see the Soviets get anything they don't have coming, but ... I've yet to see the validity of claims made by the U.S. government," Murkowski said.

SENATOR TED STEVENS (R - Alaska)

incredibly fought against the Alaska State Legislature in its urgent resolution to keep the five strategic Alaskan islands and vast oil-rich seabeds:

"Alaskans don't belong in that fight."

Don't you think Senator Stevens should be re-educated on this issue?

WATCH
STATE DEPARTMENT

NATIONAL HEADQUARTERS
Post Office Box 46857
Washington, D.C. 20060
703-379-1070

MIAMI HERALD, 23 March 1986

Letters to the Editor

Keep the Wrangell Wrangle on Ice

I was interested to read your Nov. 13 editorial "Border Dispute" about Wrangell Island and the U.S.-Soviet maritime-boundary discussions. Alaska has many ties to the boundary area and the islands you mention. It was two Alaskans, the Lomen brothers, who lost furs and trapping equipment when the Soviet ship landed on Wrangell Island in 1924. The Lomens received compensation for the personal property they lost in the 1959 Foreign Claims Settlement Commission decision you mentioned.

Currently, many Alaskans depend on the resource-rich waters in the Navarin Basin area of the Bering Sea for their livelihood. Although your editorial made a number of valid points, I believe it is important to separate the question of whether the U.S. has ever exerted claims over Wrangell Island and other territories north of the Soviet Union, from the negotiations now under way with the U.S.S.R. over the boundary in the Navarin Basin. I understand that the two issues can be linked, but it appears that our interests would be better served by resolving whatever issues can be addressed now, and working on the other issues as facts become more clear.

The Navarin Basin issue requires our immediate attention because Soviet activities in the waters off Alaska have become increasingly worrisome. This summer, the Soviets deliberately harassed U.S. drilling rigs involved in energy exploration in the Navarin Basin area. Soviet overflights of

rigs caused dangerous interference in the safe operation of helicopters carrying American workers to and from the oil rigs. These irresponsible incidents jeopardize the negotiations which we have been conducting over the maritime boundary, and put the lives of Americans at risk. The State Department protested the flights.

I am monitoring the negotiations because I am concerned that our negotiators keep American energy, fisheries and strategic interests foremost in their minds. The waters off Alaska contain some of the world's richest fisheries, and could also contain significant mineral deposits.

On the other issues you mention, I have reviewed a great deal of material about claims over Wrangell, Henriette and other islands, and I confess that the record is not clear. I believe Congress must be given a comprehensive review of the dispute, and hear all sides before a judgment is made about ownership. In this regard, I am considering legislation to require our government to give the Senate Foreign Relations Committee a full report, which could provide a basis for future hearings. In addition, any treaty negotiated with the Soviet Union that proposes to give up territory claimed by the U.S. will be subject to careful review by the Senate before it is ratified.

FRANK H. MURKOWSKI (R., Alaska)
U.S. Senate
Washington

SENATOR FRANK MURKOWSKI (R - Alaska)

promised a lot, but delivered nothing.

He hasn't even put in this simple bill, which he promised to do in December, 1985!

Don't you think Senator Murkowski needs to be educated about the need for fast action?

THE WALL STREET JOURNAL MONDAY, DECEMBER 2, 1985

WATCH
STATE DEPARTMENT

NATIONAL HEADQUARTERS
Post Office Box 46857
Washington, D.C. 20050
703-379-1070

S. Hrg. 103-29

**NOMINATION OF WARREN M. CHRISTOPHER TO
BE SECRETARY OF STATE**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
FIRST SESSION

JANUARY 13 AND 14, 1993

Printed for the use of the Committee on Foreign Relations



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RESPONSES OF SECRETARY-DESIGNATE CHRISTOPHER TO QUESTIONS ASKED BY SENATOR JEFFORDS

GUATEMALA

Question. Guatemala continues to suffer from vast social and economic inequalities and is still wracked by human rights violations. While President Serrano has indicated his commitment to civilian control of the military, to strengthening democracy and to reform of the judiciary system, he has not succeeded as well as we had hoped. The State Department has played a constructive role in encouraging reform but the situation continues to deteriorate. How do you propose to approach Guatemala in view of our limited economic aid and military ties with that nation?

Answer. I have not had the opportunity to examine the Guatemala situation in depth, Senator, and thus cannot at this juncture offer any prescriptions for new U.S. policies or strategies to deal with it. I am aware that the process of reform and democratization in Guatemala lags well behind that of many other countries in the region and that our influence there is limited. While exploring other options, I would expect that we will continue to target our economic assistance on the poorest sectors and on promoting judicial and economic reforms and will continue to firmly support the peace process and a negotiated settlement to the 30-year old civil conflict.

HONDURAS

Question. I would also like to draw your attention to a country that is often overlooked in foreign policy overviews—Honduras. As Vermont's partner in the Partners of the Americas program, I have had an interest in Honduras for some time. In spite of steady U.S. efforts to aid Honduras in its quest for development, it remains the second poorest country in the hemisphere. What changes would you propose in U.S. policy towards Honduras so that we can be more effective in promoting democracy, respect for human rights and economic development?

Answer. As with regard to Guatemala, Senator, I have not had the opportunity to seriously examine our relations with Honduras and therefore cannot at this juncture propose to you any policy changes. I appreciate your bringing to my attention your interest in Honduras. As we review our relations with that country in the months ahead we will be pleased to consult with you on how we can be more effective in promoting our interests there.

PREPARED STATEMENT OF SENATOR JEFFORDS

Mr. Chairman: I join my colleagues in welcoming Warren Christopher to this committee. I also join in congratulating him on his selection by President-elect Clinton for this critical and prestigious post. His experience in foreign policy matters and his ability to manage people have clearly earned the deep respect of Bill Clinton. And on those occasions when our paths have crossed over the years, Mr. Christopher has earned my respect as well.

As the Secretary-designate is well aware, this is a time of great opportunity in U.S. foreign policy—and also a time of great challenge. For almost half a century we have carried the burden of world leadership and successfully warded off the threat of nuclear war. And now that the rivalry of the superpowers no longer dominates our foreign policy, we are suddenly free to put our creative energies to work in new ways. And I believe we have an obligation to the American people to make world leadership a positive experience at home. And how do we do this? From my short conversations with him, I believe Mr. Christopher has some very good ideas about how we can do this, but let me just stress several aspects that I feel are important.

First, we have earned the right to concentrate on America. We badly need investment in our economy, our educational system, our infrastructure and our environment. Our future as a nation will be determined by how well we accomplish these tasks. For years I have argued that national security consists of more than just a strong defense, but also a sound economy and a hopeful citizenry.

Secondly, as the world becomes a smaller place, as the economy becomes more global and as grave injustices in far away places demand our involvement, it becomes clear that we cannot realize these hopes for America without interacting with the rest of the world. A sound U.S. economy depends on strong U.S. trade. And a positive environment for international trade requires greater equality in national standards of living, in respect for labor rights, in protection for the environment and investments in the future. The evolution of the former Soviet Union is a vivid exam-

courage democracy and a free market, not just for them, but for us—to ensure that we are not undercut in the world economy by new countries whose businesses may have no obligation to respect the rights of their workers, to protect their environments or to allow free competition.

And lastly, I would urge that Congress and the State Department combine their considerable resources to investigate new ways of maintaining international security. Several of my colleagues have made reference to a possible new system of collective security. I also am interested in ways of using existing organizations such as the United Nations more effectively. We cannot take on sole responsibility for every Somalia, every Yugoslavia or every Iraq. But we can take the lead in developing creative new ways to deal with international disputes and national tragedies. I look forward to working with Mr. Christopher and my colleagues on these issues.

Before I enumerate a few specific questions, I feel obligated to comment on one area of my recent involvement with Mr. Christopher that has been discussed in the press of late. As the Ranking Member on the Near East and South Asian Affairs Subcommittee, I was a member of the Senate October Surprise investigation. In the course of our investigation of the actions of the 1980 Reagan presidential campaign and the Carter Administration relating to the release of the American hostages in Iran, we requested the cooperation of Mr. Christopher. Under oath, he shared with us his recollections of the events of 1980 and early 1981. Mr. Christopher clearly stated that he had no evidence of any attempt by members of the Reagan campaign to delay the release of the hostages, and does not now believe that this occurred. He summarized for the investigation his efforts as President Carter's chief negotiator to obtain the release of the hostages, and we found no reason to doubt the dedication of that effort. I firmly believe that the insinuations that Mr. Christopher may have played politics with the hostages situation or offered a quid pro quo of selling arms to Iran are unfair and unfounded. As far as I know, the House October Surprise task force shares this assessment. Enough said on this issue.

PREPARED STATEMENT OF CARL OLSON, CHAIRMAN, STATE DEPARTMENT WATCH

State Department Watch is a nonpartisan public interest foreign policy watchdog group. It is our intention to present four issues continuing on from the Bush Administration which the nominee Warren Christopher should supply views on.

These issues are (I) the ongoing constitutional crisis and the policy questions surrounding the US-USSR Maritime Boundary Agreement; (II) the failure of the U.S. government to follow up on the Cold War victory to collect funds owed by the former Soviet Union to American citizens and to the U.S. government; (III) the problem of support for foreign slave labor by U.S. companies and the U.S. government; and (IV) the failure to exert maximum exclusive economic zone jurisdiction for all U.S. territory.

I. US-USSR MARITIME BOUNDARY AGREEMENT

This agreement was signed by Secretary of State James A. Baker III on June 1, 1990, approved by the U.S. Senate in September 1991, and ratified by President George Bush in December 1991. It, however, has not been entered into force due to the failure of the USSR to ratify it, and the dissolution of the USSR government. The ongoing constitutional and policy problems with it are as follows:

A. The agreement affects the boundary of Alaska and the land and seabed territory of Alaska. Nevertheless, the negotiations by the Department of State leading up to the agreement did not include any representative of the State of Alaska, and the State of Alaska has not been asked to give its consent to the terms. This exclusion of Alaska has created a constitutional crisis in our federal system of government, whereby the federal government is asserting the power to set a state's boundary and compromise a state's territory, seabeds, and property without the participation or consent of the state. A clear precedent of a state's right in this regard was set in the boundary between Maine and Canada, the negotiations for which required the participation and consent of both Maine and Massachusetts (which had residual interests in the area) and ended up as the Webster-Ashburton Treaty. This principle was very strenuously argued by the state legislatures of Alaska (nearly unanimous) and California (unanimous) which both passed resolutions objecting to this arrogation of power (Alaska Senate Joint Resolution 12, May 1988; and California Senate Joint Resolution 20, September 1991).

B. At the same time of the signing of the US-USSR Maritime Boundary Agreement on June 1, 1990, Secretary Baker and Soviet Foreign Minister Eduard Shevardnadze signed a side agreement as follows: "... pending the entry into force of that (US-USSR Maritime Boundary) Agreement, the two Governments agree

to abide by the terms of that Agreement as of June 15, 1990.* * * Two major constitutional problems are generated by this side agreement:

1. This side agreement was not made public at the time of its signing; it was not mentioned in either the President's transmittal of the agreement to Congress, the Department of State's testimony to the Senate on the agreement, the Committee report on the agreement, or on the floor debate on the agreement. It came to light only after the Senate vote. This omission leads one to question whether the Congress had been misled by the Department of State.

2. The validity of this side agreement is in question. It would seem that an agreement solely by the executive branch with a foreign government cannot result in exactly the same thing that a treaty would be needed for (as was the case with the US-USSR Maritime Boundary Agreement). Otherwise, what necessity would the treaty be? Was the debate and vote on the Maritime Boundary Agreement merely a pointless sham in the eyes of the Department of State, which appears to have been operating under its own side agreement to accomplish exactly the same terms and conditions as the Maritime Boundary Agreement would.

3. The Department of State appears to have been operating under its side agreement and implementing its terms and conditions from June 1990 to the present in the absence of a treaty being entered into force. This raises two major inquiries: (a) exactly what actions and directives have been done to implement the side agreement by the Department of State and other executive branch agencies, and (b) in the event this side agreement is determined to be unlawful, what personal liability might there be for this misconduct, and what governmental liability might there be for takings of property of individuals and the State of Alaska?

C. The maritime boundary line is drawn in the agreement in such a way as to place eight islands that are arguably part of Alaska on the Soviet side of the line. These are Wrangell, Herald, Bennett, Jeannette, and Henrietta Islands in the Arctic Ocean, and Copper Island, Sea Lion Rock, and Sea Otter Rock at the westernmost end of the Aleutians. Not only does this call into question the wisdom of conceding so much of the exclusive economic zone to the Soviet side (i.e. the 200 nautical mile radius from each of those islands), but it also creates doubts about U.S. and Alaskan sovereignty over these islands and their seabeds. The areas involved are measured in the tens of thousands of square miles, and the seabeds could well contain vast resources of petroleum, fisheries, and other valuable assets.

D. The agreement has a unique provision in it which allows a foreign government to exercise its jurisdiction within the United States. In article 3, paragraph 2, it reads regarding a "western special area" on the U.S. side of the maritime boundary: " * * * the United States agrees that henceforth the Soviet Union may exercise the sovereign rights and jurisdiction derived from the exclusive economic zone jurisdiction that the United States would otherwise be entitled to exercise under international law. * * * " Such a cession of U.S. sovereignty seems to be unwarranted and violating the principle that foreign government should have sovereign rights in the United States only on the grounds of their embassies. Moreover, inasmuch as the Maritime Boundary Agreement has not been entered into force, it bears investigating to determine how the Department of State has implemented this cession of sovereignty under its side agreement, what liability has arisen therefrom.

II. FAILURE TO COLLECT DEBTS FROM THE FORMER SOVIET UNION

Inasmuch as the Cold War was purportedly won for the benefit of the American public, this has not rung true for the American public with regard to collecting monies owed to it by the former Soviet Union.

A. *Debts to Individuals.*—Thousands of claims against the former Soviet Union have been processed through the Foreign Claims Settlement Commission, but the Department of State has not aggressively helped to collect them.

B. *Victims of Shootdown of KAL007.*—The Soviets freely admit to shooting down the civilian airliner, but have ignored any responsibility to compensate the victims' families for loss of life or the airline for the loss of the aircraft. One of the murdered passengers was a U.S. congressman Larry McDonald. The Department of State has not pressed for damages.

C. *World War II Lend-Lease Debt to U.S. Government.*—According to the 1972 agreement with the Soviet Union, the Lend-Lease debt was compromised by the Department of State down from approximately \$11.3 billion (with no interest from 1945) to approximately \$931 million. The Soviets paid \$275 million, and the balance was to be paid when the Soviets obtained most-favored-nation trading status. Sev-

eral parts of the former Soviet Union have been granted MFN, but the Department of State has not pressed for payment of this Lend-Lease debt.

D. *World War I Debt to the U.S. Government.*—The Russian government debt to the U.S. government during World War I was defaulted by the Soviets in 1918. In the 1930s the Johnson Anti-Default Act was passed to prohibit a foreign country from borrowing in the United States if it is in default to the U.S. government. The Department of State has refused to press for repayment of this World War I debt, which amounts to about \$1 billion with interest. Moreover, it lobbied hard to pass a special provision in the "FREEDOM Support Act of 1992" which specifically exempted the former Soviet Union (but no other country) from the Johnson Act.

These failures to collect monies for individuals and for the U.S. taxpayer from the former Soviet Union appear to be a conscious policy of the Department of State. It certainly does not reflect the ability of the former Soviet Union to pay its debts. The former Soviet Union has several billions of dollars in saved defense expenditures now. In addition, several billions of dollars have been sent out of the Soviet Union in recent years to foreign bank accounts and other investments. The Department of State ought to be helping to find those funds and attach them forthwith.

III. SUPPORT FOR SLAVE LABOR IN FOREIGN COUNTRIES

Widespread slave labor exists today in China (with about 15 million in the laogai facilities) and the former Soviet Union (with about 4 million in the gulags).

As we all know, the U.S. constitution outlaws slave labor in the United States, and the Tariff Act of 1930 outlawed the importation of goods made in whole or in part by slave labor.

However, overseas activities of the federal government are not covered by existing legislation. The Department of State (including the Agency for International Development) does not have a policy to avoid buying slave-made goods overseas for use overseas; nor does it recommend that other federal government agencies (such as the Department of Defense) implement an anti-slave labor buying policy for overseas purchasing; nor does it recommend that U.S. companies adopt anti-slave labor policies for overseas purchases for overseas use.

Moreover, the Department of State has been lax in regard to the human rights situation in China and the former Soviet Union to monitor the slave labor facilities there, and to assist the Customs Service in its role in enforcing the ban on slave-made goods. Its "agreement" with the Chinese government regarding the slave labor facilities there lacks any credibility and enforceability. It has no agreement on the subject with the former Soviet Union.

IV. FAILURE TO EXERT MAXIMUM EXCLUSIVE ECONOMIC ZONE JURISDICTION

There are several American islands for which the exclusive economic zone has not been exerted. Failure to assert the EEZ means the United States is denied the utilization of the 200 nautical mile radius from the island, or approximately 125,000 square miles. These islands include the following:

- A. Navassa Island (in Caribbean)
- B. Washington Island, Fanning Island, Kingman Reef, and Baker Island (in Pacific)
- C. Nassau (in vicinity of Northern Territories of Cook)
- D. Pened Island (west of Attu in Aleutians)
- E. Copper Island, Sea Lion Rock, and Sea Otter Rock (at western end of Aleutians, part of Alaska purchase)
- F. Wrangell, Herald, Bennett, Jeannette, and Henrietta (in Arctic Ocean)

WASHINGTON, DC,
January 14, 1993.

The Honorable CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: I support the nomination of Warren Christopher to be Secretary of State.

As President Jimmy Carter's Deputy Assistant for Congressional Liaison (Senate), I was involved in a number of foreign policy and national security issues in which then-Deputy Secretary of State Christopher's analyses, decisions and actions had enormous domestic and international implications. He never faltered or wavered. In my view, superlatives cannot adequately describe the depth and breadth of Chris's intelligence, judgment, perseverance and, of course, his personal integrity and sense of propriety.

DEPARTMENT OF STATE
WASHINGTON

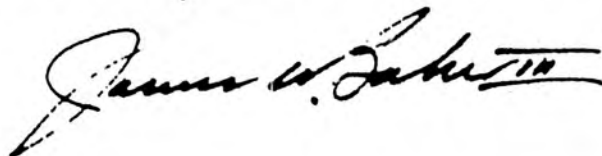
June 1, 1990

Excellency:

I have the honor to refer to the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, which has been signed by representatives of our two Governments today. I have the further honor to propose that, pending the entry into force of that Agreement, the two Governments agree to abide by the terms of that Agreement as of June 15, 1990.

On the basis of the foregoing, I have the honor to propose to Your Excellency that if the terms stipulated herein are acceptable to the Government of the Union of Soviet Socialist Republics, this note and Your Excellency's reply shall constitute an agreement between the two Governments, which shall enter into force on the day of your reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

A handwritten signature in dark ink, appearing to read "James W. Baker III", with a stylized flourish at the end.

His Excellency
Eduard A. Shevardnadze,
Minister of Foreign Affairs of the
Union of Soviet Socialist Republics.

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO.

132287
BL
Russian

THE MINISTER OF FOREIGN AFFAIRS
OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Washington, June 1, 1990

Dear Mr. Secretary:

I have the honor to confirm receipt of your note of June 1, 1990 with the following content:

[text of letter from Secretary of State James Baker III to Soviet Foreign Minister Eduard A. Shevardnadze, showing no discrepancies in the two languages]

I have the honor to inform you that the Soviet side expresses its agreement that this note and and Your Excellency's reply shall constitute an agreement between the two Governments which shall enter into force on this day.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

[signed] E. Shevardnadze

CERTIFICATION OF TRANSLATION

I hereby certify that the translation bearing LS No. 132287 was prepared by the Office of Language Services of the Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated:

June 5, 1990 *William M. Butler*

Chief, Translating Division

The Alaskan Islands and Oil-Rich Seabed Giveaway Treaty

101ST CONGRESS
2d Session

SENATE

TREATY Doc.
101-22

AGREEMENT WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE MARITIME BOUNDARY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE
MARITIME BOUNDARY, WITH ANNEX, SIGNED AT WASHINGTON,
JUNE 1, 1990



SEPTEMBER 26, 1990.—Agreement was read the first time, and together
with the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

26-118

WASHINGTON : 1990

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818-886-5710

LETTER OF TRANSMITTAL

THE WHITE HOUSE, September 26, 1990.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990. I also enclose for the information of the Senate the report of the Department of State with respect to this agreement and an illustrative chart of the maritime boundary.

In the agreement, the Parties agree that the line described in Article 1 of the Convention Ceding Alaska, signed March 30, 1867 (the 1867 Convention Line), is, as defined in the agreement, the maritime boundary between the United States and the Soviet Union. As such, it defines the limits within which each Party may exercise territorial sea jurisdiction or exclusive economic zone jurisdiction in those areas where their claimed 12 nautical mile territorial seas or 200 nautical mile exclusive economic zones would otherwise overlap or were otherwise in dispute. It also delimits, as between the Parties, such continental shelf jurisdiction beyond 200 nautical miles from their coasts as they may exercise in accordance with international law in the Arctic Ocean, Bering and Chukchi Seas, and a portion of the North Pacific Ocean.

I believe the agreement to be fully in the United States interest. It reflects the view of the United States that the maritime boundary should follow the 1867 Convention Line. The agreement resolves differences over where each Party has the right to manage fisheries and oil and gas exploration and development, as well as exercise other sovereign rights and jurisdiction, in these marine areas. Through its transfer of jurisdiction provisions, it also ensures that coastal state jurisdiction, in accordance with international law, is exercised by one or the other Party in all marine areas within 200 nautical miles of either or both coasts. Therefore, the agreement will permit more effective regulation of marine resource activities and other ocean uses and removes a significant potential source of dispute between the United States and the Soviet Union.

I recommend that the Senate give early and favorable consideration to this agreement and advise and consent to ratification.

GEORGE BUSH.

(iii)

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 6, 1990.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to the transmittal to the Senate for its advice and consent to ratification, the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990. The Agreement establishes the maritime boundary between the United States and the Soviet Union in the North Pacific Ocean, Bering and Chukchi Seas and the Arctic Ocean. Also enclosed for the information of the Senate is an illustrative chart of the maritime boundary.

The maritime boundary defines the limits within which each Party may exercise territorial sea jurisdiction or exclusive economic zone jurisdiction in these areas where their claimed 12 nautical mile territorial seas or 200 nautical mile exclusive economic zones would otherwise overlap or were otherwise in dispute. It also delimits, as between the Parties, such continental shelf jurisdiction beyond 200 nautical miles from their coasts as they may exercise in accordance with international law in the Arctic Ocean, Bering and Chukchi Seas and a portion of the North Pacific Ocean.

As such, the Agreement resolves differences with respect to where each Party has the right to manage fisheries and oil and gas exploration and development, as well as exercise other sovereign rights and jurisdiction that both Parties claimed, in these marine areas. Through its transfer of jurisdiction provisions, it also ensures that coastal state jurisdiction, in accordance with international law, is exercised by one or the other Party in all marine areas within 200 nautical miles of either or both coasts. The Agreement, therefore, will permit more effective regulation of marine resource activities and certain other ocean uses and removes a significant potential source of dispute between the United States and the Soviet Union.

Negotiations on the maritime boundary were initiated in 1981 and continued over the following nine years. The negotiations addressed a number of significant issues. First, the Parties needed to agree on the basis for defining the limits of their maritime jurisdiction, where such jurisdiction permitted under international law would otherwise overlap. The United States regarded the line described in Article 1 of the Convention Ceding Alaska, signed March 30, 1867 (the 1867 Convention Line) as the maritime boundary and sought Soviet agreement on this position.

Second, the two sides applied differing cartographic techniques to depict the 1867 Convention Line. General United States practice

(iv)

was to use arcs of great circles that best approximate the shortest distance between points on the surface of the earth. They appear as straight lines on a conic projection of the earth. General Soviet practice was to use a rhumb line, a line of constant compass bearing that appears as a straight line on a Mercator projection. There was also disagreement over the geographic location of one of the points described in the 1867 Convention as a basis for constructing the Convention Line. These differences resulted in the existence of a chord-shaped area in the Bering Sea—approximately 18,000 square nautical miles—that each side asserted to be on its side of the Convention Line.

Third, the Parties needed to define the limits of their respective maritime jurisdictions in the large area of the Bering Sea beyond 200 nautical miles of the coasts of both nations, subject to continental shelf, but not exclusive economic zone claims, and most of which lies on the United States sides of the Convention Line, however depicted.

Fourth, there are areas on the U.S. side of the Convention Line (however depicted) that lie within 200 nautical miles of the Soviet coast but beyond 200 nautical miles of the U.S. coast, and one area (in the Bering Sea) on the Soviet side of the Convention Line that lies within 200 nautical miles of the U.S. coast but beyond 200 nautical miles of the Soviet coast. These areas are referred to as "special areas" in the Agreement. Simple use of the Convention Line as the maritime boundary, would have cut off or prevented exclusive economic zone claims in special areas by one Party where the other Party could not make such claims. This would have resulted in the fishery resources of the waters of these areas being subject to neither side's jurisdiction.

In resolving these issues, the Parties agreed that the line described in the 1867 Convention is the boundary throughout its entire length and agreed upon a common cartographic depiction of the Line. In addition, the Agreement provides for the transfer of sovereign rights and jurisdiction in the special areas from the Party that could claim such rights and jurisdiction in the absence of agreement of the Parties on the maritime boundary to the Party that could not. The transfer of jurisdiction provisions allow the Parties to achieve their common interest in assuring that all waters within 200 nautical miles of either or both coasts are subject to the fisheries jurisdiction of one or the other Party.

The boundary is drawn so as to lie between the differing U.S. and Soviet depictions of the Convention Line and is so located that each Party receives one-half of the aggregate of the areas in the Bering Sea in which the assertion of exclusive economic zone jurisdiction by either or both parties was disputed (that area lying between the differing depictions of the Convention Line plus the Bering Sea special areas).

Conclusion of the Agreement also required significant technical work. The United States and Soviet Union use different reference systems (datums) for locating points on the surface of the earth. Accurate delineation of the boundary called for determining the exact location of the base points on each coast from which to construct the line. This determination involved conversion of cartographic values to a common datum (the World Geodetic System

1984) as well as agreement on the specific geographic coordinates of the relevant base points on such datum.

The preamble to the Agreement recalls the 1867 Convention and expresses the desire of the two Parties to resolve issues concerning their maritime boundary. It also sets forth their objective of ensuring that where coastal state jurisdiction could be exercised in the absence of a maritime boundary by either Party in accordance with international law, such jurisdiction is exercised by either the United States or the Soviet Union.

Article 1 records the agreement of the Parties that the line described as the "western limit" in the 1867 Convention (the 1867 Convention Line) is the maritime boundary. It also describes the legal effect of the boundary, obligating each Party to respect the boundary as limiting the extent of its coastal state jurisdiction otherwise permitted by international law for any purpose. It thereby settles the issue of where each side may, consistent with international law, manage offshore resources (the fishery resources of the waters as well as the oil and gas and other resources of the seabed and subsoil) and other oceans uses in marine areas that both claimed or could have claimed.

Article 2 describes the maritime boundary and indicates that it is defined by lines connecting geographic positions set forth in an Annex, which is an integral part of the Agreement.

The maritime boundary proceeds north and south of the Bering Strait from the mid-point between Big Diomed Island (Soviet) and Little Diomed Island (U.S.). North of the Strait, the boundary extends due north along the meridian of this mid-point as far as permitted under international law.

South of the Strait, the boundary generally extends from the same mid point southwestward to 167 degrees East Longitude (the end point of the Convention Line, as described in the 1867 Convention). This end point lies slightly beyond 200 nautical miles of the respective coasts of the United States and the Soviet Union.

Article 3 provides for the transfer of jurisdiction in special areas. By its terms, each Party agrees that with respect to special areas the sovereign rights and jurisdiction derived from exclusive economic jurisdiction that it could otherwise exercise in the absence of the agreement of the Parties on the maritime boundary may henceforth be exercised by the other Party. In effect, the Soviet Union agrees to the exercise of such rights by the United States in the three eastern special areas (the two in the Bering Sea and the one in the Chukchi Sea) and the United States agrees to the exercise of such rights by the Soviet Union in the one western special area (in the Bering Sea). (In light of the United States position that the Convention Line is the maritime boundary, the United States had never asserted fishery or continental shelf jurisdiction in the western special area.)

Article 3 makes clear that the exercise by either Party of sovereign rights and jurisdiction in the special areas does not constitute unilateral extension of coastal state exclusive economic zone jurisdiction beyond 200 nautical miles of its coasts. The transfer of exclusive economic zone sovereign rights and jurisdiction in the special areas is possible because these areas lie within 200 nautical miles of the coast of one of the Parties and that Party has, through

this Agreement, consented to the exercise by the other Party of such sovereign rights and jurisdiction in these areas. Each Party is obligated to ensure that any special area in which it exercises such rights and jurisdiction is characterized in its laws and legislation, and is represented on its charts, in a manner to distinguish it from the exclusive economic zone of that Party.

The exercise by the United States of the sovereign rights and jurisdiction transferred by the Soviet Union in the eastern special areas will require enactment of legislation by the Congress at least with respect to certain kinds of authority (e.g., fisheries).

Article 4 contains a disclaimer to make clear that the maritime boundary does not affect or prejudice either Party's position with respect to the rules of international law relating to the law of the sea.

Article 5 defines coastal state jurisdiction as referring to sovereignty, sovereign rights, or any other form of jurisdiction with respect to the waters or seabed and subsoil that may be exercised by a coastal state in accordance with the international law of the sea. The Agreement does not affect the right of hot pursuit under the international law of the sea.

Article 6 calls for any dispute over the interpretation of the Agreement to be resolved by negotiation or other peaceful means agreed by the Parties.

Article 7 provides that the Agreement will enter into force on the date of exchange of instruments of ratification.

I recommend that the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary be transmitted to the Senate as soon as possible for its advice and consent to ratification.

Respectfully submitted,

JAMES A. BAKER III.

AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE UNION OF SOVIET SOCIALIST REPUBLICS
ON THE MARITIME BOUNDARY

The United States of America and the Union of Soviet Socialist Republics (hereinafter "the Parties"),

Recalling the U.S. - Russia Convention of March 18/30, 1867 (hereinafter "the 1867 Convention"),

Desiring to resolve issues concerning the maritime boundary between the United States and the Soviet Union,

Desiring to ensure that coastal state jurisdiction is exercised in all maritime areas in which such jurisdiction could be exercised for any purpose by either of the Parties, in accordance with international law, in the absence of a maritime boundary,

Have agreed as follows:

ARTICLE 1

1. The Parties agree that the line described as the "western limit" in Article 1 of the 1867 Convention, as defined in Article 2 of this Agreement, is the maritime boundary between the United States and the Soviet Union.

2. Each Party shall respect the maritime boundary as limiting the extent of its coastal state jurisdiction otherwise permitted by international law for any purpose.

ARTICLE 2

1. From the initial point, 65° 30' N., 168° 58' 37" W., the maritime boundary extends north along the 168° 58' 37" W. meridian through the Bering Strait and Chukchi Sea into the Arctic Ocean as far as permitted under international law.

2. From the same initial point, the maritime boundary extends southwestward and is defined by lines connecting the geographic positions set forth in the Annex, which is an integral part of this Agreement.

3. All geographic positions are defined in the World Geodetic System 1984 ("WGS 84") and, except where noted, are connected by geodetic lines.

ARTICLE 3

1. In any area east of the maritime boundary that lies within 200 nautical miles of the baselines from which the

breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured ("eastern special area"), the Soviet Union agrees that henceforth the United States may exercise the sovereign rights and jurisdiction derived from exclusive economic zone and jurisdiction that the Soviet Union would otherwise be entitled to exercise under international law in the absence of the agreement of the Parties on the maritime boundary.

2. In any area west of the maritime boundary that lies within 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured ("western special area"), the United States agrees that henceforth the Soviet Union may exercise the sovereign rights and jurisdiction derived from exclusive economic zone and jurisdiction that the United States would otherwise be entitled to exercise under international law in the absence of the agreement of the Parties on the maritime boundary.

3. To the extent that either Party exercises the sovereign rights or jurisdiction in the special area or areas on its side of the maritime boundary as provided for in this Article, such exercise of sovereign rights or jurisdiction derives from the agreement of the Parties and does not constitute an extension of its exclusive economic zone. To this end, each Party shall take the necessary steps to ensure that any exercise on its part of such rights or jurisdiction in the special area or areas on its side of the maritime boundary shall be so characterized in its relevant laws, regulations, and charts.

ARTICLE 4

The maritime boundary as defined in this Agreement shall not affect or prejudice in any manner either Party's position with respect to the rules of international law relating to the law of the sea, including those concerned with the exercise of sovereignty, sovereign rights or jurisdiction with respect to the waters or seabed and subsoil.

ARTICLE 5

For the purposes of this Agreement, "coastal state jurisdiction" refers to the sovereignty, sovereign rights, or any other form of jurisdiction with respect to the waters or seabed and subsoil that may be exercised by a coastal state in accordance with the international law of the sea.

ARTICLE 6

Any dispute concerning the interpretation or application of this Agreement shall be resolved by negotiation or other peaceful means agreed by the Parties.

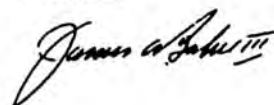
ARTICLE 7

This Agreement shall be subject to ratification and shall enter into force on the date of exchange of instruments of ratification.

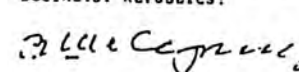
IN WITNESS WHEREOF, the duly authorized representatives of the Parties have signed the present Agreement.

DONE at Washington, this First day of June, 1990, in duplicate, in the English and Russian languages, each text being equally authentic.

FOR THE UNITED STATES
OF AMERICA:



FOR THE UNION OF THE SOVIET
SOCIALIST REPUBLICS:



ANNEX

The geographic positions set forth in this Annex are on the World Geodetic System 1984 ("WGS 84") and, except where noted, are connected by geodetic lines. One nautical mile equals 1,852 meters.

The maritime boundary is defined as follows:

From the initial point, 65° 30' N., 168° 58' 37" W., the maritime boundary extends north along the 168° 58' 37" W. meridian through the Bering Strait and Chukchi Sea into the Arctic Ocean as far as permitted under international law.

From the same initial point, the maritime boundary extends southwestward connecting the following geographic positions:

2. 65° 19' 58" N., 169° 21' 38" W.
3. 65° 09' 51" N., 169° 44' 34" W.
4. 64° 59' 41" N., 170° 07' 23" W.
5. 64° 49' 26" N., 170° 30' 06" W.
6. 64° 39' 08" N., 170° 52' 43" W.
7. 64° 28' 46" N., 171° 15' 14" W.
8. 64° 18' 20" N., 171° 37' 40" W.
9. 64° 07' 50" N., 172° 00' 30" W.
10. 63° 59' 27" N., 172° 18' 39" W.

11. 63° 51' 01" N., 172° 37' 13" W.
12. 63° 42' 33" N., 172° 55' 42" W.
13. 63° 34' 01" N., 173° 14' 07" W.
14. 63° 25' 27" N., 173° 32' 27" W.
15. 63° 16' 50" N., 173° 50' 42" W.
16. 63° 08' 11" N., 174° 08' 52" W.
17. 62° 59' 29" N., 174° 26' 58" W.
18. 62° 50' 44" N., 174° 44' 59" W.
19. 62° 41' 56" N., 175° 02' 56" W.
20. 62° 33' 06" N., 175° 20' 48" W.

21. 62° 24' 13" N., 175° 38' 36" W.
22. 62° 15' 17" N., 175° 56' 19" W.
23. 62° 06' 19" N., 176° 13' 59" W.
24. 61° 57' 18" N., 176° 31' 34" W.
25. 61° 48' 14" N., 176° 49' 04" W.
26. 61° 39' 08" N., 177° 06' 31" W.
27. 61° 29' 59" N., 177° 23' 53" W.
28. 61° 20' 47" N., 177° 41' 11" W.
29. 61° 11' 33" N., 177° 58' 26" W.
30. 61° 02' 17" N., 178° 15' 36" W.
31. 60° 52' 57" N., 178° 32' 42" W.
32. 60° 43' 35" N., 178° 49' 45" W.
33. 60° 34' 11" N., 179° 06' 44" W.
34. 60° 24' 44" N., 179° 23' 30" W.
35. 60° 15' 14" N., 179° 40' 30" W.
36. 60° 11' 39" N., 179° 46' 49" W.

thence, it extends along an arc with a radius of 200 nautical miles and a center at 60° 38' 23" N., 173° 06' 54" W. to

37. 59° 58' 22" N., 179° 40' 55" W.

thence, it extends southwestward along the rhumb line, defined by the following points:
64° 05' 08" N., 172° 00' 30" W., 53° 43' 42" N., 170° 18' 31" E. to

38. 58° 57' 18" N., 178° 33' 59" E.

thence, it extends along an arc with a radius of 200 nautical miles and a center at 62° 16' 09" N., 179° 05' 34" E. to

39. 58° 58' 14" N., 178° 15' 05" E.
40. 58° 57' 58" N., 178° 14' 37" E.

41. 58° 48' 06" N., 177° 58' 14" E.
42. 58° 38' 12" N., 177° 41' 53" E.
43. 58° 28' 16" N., 177° 25' 34" E.
44. 58° 18' 17" N., 177° 09' 18" E.
45. 58° 08' 15" N., 176° 53' 04" E.
46. 57° 58' 11" N., 176° 36' 52" E.
47. 57° 48' 04" N., 176° 20' 43" E.
48. 57° 37' 54" N., 176° 04' 35" E.
49. 57° 27' 42" N., 175° 48' 31" E.
50. 57° 17' 28" N., 175° 32' 28" E.

51. 57° 07' 11" N., 175° 16' 27" E.
52. 56° 56' 51" N., 175° 00' 29" E.
53. 56° 46' 29" N., 174° 44' 32" E.
54. 56° 36' 04" N., 174° 28' 38" E.
55. 56° 25' 37" N., 174° 12' 46" E.
56. 56° 15' 07" N., 173° 56' 56" E.
57. 56° 04' 34" N., 173° 41' 08" E.
58. 55° 53' 59" N., 173° 25' 22" E.
59. 55° 43' 22" N., 173° 09' 37" E.
60. 55° 32' 42" N., 172° 53' 55" E.

61. 55° 21' 59" N., 172° 38' 14" E.
62. 55° 11' 14" N., 172° 22' 36" E.
63. 55° 00' 26" N., 172° 06' 59" E.
64. 54° 49' 36" N., 171° 51' 24" E.
65. 54° 38' 43" N., 171° 35' 51" E.

66. 54° 27' 48" N., 171° 20' 20" E.
67. 54° 16' 50" N., 171° 04' 50" E.
68. 54° 05' 50" N., 170° 49' 22" E.
69. 53° 54' 47" N., 170° 33' 56" E.
70. 53° 43' 42" N., 170° 18' 31" E.

71. 53° 32' 46" N., 170° 05' 29" E.
72. 53° 21' 48" N., 169° 52' 32" E.
73. 53° 10' 49" N., 169° 39' 40" E.
74. 52° 59' 48" N., 169° 26' 53" E.
75. 52° 48' 46" N., 169° 14' 12" E.
76. 52° 37' 43" N., 169° 01' 36" E.
77. 52° 26' 38" N., 168° 49' 05" E.
78. 52° 15' 31" N., 168° 36' 39" E.
79. 52° 04' 23" N., 168° 24' 17" E.
80. 51° 53' 14" N., 168° 12' 01" E.

81. 51° 42' 03" N., 167° 59' 49" E.
82. 51° 30' 51" N., 167° 47' 42" E.
83. 51° 19' 37" N., 167° 35' 40" E.
84. 51° 11' 22" N., 167° 26' 52" E.

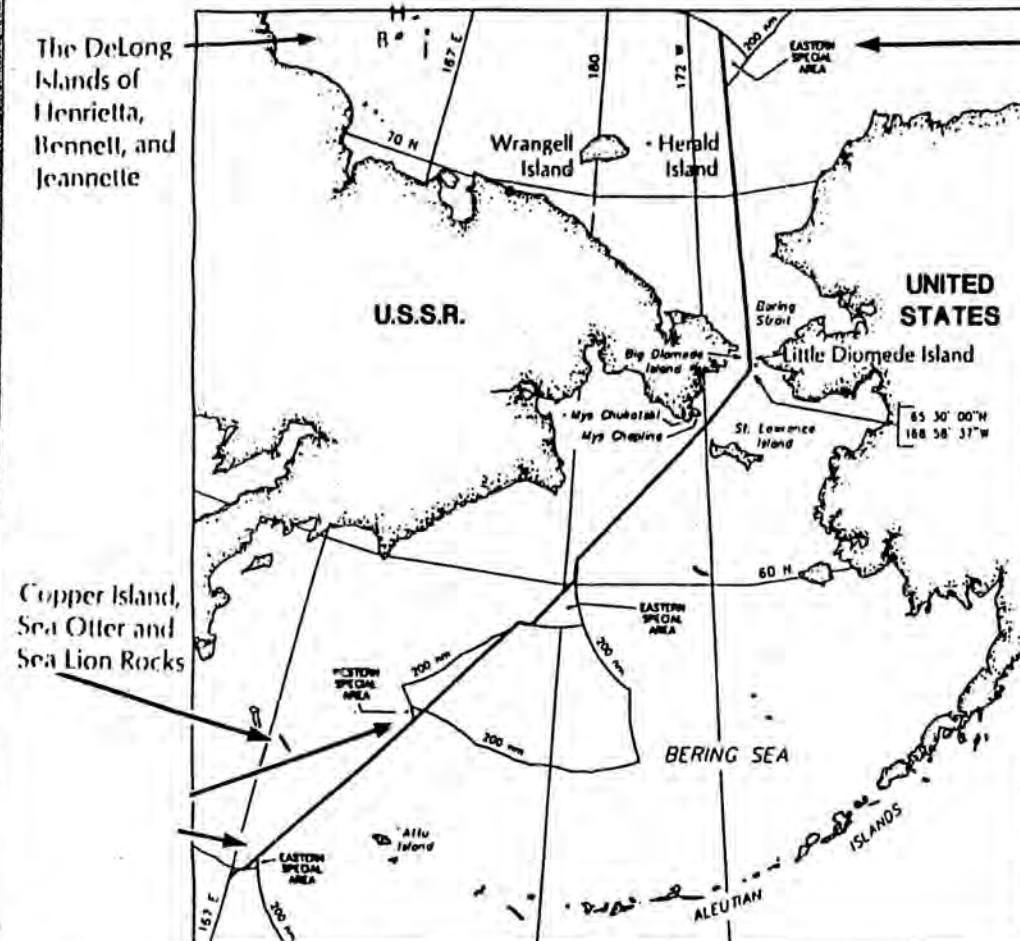
thence, it extends along an arc with a radius of 200 nautical miles and a center at 54° 20' 42" N., 168° 05' 25" E. to

85. 51° 12' 17" N., 167° 15' 35" E.
86. 51° 09' 09" N., 167° 12' 00" E.
87. 50° 58' 39" N., 167° 00' 00" E.

The maritime boundary cuts off part of the western reef of Little Diomed Island.

This Eastern Special Area is based on Soviet sovereignty on Herald Island.

UNITED STATES - U.S.S.R. MARITIME BOUNDARY



These Western and Eastern Areas are based on Soviet sovereignty on Copper Island.

The Soviets get "sovereign rights and jurisdiction" over the three Eastern Special Areas.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 22

Revision Date: _____ Dept. Affected: Department of Law
Title: "Relating to the maritime boundary between Alaska and the former Union of Soviet Socialist Republics" BRU: Legal Services
Sponsor: Representative Vezey Component: Operations
Requester: Governor's Office COMPONENT SERIAL NO. 0093

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	150.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	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	150.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	150.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HJR 22 declares that because the proposed United States - U.S.S.R. Maritime Boundary Agreement was not put into force before the dissolution of the U.S.S.R., the agreement does not have legal force, and any agreement on a maritime boundary between Alaska and eastern Russia must be negotiated anew with whatever new foreign government has sovereignty at the time. The resolution further declares that for such an agreement to be negotiated by the United States government, Alaska must be formally represented in the negotiations and its consent obtained. HJR 22 also requests that the Governor, in consultation with the Attorney General, prepare and provide to the Legislature, within 120 days after passage of the resolution, a study of the legal aspects of the maritime boundary proposed in the Agreement in order to determine the following:

Prepared by: Richard I. Pegues, Director
Division: Administrative Services Division
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: 2/6/95
Date: 2/6/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 22

ANALYSIS CONTINUATION:

(1) what effect the boundary would have had on the state's sovereignty over Wrangell, Herald, Bennett, Jeannette, and Henrietta Islands in the Arctic, over Copper Island, Sea Otter Rock, and Sea Lion Rock on the western end of the Aleutian Chain, and over Little Diomed Island in the Bering Strait;

(2) what effect, including an appraisal of the dollar values involved, the proposed boundary would have had on the state's property interests in the areas in (1) identified above and their territorial seas and seabeds;

(3) what legal actions Alaska could take to prevent the usurpation, abrogation, or cession of state sovereignty over these islands and their territorial seas and seabeds and to recover just compensation for the taking of Alaska property if attempts are made to enforce the proposed maritime boundary.

Finally, HJR 22 requests the U.S. Department of State to reveal any and all acts, directives, and reports regarding implementation of the side agreement, signed by then Secretary of State James A. Baker III and that bound the United States and the U.S.S.R. to abide by the proposed agreement until it was put into force, and respectfully requests the Governor and the Attorney General to investigate whether any actions in this matter may have violated state law and to report on their findings to the Legislature within 120 days after passage of HJR 22.

The actions requested of the Governor and the Attorney General involves issues of international law and records of transactions that are available only in Washington, D.C. Therefore the Department of Law will require the services of an international law expert resident in Washington, D.C. to fulfill the request. The amount involved in this fiscal note will purchase about 500 hours of such an expert's time.

FISCAL NOTE

BILL NO. HJR 22STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____

Title: "A Resolution Relating to the maritime boundaries between Alaska and the former Union of Soviet Socialist Republics".Sponsor: Representatives Vezey, Ogan, Toohey

Requestor: _____

Department Affected: Office of the GovernorBRU: All BRUsComponent: All Components

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN						
-----------	--	--	--	--	--	--

FUND SOURCE

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact

Prepared by: Michael A. Nizich, DirectorDivision: Division of Administrative ServicesPhone: 465-3876Date: 1/31/95Approved by Commissioner: Jim Ayers, Chief of StaffAgency: Office of the Governor

Date: _____

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Representative Al Vezey

MEMORANDUM

January 30, 1995

TO: Rep. Ramona Barnes, Chair, WTR Committee
FROM: Rep. Al Vezey
SUBJECT: Scheduling of Bill for public hearing.

Please schedule HJR-22 for a public hearing at your earliest convenience.

SCOMM

99:19



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Representative Norman Rokeberg

State Capitol
Juneau, AK 99801-1182

TO: Representative Ramona Barnes, Chair
House Committee on World Trade & State/Federal Relations

FROM: Representative Norman Rokeberg *NR*

DATE: February 11, 1995

SUBJECT: HJR 26 - A Resolution supporting Alaska's right to 90 percent of
the royalties from oil, gas and coal leasing

Attached is a packet of materials for your committee hearing on HJR 26.
I want to thank the committee for scheduling a hearing on this resolution.

Attachment



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Representative Norman Rokeberg

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

HJR 26 - A Resolution supporting Alaska's right to 90 percent of the royalties from oil, gas and coal leasing

HJR 26 is a statement by the Alaska Legislature that the United States cannot unilaterally amend the Statehood Act. Alaska has tried since statehood to avoid a confrontation over issues by working with Congress to ensure that any post-statehood amendments to the Statehood Act did not materially diminish the rights conferred to the State of Alaska by the act of admission into the United States.

There is no question that an act of Congress admitting a new state to the Union constitutes a compact, a legally enforceable contract, between the citizens of the new state and the United States. The first line of Section 4 of PL 85-508, the Alaska Statehood Act, states in part, "As a compact with the United States said State and its people do agree...." Provisions contained in this act that conferred rights to the State of Alaska are valid and can be enforced against the United States.

Section 28, (a) Mines and Mining, of the Alaska Statehood Act states clearly the formula for sharing bonuses, royalties and rentals under leases shall be distributed 90 percent to the State of Alaska and 10 percent to the Treasury of the United States. 48 U.S.C. 439 dated October 20, 1914, was amended to include the above formula.

HJR 26 seeks to reinforce the people of Alaska's resolve to protect our right to the 90-10 sharing formula granted by the United States Congress on July 7, 1958.

[MINES AND MINING]

SEC. 28. (a) The last sentence of section 9 of the Act entitled "An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes", approved October 20, 1914 (48 U. S. C. 439), is hereby amended to read as follows: "All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts."

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U. S. C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof".

Opinions of attorney general. — Neither the state nor federal government may unilaterally amend the Statehood Act. 1969 Op. Att'y Gen., No. 6.

The United States may not constitutionally enact effective legislation in direct conflict with compact provisions of the Statehood Act unless there is an amendment to the Constitution of the State of Alaska, because a Statehood Act constitutes a compact in the nature of a contract between two sovereign governments. 1969 Op. Att'y Gen., No. 6.

Royalty legislation on state oil and gas leases is a matter within the paramount jurisdiction of the state. The conservation of oil and gas is a matter within the authority of the states. 1969 Op. Att'y Gen., No. 6.

The royalty provisions of a mineral leasing act are related to conservation of natural resources. 1969 Op. Att'y Gen., No. 6.

The United States, under the 10th amendment to the federal constitution, has no authority to legislate on state royalty provisions and state oil and gas leases. 1969 Op. Att'y Gen., No. 6.

An overriding gross royalty of 2% of all proceeds from any state and federal lands conflicts with the Statehood Act and the province of the Alaska state legislature. 1969 Op. Att'y Gen., No. 6.

The United States cannot unilaterally amend the Statehood Act to the state's detriment without the state's consent or acquiescence. April 2, 1981, Op. Att'y Gen.

NOTES TO DECISIONS

Legislative intent. — It was the intent of Congress in the Statehood Act to provide the new state with a solid economic foundation. *Rowe v. United States*, 464 F. Supp. 1060 (D. Alas. 1979), *aff'd in part*, 633 F.2d 799 (9th Cir. 1980), *cert. denied*, 451 U.S. 970, 101 S. Ct. 2047, 68 L. Ed. 2d 349 (1981).

Applied in *United States v. Atlantic Richfield Co.*, 435 F. Supp. 1009 (D. Alas. 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), *cert. denied*, 449 U.S. 888, 101 S. Ct. 244, 66 L. Ed. 2d 113 (1980).

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 26

Revision Date: 2/6/95 Dept. Affected: Revenue
Title: A Resolution urging the U.S. Congress to uphold BRU: _____
Alaska's 90% share of Federal oil and mineral royalties in Alaska Component: _____
Sponsor: Rokeberg, Ogan, & Navarre
Requester: Rokeberg COMPONENT SERIAL NO. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 ()	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						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This resolution urges the U.S. Congress to uphold Alaska's right to 90 percent of the Federal royalties from the production of oil, gas and coal in Alaska. This issue is often mentioned in connection with the possible opening of the Arctic National Wildlife Refuge (ANWR) to oil and gas exploration and development. Given the long lead times for developing major resource extraction on Federal land in Alaska, this resolution will have no revenue impact on the state over the period of this fiscal note. However, the issue of the royalty split could be a major revenue issue in the fight to open ANWR to exploration and development. At current prices, discovery of a 1.0 billion oil field with a conventional 12.5% royalty and the 90% royalty share would mean something on the order of \$1.125 billion over the life of the field or as much as \$125 million a year at peak production. A 50% share would reduce this to approximately \$70 million a year. Regardless of royalty share, the state would continue to assess production taxes on any oil and gas produced within state sovereign territory.

Prepared by: _____
Division: Oil and Gas Audit Division
Approved by Commissioner: [Signature]
Agency: _____

Phone: 277-5627
Date: 2/6/95
Date: 2/6/95

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HJR26

1995 LEGISLATIVE SESSION

Revision Date: Original

Dept Affected: Natural Resources

Title: A Resolution Urging the United States Congress

BRU: Resource Development

to uphold Alaska's right to 90 percent of the royalties from oil, gas...

Component: Oil & Gas Development

Sponsor: Representative Rokeberg, Ogan, Navarre

Requestor: _____

Component Serial No. _____

439

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$

None

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)

There is no fiscal impact associated with passage of this resolution.

Prepared by: Jim Eason, Director

Phone: 762-2547

Division: Oil & Gas

Date: 2-Feb-95

Approved by Commissioner: _____

Date: 2-5-95

Agency: Natural Resources

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Opinion # 3

JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 2, 1981

The Honorable Hugh Malone
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Legality of unilateral
changes to Statehood Act
by United States Congress.
Our file J-66-556-81

Dear Representative Malone:

On February 24, 1981, you requested that we review subsections 906(f)(3) and 906(p) of the Alaska National Interest Lands Conservation Act (hereafter "ANILCA"), Public Law 96-487, 94 Stat. 2371. Those two subsections, as well as subsection 906(a), amend certain provisions in Section 6 of the Alaska Statehood Act, 48 U.S.C. note preceding Section 21. Subsection 906(f)(3) of ANILCA amends Section 6(g) of the Statehood Act to give the Secretary of the Interior discretionary authority to waive the minimum tract selection size set out therein where such a waiver "would be in the national interest and would result in a better land ownership pattern." Subsection 906(p) removes the requirement of Presidential approval of selections north and west of the so-called "PYK line" described in Section 10 of the Statehood Act for lands conveyed to the state by the terms of subsections 906(c), (d) and (g) of ANILCA. Subsection 906(a) extends the time within which the state may

Hon. Hugh Malone
Re: J-66-556-81

April 2, 1981
Page 2

make selections under Sections 6(a) and 6(b) from 25 to 35 years.

Your inquiry is whether there are legal grounds for the United States unilaterally to amend the provisions of the Statehood Act. There is no clear legal answer where, as here, the amendments enacted by Congress do not defeat or materially diminish rights conferred on the state by the act of admission but, instead, actually benefit the state (see pp. 6-7, *infra*). What is clear is that the United States cannot unilaterally amend the Statehood Act to the state's detriment without the state's consent or acquiescence. 1/

The state's position has always been that the United States cannot unilaterally amend the Statehood Act. However, the state has avoided a confrontation over the issue by working with Congress to ensure that any post-statehood amendments to the Statehood Act are beneficial to the state and not inimical to its interests.

At the same time, there are indications in decisions of the United States Supreme Court that the United States may

1/ At least two provisions of the Alaska Native Claims Settlement Act -- the Section 9 2% override on royalties due the state and the Section 11(a) withdrawal of state-selected lands for Native village conveyance -- were unilateral amendments to the Statehood Act, albeit by implication, which were detrimental to the state's interest. To ensure prompt resolution of pending Native claims, Governor Egan, on behalf of the state, consented to those amendments and the state did not litigate the issue within the time specified by Section 10 of ANCSA.

Hon. Hugh Malone
Re: J-66-556-81

April 2, 1981
Page 3

unilaterally amend certain provisions in a statehood act. However, such amendments would be effective only if they did not defeat or materially diminish rights conferred on the state by the act of admission.

Summarizing, it is not clear as a matter of law whether the United States may unilaterally amend the Statehood Act or whether some parallel state action is also required. Under either approach, however, the practical effect is that the state's rights under the Statehood Act cannot be diminished without the state's consent.

There can be no question that an act of Congress admitting a new state to the Union constitutes a compact, a legally enforceable contract, between the citizens of the new state and the United States. See Stearns v. Minnesota ex rel. Marr, 179 U.S. 223, 244-245 (1900). Such compacts do not impose obligations only on one of the parties; rather, the obligations are imposed on both the new state and the United States. See the Public Land Law Review Commission's Report to Congress, One-Third of the Nations's Land (1971), at 244. The terms of such compacts constitute the conditions of admission of the new state, obligatory on both the state and the United States ^{2/}, and subsequently

^{2/} This assumes, of course, that the conditions are constitutional. Provisions which purport to limit or qualify the political rights and obligations -- i.e., the sovereignty -- of a state are unconstitutional because enforcing them would result in the state being admitted on a less-than-equal footing than other states. Cf. Coyle v. Smith, 221 U.S. 559 (1911) (a provision in the act admitting Oklahoma to the Union providing that the capital of Oklahoma could not be moved held unenforceable because such decisions, after a state is admitted, are the exclusive province of the state).

Hon Hugh Malone
Re: J-66-556-81

April 2, 1981
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cannot be unilaterally amended by either party without the consent or acquiescence of the other. Beecher v. Wetherby, 95 U.S. (5 Otto) 517 (1877).

Provisions regarding grants of federal land generally are considered terms and conditions of a statehood compact and are enforceable both against the state and the United States. For example, in Stearns v. Minnesota ex rel. Marr, supra, the Court held that Congress can convey land to states in trust, and states accepting that land are bound by the terms of the trust, even where this may contravene the state constitution. In Cooper v. Roberts, 59 U.S. (18 How.) 173 (1856), the Court held that a statehood act grant of unspecified lands is binding on the United States and depends only on subsequent identification by survey of the lands granted. The Court also indicated that post-statehood acts of Congress should be construed as recognizing that a compact existed as of the date of statehood, and not as creating subsequent legal impediments to fulfillment of that prior agreement. In Beecher v. Wetherby, supra, the Court held that no post-statehood act of Congress could defeat an appropriation of land made earlier by Congress in a statehood act. The lands at issue in that case were subject to a reservation for the benefit of Indians at the time Wisconsin was admitted to the Union. The Court concluded that a statehood act conveyance from the United States to Wisconsin

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was effective as to the fee interest in those lands, although Wisconsin took the lands subject to the Indians' existing right of occupancy as long as that occupancy continued. However, the Court held that a post-statehood Congressional act authorizing the sale of lands occupied by Indians could not affect the title to the lands previously granted to the state. Accordingly, a subsequent United States patent to those lands conveyed no title because title already had vested in the state.

The general rule, then, is that provisions in statehood acts conferring rights on the state are valid and enforceable against the United States, and may not be unilaterally amended by post-statehood federal legislation.

However, this may not mean that no provision in a statehood act may ever be unilaterally amended by Congress. Where such amendments merely amend the procedures which must be followed to transfer title from the United States to the state, and do not materially diminish the rights granted to the state as conditions of its admission, it may be permissible for Congress to amend those provisions unilaterally. In Pollard's Lessee v. Hagan, 44 U.S. (3 How.) 211 (1845), the Court stated that Congress can reserve power over federal public lands in an act admitting a new state, although it need not do so because it possesses that power even in the

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absence of such a provision. 3/ Therefore, Congress' exercise of power over federal public lands in a state after admission, standing alone, may not violate the statehood compact unless it defeats or materially diminishes rights conferred on the new state by the act of admission.

The provisions of the Alaska Statehood Act amended by ANILCA all deal with the terms and conditions under which title to lands owned by the United States will pass to the state. Moreover, those amendments benefit the state rather than defeating or materially diminishing any rights the state possesses under the Statehood Act. Section 906(a) extends the time within which the state may make selections under Sections 6(a) and 6(b) of the Statehood Act from 25 years to 35 years. Section 906(f)(3) gives the Secretary of the Interior discretion to waive the minimum tract selection size previously imposed by the Statehood Act. Absent such authority, the state would be required to file selections no smaller than the minimum size specified; under the amendment, if the state decides it wishes to file

3/ The Pollard case is more generally cited for the proposition that Congress cannot reserve power over the lands underlying navigable waters within a new state because, under the equal footing doctrine, new states are vested with title to those lands to the same extent that the original 13 states possessed such a title, and the original 13 states never relinquished such title to the United States.

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smaller selections, the Secretary of the Interior is given discretionary authority to accept those selections. Finally, Section 906(p) removes the proviso in Section 6(b) of the Statehood Act regarding presidential approval of state selections north and west of the so-called "PYK line" for prior state selections which now are confirmed to the state under subsections (c), (d) and (g) of Section 906; absent this provision, such approval would be required for all those prior selections.

Although these amendments, on their face, appear to be unilateral action by Congress since no state consent (either through the legislature or the executive) is required, they comprise one of the "seven consensus points" which the state desired in any Alaska lands legislation ultimately passed by Congress. They were initially suggested and drafted by the state, and were actively supported by the state throughout the Congressional deliberations on the bill. Accordingly, the state has maintained that they are bilateral amendments to the Statehood Act and have been concurred in by the state.

Alternatively, the Statehood Act amendments could be viewed as a permissible exercise of Congress' plenary power over the administration of federal lands. Had Congress attempted to diminish any of the State's rights under the Statehood Act, we believe it would have been acting outside

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the scope of its authority. However, where, as here, Congress has made amendments to the Statehood Act which benefit the state and concern only the procedures for conveyance of land to the state rather than the quantity or availability of granted lands, Congress has not intruded on any state interest and is merely exercising its constitutional authority over federal lands within the binding framework of the existing statehood compact.

Under either approach, we believe the result is that the amendments to the Statehood Act which are part of ANILCA are effective and enforceable by the state. If you have further questions, please contact us at your convenience. We will be happy to meet with you or any member of your staff to discuss this opinion in greater detail.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By:



G. Thomas Koester
Assistant Attorney General

GTK:dlm