

309

HRES

SB 444

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SJR

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Table 2 also indicates that although effort was reduced by 1,840 man-days in 1975, the estimated harvest increased from 596,110 in 1974 to 607,850 razor clams in 1975. This increase is due to a high digger success rate.

Harvest and effort estimates are available for all east side Kenai Peninsula beaches since 1969 (Table 3). Table 3 indicates harvest and effort were relatively high in 1969 (12,200 man-days and 375,800 razor clams), decreased in 1970 and 1971, and increased sharply from 1972 through 1974.

TABLE 3. Estimated Recreational Razor Clam Harvest and Effort on All East Side Kenai Peninsula Beaches, 1969-1975.

<u>Year</u>	<u>Total Estimated Effort (Man-Days)</u>	<u>Estimated Razor Clam Harvest</u>
1969	12,200	375,800
1970	11,190	306,450
1971	6,800	187,760
1972	15,400	437,530
1973	23,770	682,600
1974	27,410	872,450
1975	<u>24,260</u>	<u>896,080</u>
1969-1974 Mean	16,110	477,100

In 1975 estimates for all east side Kenai Peninsula beaches (Kasilof River to Anchor Point) revealed 24,260 diggers harvested 896,080 razor clams. This is a decrease of 3,140 man-days compared to 1974 estimates, but due to excellent digging in the Clam Gulch area, harvest increased by 23,630 razor clams. Aerial surveys revealed 80.3% of the expended effort was concentrated on the northern beaches of Cohoe, Clam Gulch and Oil Pad Access. The remaining effort was shared by the southern beaches of Ninilchik, Happy Valley and Whiskey Gulch.

. STOCK STATUS AND COMPARATIVE DATA

During the 1975 season (April through August) Sport Fish Division Biologists dug five monthly samples from the heavily exploited Clam Gulch area. Similarly, five samples were dug from the relatively unexploited area of Oil Pad Access three miles to the south. The samples were analyzed and provide an excellent comparison between exploited and an unexploited razor clam population. The results of this comparison are presented in Table 4.

TABLE 4. Average Size (in millimeters and inches) of Clam Gulch and Oil Pad Access Razor Clam Samples Dug by Department Biologists, 1966-1975.

Year	Clam Gulch		Oil Pad Access	
	Sample No.	Average Size	Sample No.	Average Size
1966	527	113.2 mm (4.5")	285	111.4 mm (4.4")
1967	1,186	115.2 mm (4.5")	649	116.6 mm (4.6")
1968	823	118.6 mm (4.7")	796	118.4 mm (4.7")
1969	1,116	121.0 mm (4.8")	1,045	120.3 mm (4.7")
1970	731	118.2 mm (4.7")	663	111.1 mm (4.4")
1971	688	113.6 mm (4.5")	733	109.8 mm (4.3")
1972	897	113.5 mm (4.5")	555	116.0 mm (4.6")
1973	561	115.5 mm (4.5")	402	117.6 mm (4.6")
1974	480	124.3 mm (4.9")	753	129.0 mm (5.1")
1975	503	126.2 mm (5.0")	481	127.2 mm (5.0")
1966-1974 Average	779	117.0 mm (4.6")	653	116.7 mm (4.6")

It is of interest to note that the average size of clams dug in both areas was identical, i.e.; 5.0". This is an exceptionally large average size and indicates that the average razor clam dug by the recreational digger in 1975 was

larger than those dug during the preceding nine year period. The large average size of both exploited and unexploited beach areas suggests to Department biologists that at the present level of exploitation, environmental factors exert a greater influence on razor clam stocks than does recreational digging.

Harvest and effort estimates at Clam Gulch indicate a rapidly expanding fishery which is expected to increase with Southcentral Alaska's expanding population. However, it should be noted that data collected are comparable with other razor clam fisheries and do not reflect an excessive harvest.

In 1973 a report was received from investigators monitoring razor clam populations in Washington. This state has three major razor clam beaches for which 20 years' data are available. These beaches total 49 miles in length and have an annual average (weighted) harvest of 3,217,575 razor clams or 196,833 clams per mile per year. Clam Gulch is presently harvested at less than 50% of this rate.

Oregon's 1967 sport harvest was 1.7 million clams by 74,000 diggers. Seaside beach was heavily dug, supporting 42% of the diggers and 43% of the harvest or 731,000 razor clams. The salient point here is that Seaside Beach is only two miles long. Clam Gulch presently supports a smaller fishery, yet has three times the beach area of Seaside.

A paper prepared by Lou Gwartney (ADF&G Biologist) while investigating Swikshak Beach on the Alaska Peninsula, indicated that during the 1930's and 1950's the beach produced nearly 500,000 pounds of razor clams annually. At an estimated 3 clams/pound, the harvest was approximately 1.5 million. Swikshak Beach is only four miles long. In 1975 an estimated 607,850 clams were harvested from approximately seven miles of beach at Clam Gulch. It is therefore evident that Swikshak has been subject to three or four times more pressure than Clam Gulch which yielded 86,835 clams per mile in 1975. A comparison of razor clam

harvests from various beaches and average annual clams per mile of beach is presented in Table 5.

TABLE 5. Razor Clam Harvest and Clams/Mile of Beach for Washington, Oregon, Swikshak and Clam Gulch Beaches.

Beach	Beach Length (Miles)	Harvest	Harvest/Mile
(Washington)			
Long Beach	22.0	3,162,400 ^{1/}	143,745 ^{1/}
Twin Harbors	13.0	2,666,000 ^{1/}	205,077 ^{1/}
Copalis	14.0	3,816,450 ^{1/}	272,603 ^{1/}
Mocrowks	7.5	825,700 ^{2/}	110,093 ^{2/}
(Oregon)			
Seaside	2.0	731,000 ^{3/}	365,500 ^{3/}
(Alaska)			
Swikshak	4.0	1,500,000 ^{4/}	375,000 ^{4/}
Clam Gulch	7.0	607,850	86,835

1/ Twenty year mean (1949-1968)

2/ Ten year mean (1959-1968)

3/ 1967 harvest

4/ Harvest in 1930's and 1950's

5/ 1975 harvest.

MANAGEMENT

Current management activities are directed toward a determination of razor clam harvest and effort estimates. Additionally, monthly samples are dug from exploited (Clam Gulch) and unexploited (Oil Pad Access) areas. These samples are analyzed and population trends may then be determined.

From data collected during the 1975 season, it is evident that the razor clam stocks are in excellent condition. The harvest per digger per trip was the highest since the inception of this study in 1966. This indicates that many clams were available to the recreational digger. The average size of the clams dug was also exceptionally large indicating that diggers are harvesting older

clams which have spawned several times, leaving the juvenile clams which will be available in future years. Data collected by other investigators from various beaches indicate that the popular Clam Gulch area is not being over harvested and that the harvest rate may be increased without detrimental effects on the population.

It is recognized that at some future date, razor clam populations on east side Kenai Peninsula beaches may decline. This reduction could be the result of excessive harvest, but will probably be related to environmental factors. If this occurs and adequate protection is given, the stocks should return to former levels of abundance.

This assumption is made in that razor clams exist in offshore waters not exposed by minus tides. Research conducted by the Habitat Section indicated juvenile clams existed three to four miles off the mouth of the Kaslof River. Their preliminary investigation indicates a population in these outer waters which, in all probability, contribute to exploitable clam populations. It might be suggested that these populations act as "reserve brood stock" for Kenai Peninsula beaches.

SUMMARY

In summary, the following should be considered when discussing Kenai Peninsula razor clam stock status and management:

- (1) The Division of Sport Fish has extensive data relating to this fishery which has been collected annually since 1966.
- (2) Clam Gulch receives the majority of the recreational diggers effort, and should a management problem occur, it will first become apparent in this area.

- (3) Harvest and effort have increased dramatically in recent years. Although this increase is appreciable, it does not appear excessive when compared to Swikshak Beach (Alaska), Seaside Beach (Oregon), and Washington beaches.
- (4) Harvest per digger per trip is more important in management than total harvest and effort estimates. Harvest per digger in 1975 was the highest recorded. This demonstrates that as many or more clams are available to the sport digger today as they were in prior years.
- (5) Average size of clams at Clam Gulch was larger in 1975 than in 1966. This shows a larger number of mature clams are available and juveniles are not being exploited to an appreciable degree.
- (6) Average size of Clam Gulch razor clams compares directly with samples from the relatively unexploited beach at Oil Pad Access. This suggests environmental factors presently exert greater influence on razor clam stocks than does recreational digging.
- (7) The Sport Fish Division presently has a sampling and monitoring program whereby changes in relative abundance and population structure can be determined.
- (8) Offshore razor clam populations exist in Cook Inlet. These populations undoubtedly contribute to east side Kenai Peninsula razor clam stocks.
- (9) The Sport Fish Division is pleased to report to the Board of Fisheries that despite increased recreational usage, Kenai Peninsula razor clam stocks are continuing to maintain themselves at a high level.

S B

4 5 1

"An Act relating to the sale of subsistence caught salmon eggs; and providing for an effective date."

5/24/75

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date May 26, 1975

The Committee on RESOURCES has had SB 451am

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

W. A. Anderson W. H. Hershberger

Members NOT concurring in the Majority report:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

W. A. Anderson Chairman

TELEGRAM

565

needs
5/10

CA ALASKA COMMUNICATIONS, INC.

PHONE: 883-8140

JUNEAU ALASKA 99901

ZCZC 15026 GOVT PD TDAU ELMENDORF AFB AK 05-07 301P AST

PMS ACTION THE HONORABLE WELLS A ANDERSON JR

ALASKA STATE HOUSE OF REPRESENTATIVES

POUCH 'V' STATE CAPITOL BLDG

JUNEAU AK

DEAR REPRESENTATIVE ANDERSON

ON BEHALF OF THE ENTIRE MILITARY COMMUNITY IN ALASKA, I WOULD LIKE TO EXPRESS OUR GREAT INTEREST IN YOUR SUPPORT FOR THE RECENTLY PASSED SENATE BILL 565 AS AMENDED. THIS BILL GIVES NEWLY ARRIVED MILITARY PERSONNEL AND THEIR DEPENDENTS WHO ARE PERMANENTLY STATIONED IN ALASKA THE AUTHORIZATION TO PURCHASE AT THE RESIDENT RATE SPORT FISHING AND SMALL GAME HUNTING LICENSES. BIG GAME ANIMALS ARE EXCLUDED AND STILL WOULD REQUIRE PURCHASE OF NON-RESIDENT HUNTING LICENSE AND THE APPROPRIATE BIG GAME TAG. THIS YEAR'S SENATE BILL HAS BEEN CHANGEDS CONSIDERABLY FROM HOUSE BILL 197(FINK-PARR) OF LAST YEAR. IT WAS ONLY NARROWLY DEFEATED BY A 20 - 18 VOTE. WE ARE OPTIMISTIC THAT THE OBJECTIONAL PORTIONS OF LAST YEAR'S HOUSE BILL HAVE BEEN ENTIRELY ELIMINATED AND THAT THE SENATE'S OVERWHELMING SUPPORT OF THE BILL AS INDICATED BY THEIR 17 TO 2 IS A GOOD OMEN OF HOW THE BILL WILL BE RECEIVED BY THE MEMBER OF YOUR RESOURCES COMMITTEE AND THE ENTIRE HOUSE.

THE ELIMINATION OF BIG GAME HUNTING ALLEVIATES THE CONCERN EXPRESSED IN THE PAST BY DEPARTMENT OF FISH AND GAME OFFICIALS AND ALSO BY SOME LEGISLATORS REPRESENTING NATIVE

COMMUNITIES. COMMISSIONER JAMES BROOKS, ALASKA DEPT OF
FISH AND GAME, NO LONGER OBJECTS TO THE BILL AS THERE
WILL BE NO VITAL LOSS OF REVENUE TO HIS DEPARTMENT AND
THE EFFECT ON ALASKA WILDLIFE RESOURCES WILL BE MINIMAL.
WE HOPE THAT YOUR STUDY OF THE BILL WILL RESULT IN THE
SAME ASSESSMENT. BY A SEPARATE LETTER I AM TAKING THE
LIBERTY OF FORWARDING TO YOU STATISTICS THAT WE WERE ASKED
TO FURNISH SENATOR KAY POLAND REGARDING THE MORE THAN ONE
HALF MILLION DOLLARS ANNUALLY THAT THE MILITARY IN ALASKA
EXPENDS ON WILDLIFE CONSERVATION ACTIVITIES. IN ADDITION,
SHOULD YOU DESIRE ANY ADDITIONAL INFORMATION REGARDING OUR
CONCERN AND SUPPORT FOR THIS BILL, I WOULD BE MORE THAN
PLEASED TO DISCUSS THE BILL WITH YOU. YOURS TRULY,
SIGNED: LIEUTENANT GENERAL JAMES E. HILL, COMMANDER
ALASKAN AIR COMMAND.

AAC ELMENDORF AFB AK/CC

1976 MAY 7 PM 6 04

8B 565

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS ALASKAN AIR COMMAND
APO SEATTLE 98742



7 May 1976

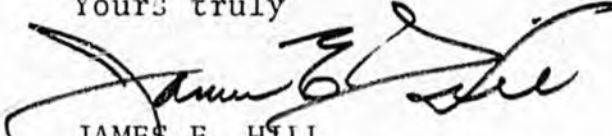
The Honorable Nels A. Anderson, Jr
Chairman, House Resources Committee
Alaska House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Representative Anderson

As I mentioned in my telegram, attached is a copy of a fact sheet which summarizes the military's financial expenditures for wildlife conservation activities.

On behalf of all the military in Alaska, I respectfully solicit your committee's support in recommending passage of Senate Bill 565 to the House.

Yours truly


JAMES E. HILL
Lieutenant General, USAF
Commander

1 Atch
Fact Sheet



FACT SHEET

MILITARY WILDLIFE CONSERVATION ACTIVITIES

1. The types of activities the military is engaged in which directly benefit the State of Alaska include:

Moose Tagging	Water Fowl Banding
Creel Counts	Repair of Fish Ladders
Game Counts	Installation of Fish Ladders
Fish Stocking	Water Fowl Habitat Improvement
Fish Rearing Facilities	(potholes)
Monitor Spawning Runs	Aerial Surveys
Use of Military Facilities and Equipment	Resupply of Stake-Outs

2. A representative sample of approximate annual costs is:

a. US Coast Guard:

Miscellaneous activities by volunteer personnel and operational equipment costs.	\$14,000
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TOTAL \$14,000

b. US Air Force:

(1) Personnel	\$71,000
---------------	----------

(2) Equipment (vehicles, maintenance, operating costs, etc)	\$ 5,000
--	----------

(3) Cost of heating a rearing pond	\$95,000
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TOTAL \$171,000

c. US Army:

(1) Personnel	\$180,000
---------------	-----------

(2) Equipment (Helicopter usage, vehicles, maintenance, operating costs, etc)	\$39,000
--	----------

(3) Cost of heating a rearing pond	\$80,000
------------------------------------	----------

(4) Maintenance at rearing facility	\$ 3,500
-------------------------------------	----------

TOTAL \$302,500

d. US Navy

(1) Personnel	\$38,000
---------------	----------

(2) Equipment (Helicopter usage, vehicles maintenance, operating costs, etc) \$10,000

TOTAL \$48,000

GRAND TOTAL \$535,500

3. Not included as costs in the above figures are such intangibles as:

a. Cost to build a fish rearing facility similar to the one at Elmendorf, \$806,000.

b. Investment/capitalization costs of Ft Richardson fish rearing facility, \$101,500.

c. Non-reimbursable use of land, facilities, ponds, buildings, additional volunteer personnel, equipment, etc. No dollar estimate.

d. Wildlife training given to military personnel stationed in Alaska. No equivalent in civilian sector.

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.

PHONE: 593-0142

JUNEAU, ALASKA 99801

02006 ANCHORAGE AK 126 05-11 904A ADT

PMS REP NELS ANDERSON DLR DLR AND REPORT CHGS IF BEYOND ZONE

1460

1976 MAY 11 AM 11 27

JUNEAU AK

DEAR REPRESENTATIVE ANDERSON,

THIS MESSAGE IS TO ADVISE YOU AND ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES RESOURCES COMMITTEE OF THE DEEP INTEREST THE MEN AND WOMEN OF THE 172ND INFANTRY BRIGADE (ALASKA) HAVE IN THE RECENTLY PASSED SB565 AS AMENDED. WE BELIEVE THAT PASSAGE OF THIS BILL AS IT STANDS BY THE ALASKA LEGISLATURE WOULD REFLECT THE TRUE SENTIMENTS OF THE PEOPLE OF ALASKA WITH WHOM THE ARMY AND ITS SISTER SERVICES HAVE BEEN IN PARTNERSHIP FOR THE BETTERMENT OF THE STATE SINCE IT BECAME A PART OF THE UNITED STATES IN 1867. THE ASSISTANCE OF YOU AND YOUR COLLEAGUES IN THE HOUSE TO HELP PASS CSSB565 DURING THIS SESSION WOULD BE MOST GREATFULLY RECEIVED BY ALASKAS OWN 172ND INFANTRY BRIGADE.

BRIGADER GENERAL JAMES G BOATNER

COMMANDER 172 ND INFANTRY BRIGADE (ALASKA)

#

S B

565

"An Act relating to fees for fish and small game licenses for military personnel; and providing for an effective date."

COMMITTEE REPORT

5/5/76

HOUSE

Mr. Speaker:

Date

4-17-76

The Committee on RESOURCES has had CSSSSB 535

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>DO NOT PASS</u>	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

2037 Churchill Drive
Anchorage, AK 99503
14 May 1976

Honorable Nels A. Anderson, Jr.
House of Representatives
State of Alaska
Pouch V
Juneau, AK 99811

Dear Mr. Anderson:

The State Senate has recently passed CS for Sponsor Substitute for Senate Bill Number 565, an act relating to fees for fish and small game licenses for military personnel, with virtually a unanimous vote in recognition of the short military tours in Alaska (especially at remote sites), and the many military contributions generously made by military personnel on behalf of the residents of this state. In addition, all other states have similar statutes. If this statute becomes law, it would place Alaska on a very similar par with all the other states,

I personally believe that the passage of this Bill by the House of Representatives, State of Alaska, would certainly be a warm gesture by our state and our citizens (and a token of appreciation) for all that the military has done for the state and her residents for so many years. I further believe that SB565 as substituted (and attached) should become law this year and that the House Resources Committee should recommend its immediate passage. I, therefore, sincerely urge that immediate attention be given to this very worthwhile bill and trust that you (and your committee) will give it full support.

I know that our general public in Alaska is highly sensitive towards its responsibilities and will be warmly sympathetic and supportive of this Bill as a gesture of appreciation for all that the military and its personnel throughout the years have done for them.

Sincerely,


Gaylon K. Kinther

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

May 14, 1976

The Honorable Nels Anderson
Chairman
House Resources Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: CSSSSB No. 565

Dear Mr. Anderson:

Committee Substitute for Sponsor Substitute for Senate Bill No. 565, an Act relating to fees for fish and small game licenses for military personnel, was introduced in the House on May 5, 1976 and was referred to the House Resources Committee.

For the consideration of the House Resources Committee, I am enclosing a copy of a memorandum prepared by R. H. Pilcher, Manager, Juneau Field Office, Department of Revenue advising of effect on revenue and costs of administration.

If you or any members of the House Resources Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Pilcher for further information or testimony at a hearing.

Very truly yours,



R. D. Stevenson
Special Assistant

cc: The Honorable John Rader
Prime Sponsor - Senate Bill No. 565

R. H. Pilcher
Manager, Juneau Field Office
Department of Revenue



"1776-A TRIBUTE FROM OUR STATE TO OUR NATION-1976"



MEMORANDUM

State of Alaska

TO: R.D. Stevenson
Special Assistant
Department of Revenue

DATE : May 14, 1976

FROM: *R.H. Pilcher*
R.H. Pilcher
Manager
Juneau Field Office

SUBJECT: CSSSSB No. 565

By passage of CSSSSB 565 members of the military service on active duty who are permanently stationed in the state, and their dependents, who do not qualify as resident, may obtain special nonresident military small game and sport fishing licenses at the rates for resident hunting and sport fishing licenses, but may not take a big game animal without previously purchasing a regular nonresident hunting license and appropriate tag issued at the nonresident rate.

EFFECT ON TREASURY

Statistics indicate the state received a total of \$81,985 from the sale of nonresident sport fishing and hunting licenses and tags at military installations in year 1975. If the sport fishing small game hunting licenses had been sold on a resident fee basis and big game hunting licenses and tags at non-resident rates the state would have received a total of \$28,112, a loss of \$53,873 in revenue, plus possible loss of Federal Aid Matching funds which are usually on a 3 to 1 basis.

TYPE OF LICENSE	NONRESIDENT GROSS FEES	RESIDENT FEES	NUMBER SOLD
Non-Res. Sport Fish	\$59,200	\$14,800	2,930
Non-Res. Hunt	10,180	3,563	509
Non-Res. Hunt/Fish	4,080	1,224	102
	\$73,460	\$19,587	3,571
Non-Res. Big Game Tags	8,525	8,525	133

PROBLEMS OF ADMINISTRATION

Implementation of CSSSSB565 will necessitate printing and distributing a special Military License and Affidavit to vendors throughout the state. The added cost will be approximately \$1,000 for printing, shipping and postage. The January 1, 1977 effective date allows sufficient time to design, purchase and ship the required licenses and affidavits and to publish the information for licensees, vendors and enforcement personnel.

Estimated cost of printing	\$750
Estimated cost of shipping and postage	\$250

Affidavits can be printed by Central Duplicating.

cc: Raloh Kimlinger
Director, Enforcement Division

FAIRBANKS OFFICE

Edward A. Merdes
Grace Berg Schaible
Howard Staley
Dennis E. Cook
Barbara L. Schuhmann

ANCHORAGE OFFICE

Stephen S. DeLisio
Alan Sherry
Henry J. Camarot
Mark A. Sandberg

300 Barnette Street
Telephone: (907) 452-1855

Cable Address:
MERFAIR

LAW OFFICES OF
MERDES, SCHAIBLE, STALEY & DeLISIO, Inc.
A PROFESSIONAL CORPORATION

POST OFFICE BOX 810
FAIRBANKS, ALASKA 99707

May 11, 1976

Mr. Guy Van Doren
Administrative Assistant to
House Resources Committee
Pouch U
Juneau, Alaska 99801

Dear Guy:

Enjoyed seeing you in Juneau last week and discussing SSSB 565 this morning. Be assured I will do as you suggest and immediately phone my good friend Red Swanson, a key member of the Committee, and work on turning him around to our position.

As I personally told you on the phone, you certainly kept your word and effectively followed through in getting SJR 77, the State's first real statement of agricultural policy, out of committee and through the House. For this we all thank you, and be assured those interested in agriculture, which are legion in this State, will hear of your good work.

As I mentioned to you also, a very important matter is now in Nels' Committee, namely the enclosed copy of SSSB 565. This bill passed the Senate 17 to 2 week before last. Enclosed is a copy of General Hill's concisely written April 23rd background letter to Kay Poland, along with an exchange of correspondence between myself, John Huber and the General. As we both agreed, Committee Chairman Nels ought not to object to 565 as it now eliminates any reference to big game. I am pleased you agree with my view of his feelings.

Guy, I really need your help on this one. Since you made the commitment on the phone to do everything in your power to get it out of the Committee and through the house, it is with a great deal of confidence I feel that it will be done. Be assured I will return the favor.

On the sheer merits of the bill, it is a recognition of simple justice and fairness and a simple civilian thanks to our military friends for the humanitarian work done in rescuing lost and hurt civilians all over the State without any request or thought of remuneration.

Upon receipt of this letter, if you would be kind enough to personally call General Hill in Anchorage at 752-2100 and outline to him your approach and

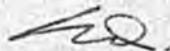
Mr. Guy Van Doren

- 2 -

May 11, 1976

strategy to get the job done, it would be most appreciated because, as you know, time is of the essence.

Sincerely,



Edward A. Merdes

EAM/ps

cc: General Hill/Col. Shepard/Col. Brunhart

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
MAY 11 1976
WASHINGTON, D.C.

SB

726

COMMITTEE REPORT

4/30/76

HOUSE

FINANCE

Mr. Speaker:

Date 5-17-76

The Committee on RESOURCES has had CSSE 726

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR CSSE 726 AND THAT

CS FOR CSSE 726 DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

[Signature] _____

[Signature] _____

[Signature] _____

[Signature] _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Nels

Thanks for taking the time to talk with Sam and me this morning. I would suggest the language on the attached page for the committee report regarding C.S. S.B. 726 when it reaches the House. If for some reason the language of C.S. S.B. 726 is going to be changed by the House or if hearings are going to be held, I would appreciate it if someone would call me so we would have a chance to offer our thoughts.

DAVID WOLF
1026 W 4th AVE
Anch.
274 2602
home 349 1926

SAM DEMMERT
YAKUTAT
784 3335

Although A.S.38.95.060 is repealed by this new statute, it is not intended that this new statute affect the recent land trade in yakutat between the State and Yak-tat Kwaan, Inc. which was authorized under A.S.38.95.060.

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

April 20, 1976

Honorable Nels A. Anderson, Jr.
Chairman
House Resources Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Anderson:

As promised in earlier correspondence to the Committee, we are writing to communicate the Commission's views respecting the principal elements which should be included in any new legislation enacted by the Legislature to govern land exchanges involving the State.

The concepts discussed in this letter were considered by the Commission at a meeting held on April 20, 1976. The Commission elected not to put its recommendations into legislative form.

1. Valuation of Properties.

The Commission believes that any new State legislation should emphasize the consummation of land exchanges based on the equal fair market value of the properties to be exchanged. However, we also recommend that in situations where the properties involved are not equal in appraised fair market value or where such value cannot be ascertained with reasonable certainty, the director be authorized to enter into an exchange if he finds that the appraised fair market value of the properties to be received by the State, together with the nonmonetary value of other public benefits, equals or exceeds the value of the properties which the State will relinquish.

The criterion of equal fair market value has traditionally been included in Federal and State exchange statutes, and this standard works well

where land values can be readily determined through appraisal. The equal monetary value standard breaks down in the Alaska context, however, because the paucity of comparable land sales in many rural areas, the vast acreages involved, and other factors often vitiate the accuracy of the appraisal method. In recognition of this fact, Congress recently authorized Federal involvement in exchanges which are premised on other than appraised value. We believe that a similar approach, with proper procedural and other safeguards, should be incorporated into State legislation. Such safeguards should include, among other things, public notice and hearings, legislative review, and a carefully documented statement of the nonmonetary values involved. In our opinion, passage of legislation of this sort would help consolidate State land holdings and lead to more effective administration of the State public domain. At the same time, appropriate procedural safeguards and the emphasis on the consummation of equal appraised value trades, where possible, should insure adequate protection of the public interest.

2. Exchanges Involving Mineral Rights.

The Commission recommends that any new exchange legislation authorize the Director of the Division of Lands or other appropriate official to convey mineral rights in State lands to the extent that such a conveyance is permitted by the Alaska Constitution and applicable Federal law. The Commission further recommends that except where special circumstances dictate, the Director be precluded from conveying or receiving either the surface estate or the mineral rights therein, one without the other.

Previous experience in other parts of the country demonstrates the adverse economic, environmental, and social consequences which can result from separating ownership of the surface estate and the mineral rights located therein. While Section 6(i) of the Alaska Statehood Act does preclude the State from disposing of mineral rights generally, a recent amendment to the Settlement Act explicitly waives this constraint with respect to exchanges involving the Federal government. (This waiver is presently being challenged in the courts.) Other Federal statutes pursuant to which the State has previously selected mental health, university, and school lands do not contain a prohibition against the disposal of mineral rights. In view of this and the improved land management and use which usually results from a conveyance of full fee title, the Commission believes that new exchange legislation should authorize the State to convey mineral rights to the extent authorized by applicable law, and that the appropriate official be required to convey or receive full fee title except where special circumstances pertain.

3. Legislative Review.

The Commission recommends that subsequent legislation provide an opportunity for legislative review of proposed exchanges based on other than equal appraised fair market value. However, the Commission believes

that affirmative approval should not be required. Rather, the Legislature should be afforded an opportunity to review a proposed exchange within a reasonable period, and if the Legislature does not act to disapprove the exchange within that period, the appropriate State official would be empowered to execute it in behalf of the State.

Historically, the requirement of equal fair market value has been included in exchange statutes as legislative protection against arbitrary action and other abuse by those empowered to execute an exchange. This standard has worked well in protecting the public interest with respect to exchanges involving equal appraised value, and we see no reason to impose the additional requirement of legislative approval, which possesses certain infirmities of its own. The situation is different with respect to proposed exchanges premised on other than equal appraised value. Here, there is no objective standard against which to test a proposed exchange. In view of this, we believe that exchanges for other than equal appraised value should be viewed as resource allocation decisions concerning which the people's elected representative should have an opportunity to express their views. We do not think, however, that the means of expression should be affirmative legislative approval. Experience on the Federal level indicates that the review approach which the Commission is suggesting provides ample opportunity for legislative bodies to participate meaningfully in the decisionmaking process. At the same time, this means of review helps to avoid political logrolling and other undesirable activity.

In making the recommendations discussed in this section, we are aware that some persons believe that the separation of powers doctrine and other constitutional constraints preclude any sort of legislative review of proposed land exchanges. The research which has been conducted by our legal staff indicates that there is currently no definitive judicial decision or other opinion on this point. There are cases, constitutional provisions, and other considerations which can be used by either side of the issue to support its contention. Our staff does believe, however, that the better reasoned opinion would support legislative review in the form which we are suggesting here. (Because the criterion of equal appraised value does provide an objective standard against which to test proposed exchanges based on this standard, legislative review of such exchanges would appear less supportable.) Since there is no definitive answer at the present time, we suggest that the Legislature adopt that review procedure which it deems best from a policy point of view, and then if necessary, that decision can be tested in the courts.

4. Prohibition Against Exchanges Requiring Subsequent Identification of the Consideration Involved.

The Commission recommends that any legislation should specifically prohibit the Director of the Division of Lands or other appropriate State official from negotiating or entering into any land exchange which

requires the identification of lands or interests in land at some time after the exchange is initially executed. The Commission further recommends that such officials be precluded from alienating or agreeing not to exercise selection rights granted in the Alaska Statehood Act.

We believe that the best way to insure proper analysis of a proposed exchange is to require that all lands and other consideration which will be involved therein be clearly identified at the time when public notice is circulated. If such properties are not so identified, the public and others desiring to analyze a proposed exchange will be compelled to speculate on how the selection procedures contained in the proposed agreement will be implemented. In such instances, executory selection and exchange procedures often could be implemented in a number of ways, with varying consequences resulting from each scenario. To avoid uncertainty in a matter so important as the disposition of the State public domain, and to provide meaning to the public and other review processes provided in proposed legislation, we believe that the prohibition recommended here is necessary. For the same reasons, and in recognition of certain constraints contained in Section 6(g) of the Statehood Act, we also recommend that appropriate State officials be precluded from alienating or agreeing not to exercise State selection rights as part of the consideration for an exchange.

5. Statement of Basis for an Exchange.

We recommend that the Director or other appropriate State official be required to prepare and distribute a report which objectively analyzes a proposed exchange in a clear and concise format which is designed to facilitate public understanding of the issues involved. Among other things, the report should include a discussion of the monetary and non-monetary values of the properties involved, including surface and mineral resources, the benefits and detriments which can be expected to accrue, and possible alternatives. Preparation and circulation of a report of this type should promote informed public dialogue and lead to a better ultimate decision concerning the proposed exchange.

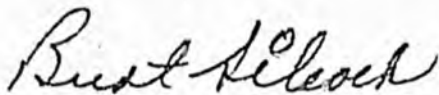
6. Other Elements.

We have dealt in this correspondence with the principal elements which, in the opinion of the Commission, should be included in any new legislation governing land exchanges. In so doing, we do not mean to minimize the importance of other necessary elements, such as provisions concerning authorization, parties to an exchange, reservations and covenants, agency coordination, public notice and hearings, protection of valid existing rights, and so forth. We believe, however, that there is general agreement about how to handle these matters, and so we have not considered them here.

In closing, we want to express the Commission's strong support for needed revisions, such as those which we have discussed here, in State land exchange authority. The land ownership pattern in Alaska is growing ever more complex as a consequence of the implementation of the selection provisions of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and others lie adjacent to each other in tracts which do not necessarily follow rational boundary lines. This intermixture of land ownership often jeopardizes prudent management and use. To rectify this situation, certain refinements in existing authority and new innovations appear necessary. In our opinion, the enactment into law of the elements referred to above would facilitate the types of land adjustments needed to establish more rational patterns of land ownership in Alaska.

Thank you for your consideration of this correspondence. If we can be of any further assistance in the Committee's consideration of the matters discussed here, please let us know.

Sincerely,



Burton W. Silcock
Federal Co-Chairman

Sincerely,



Walter B. Parker
State Co-Chairman

cc: Representative Theodore G. Smith, House Resources Committee
Representative Fred E. Brown, House Resources Committee
Representative Richard I. Eliason, House Resources Committee
Representative H.M. Hershberger, House Resources Committee
Representative James H. Huntington, House Resources Committee
Representative Alvin Osterback, House Resources Committee
✓ Representative Leo Rhode, House Resources Committee
Representative Leslie E. Swanson, House Resources Committee

SJR

6

2/19/75

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date 2-26-75

The Committee on RESOURCES has had SJR 6

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR SJR 9 AND THAT

CS FOR SJR 4 DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

Mark A. Anderson _____
Adrian Stapp _____
John... _____

Members NOT concurring in the Majority report:

Mike Hirschberger recommends: No Recommendation
McL... recommends:
_____ recommends:
_____ recommends:
_____ recommends:

Mark A. Anderson Chairman

Alaska State Legislature

File ~~LS~~
SJC 6

HOME ADDRESS
P. O. BOX 65
GALENA, ALASKA 99741

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 586-6155



SENATOR
John C. Sackett

RULES COMMITTEE
FINANCE COMMITTEE
LABOR & MANAGEMENT COMMITTEE

Senate

March 5, 1975

Nels Anderson
Representative
Alaska State House of
Representatives

Dear Nels:

In your committee you have Senate Joint Resolution 6,
"An Act relating to the renaming of Mt. McKinley to "Denali".

Attached for your information are copies of letters that
we have received. Additionally, the resolution has been
endorsed by the State Geographic Board, the Mt. McKinley
Advisory Council, Tanana Chiefs Conference and the Mountain
Climbing Association in Alaska.

Please let me know should you desire additional information
and when and if you anticipate bringing up the bill for action
before your committee.

Thank you very much. With kind regard,

Very Sincerely,

A handwritten signature in cursive script, appearing to read "John C. Sackett".

John C. Sackett
Alaska State Senator

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

JAY S. HAMMOND, Governor

OFFICE OF THE COMMISSIONER

POUCH B-JUNEAU 99801

February 19, 1975

The Honorable John C. Sackett
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

The State Geographic Board would like to take this opportunity to advise you of its endorsement of Senate Joint Resolution Six, changing the name of Mt. McKinley to Mt. Denali.

Although this is just a minor point, because Denali means "the great mountain," do you feel adding the diminutive, Mount, is really necessary? Knowing of people who still continue to use the name Denali, I do not recall them using mount with the name. Your comments would be appreciated.

Sincerely,

Lee McAnerney
Lee McAnerney
Chairman, State
Geographic Board

LMCA:1b



*McKinley
Res.*

RECEIVED
OCT 22 1974
DOYON, LIMITED

BOX 2037 ANCHORAGE, ALASKA

October 18, 1974

Hon. John Sackett
527 3rd Avenue
Fairbanks, Alaska 99701

Dear Senator Sackett:

At its General Meeting Wednesday, October 16th, the members of the Mountaineering Club of Alaska unanimously passed a motion to change the name of Mt. McKinley to Mt. Denali, and to send a letter to you indicating that position.

The motion was introduced by Helen Nienhueser (author of "55 Ways to the Wilderness in Southcentral Alaska") as a result of a recent visit in Colorado with Margaret Murray, a long-time Alaskan and author of "Two in the Far North." During this visit, Mrs. Murray said that she had written to the Board of Geographic Names suggesting this change, and they told her the request must come from within Alaska. In addition, Mrs. Nienhueser reported that the Denali Citizens Council, a group headed by Ev Drashner of Cantwell and formed for the purpose of watching over matters related to Mt. McKinley Park, had asked you to formulate legislation concerning this name change. She also noted that a resolution to this effect had been passed by the Democratic State Convention in Nome last May.

There has been much discussion over the years that the name McKinley was quite inappropriate for this peak in that President McKinley had never visited Alaska. In addition, it was the opinion of the late Vin Hoeman, long interested in geographic names in Alaska, that land features should not be named after persons. Most know that Denali means "The Great One" and was the name given this mountain by native Alaskans.

We hope you will be able to obtain legislative support for this proposal.

Sincerely,

Dona Agosti

Dona Agosti (Mrs. L.J.)
Secretary

cc: Ev Drashner

DENALI CITIZEN'S COUNCIL
P.O. Box 39
McKinley Park, Alaska 99755

31 January 1975

Senator John Sackett
Pouch V, The Capitol
Juneau, Alaska 99801

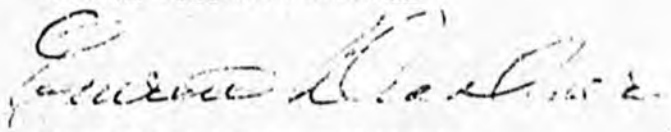
Dear Senator Sackett;

We of Denali Citizens Council urge you to support a resolution soon to be introduced by Senator John Sackett which would restore the name "Denali" to Mt. McKinley.

There is an increasing interest in maintaining the integrity of our great natural features and it is most appropriate that the original native name be restored. "Denali", the Athabascan Indian designation, means "The Great One" or "The Most High". In their name is reflected the reverence and respect these people had for this magnificent mountain. By contrast, the current name, honoring a non-Alaskan who had no relevant association with the Mountain, is inappropriate.

Senator Sackett's measure should be appearing before the Senate during the second week of February. We will appreciate your help in passing this resolution. A strong show of concern from our Alaskan legislature will greatly increase the likelihood that the United States Board on Geographic Names will give serious consideration to restoring the name "Denali".

Sincerely,
DENALI CITIZENS COUNCIL


Everett Drashnor, Chairman

Hope these letters help!

Deneki Lakes
McKinley Park Alaska 99755
February 10, 1975

Senator John Sackett
Pouch V, The Capitol
Juneau, Alaska 99801

Dear Senator Sackett:

We are writing to indicate our strong support of your resolution to restore the indian name, "Denali," to Mt, McKinley.

It is most appropriate that the mountain's name be descriptive and that it reflect the reverence that the Athapaskan Indians had for it. We hope that the United States Board on Geographic Names will give serious consideration to the renaming upon a strong show of support from the Alaskan legislature.

Sincerely,

Wallace A Cole
Jerryne Cole

Mr. and Mrs. Wallace A. Cole

February 8, 1975.

F.
McKenny

Senator John Sackett
Alaska Senate
Juneau, Alaska.

My dear Senator Sackett,

Heartly congratulations on your resolution to rename our mighty mountain Denali. We have long felt that this should be done. Let's preserve the fame or infamy of man by naming only man-made features after him.

Our home is on the side of the Chugach range from where we have a view extending from Denali to Iliamna. Over the years we have had visitors from many parts of the country and they have all preferred the old names and enjoyed the legend of Mt. Suislaw. I intend to write to them and ask them to write to their Congressmen, Secretary Morton, and the U.S. Board on Geographic Names in support of your resolution.

If there is anything beyond writing letters which we can do, please let us know. Would petitions help?

Yours very truly,
Doris M. Fisk

Mrs. H. Roy Fisk
Star Route A, Box 395K
Anchorage, Alaska 99501

7
McKinley

Denali Citizens' Council Studies Mt. McKinley Development, Growth

By GREG WOLF
Times Staff Writer

Concerned with the growth and development of Mt. McKinley National Park and the surrounding areas, a group of resident Alaskans along with a few from Outside has incorporated as the Denali Citizens' Council.

Membership has risen from the 30 founding members in the spring of 1973 to today's total of 150. For the most part, the members make their residence in Fairbanks, Anchorage or the Cantwell area but some are from the Lower 48.

This fall the council incorporated and began making contacts with federal, state and local officials concerned with national and state parks as well as land use and management.

According to Everett Drashner, chairman of the council, "We are making a practice of inviting state and federal agency leaders to come to our meetings or send us information that will be of



EVERETT DRASHNER
Council Chairman

use to our meetings or send us information that will be of use to our cause; we want to be informed. Some groups take too narrow of an approach to a problem and tend to forget

about other views or opinions."

Drashner, a 20-year homesteader in the Cantwell area, has headed the council since its incorporation and is concerned vitally with assuring sensible, well planned development of both the national park and the land along the Anchorage-to-Fairbanks highway.

Among the issues the council is involved with are renaming Mt. McKinley to the Indian name of Denali, the cooperative planning and management zone proposals and the proposed north and south additions to the existing McKinley National Park.

On re-naming Mt. McKinley the council has received support from several organizations, including the Mountaineering Club of Alaska, both the Anchorage and Fairbanks Environmental Centers and various native groups. Along with the organizations, the council also has received letters of

encouragement from naturalists Margaret Murie and Bradford Washburn.

Washburn stated, "Needless to say I'm solidly in favor of the return to Denali — and Denali's Wife for Mt. Foraker — I hope the Alaskan Legislature does something about it and then sends the result of its action to the board of geographic names for hoped-for action. Denali is a magnificent name, and it would never have been changed if Dickey (1896) had known about it when he suggested McKinley."

William Dickey, an Alaskan prospector, was impressed by the beauty and grandeur of the huge peaks at the head of the Chulitna River and in a subsequent expedition in 1896 carried out several preliminary surveys of the peaks. From his survey he determined its height to be well over 20,000 feet.

Later the next year, Dickey described his visits to the enormous peaks in an article

published in the New York Sun on Jan. 24, 1897. He explained, "We named our great peak Mt. McKinley after William McKinley of Ohio, who had been nominated for the presidency, and that fact was the first news we received on our way out of the wonderful wilderness."

Twenty-two years later in 1917 Mt. McKinley National Park was established and the name of the peak has stuck ever since.

Drashner stated that the council's top priority is a cooperative planning and management zone that is being debated by several groups. The zone, which borders north to Healy, south to Talkeetna and east to the Susitna River, is being studied by the Joint Federal State Land Use Planning Commission.

According to Drashner, it is the hope of the council to "be one of the groups instrumental in creating policy for future management and planning for the area."



MOUNTAIN IS COUNCIL FOCUS

Majestic Mt. McKinley is the focus of a newly-incorporated group called the Denali Citizens' Council. The council proposals include the renaming of the mountain to Denali, the Indian name for the mountain.

BOOKS

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DIRECTOR

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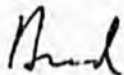
February 18, 1975

Dear Lowell:

I gather that, although there may be very little flak about changing the name of Mount McKinley to Denali, there may be fireworks about changing the name of the park, as that requires a new act of congress. You might give thought to changing the name of the mountain to Denali (and Foraker to Denali's Wife) but changing the park to McKinley National Park, omitting only the Mount. This would obviously be much easier to initiate in a Republican administration than a Democratic, as foul play might otherwise be alleged by Republicans!

Good luck!

Sincerely yours,



Bradford Washburn

Lt. Governor Lowell Thomas, Jr.
State of Alaska
Juneau, AK 99801

STATE OF ALASKA
RECEIVED
FEB 21 1975
LIEUTENANT GOVERNOR

S

J

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7

COMMITTEE REPORT

3/7/75

HOUSE

Mr. Speaker:

Date March 13, 1975

The Committee on Resources has had SJR 17

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Neil A. Anderson</u>	_____	_____
<u>Mike Hershberger</u>	_____	_____
<u>Alison</u>	_____	_____
<u>William H. ...</u>	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Neil A. Anderson Jr. - Chairman

TO
RESOURCES

AMENDMENT #11

House Resources

OFFERED IN THE HOUSE:

By: _____

To: _____ HOUSE BILL No. _____

SENATE BILL No. SJR 17

PAGE: _____

LINE: _____

Page 1, line 14: Delete "\$50,000" and insert "\$50,000,000 (\$50 million)!"

Page 2, line 23: After "Stevens" delete "and" and insert ",."

line 24: After "Gravel" delete ",." and insert "and the honorable Edmond Muskie,".

AMENDMENT

OFFERED IN THE HOUSE:

By: Mr. Purvis

To: AMEND HOUSE BILL No. _____

SENATE BILL No. STR 17

PAGE: 1

LINE: 1

and: \$4,000
add: 2000, 2001 - (see outline)

Mr. —

notes: under Membership names to list

File

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF ENVIRONMENTAL CONSERVATION

POUCH 0- JUNEAU 99801

March 10, 1975

The Honorable Neis A. Anderson
House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Representative Anderson:

The Department of Environmental Conservation will hold Public Hearings on a proposed Air Quality Control Permit to Operate, with compliance schedule and variance application, for both Ketchikan Pulp Company and Alaska Lumber and Pulp Company. Enclosed for your review and comment is a copy of the proposal, in addition to a copy of the Notice of Public Hearing and a two page summary of previous air quality control compliance activities for both mills.

We would appreciate receiving any comments and testimony which you might have, either at the hearings, or in writing. The hearing at Sitka will be held on March 12, and the Ketchikan hearing will be held on March 13 and 14. The enclosed public notice contains detailed information regarding the hearing, and variance request.

The Department has made no determination regarding the acceptability of the variance application from the mills, and will not do so until all public testimony has been received and evaluated. We would welcome any testimony you might present, and would be pleased to answer your questions or provide additional information.

Sincerely,



Ernst W. Mueller
Commissioner

Pro. ers of DISSOLVING PULP

KETCHIKAN PULP COMPANY

P. O. BOX 1619

KETCHIKAN, ALASKA 99901

U. S. A.

T. E. FLANAGAN
President

February 20, 1975

The Honorable Nelson A. Rockefeller
The Vice President of the United States
The U. S. Capitol
Washington, D.C. 20510

Re: National Commission on Water Quality

Dear Mr. Vice President:

Ketchikan Pulp Company started in Alaska in 1954 and brought to Alaska's third largest city a steady, year-round industrial employer. This replaced seasonal and unstable fishing as the area's economic base - contributing prosperity, stability and peace of mind to the area's people. The pulp company's modern, innovative, chemical recovery process, a celebrated model for the industry, has flourished over its twenty year history and leads today in environmental cleanliness.

Despite this, the 1972 Water Quality Act now will require the company to make environmental expenditures of more than thirty-four million dollars - approaching the original plant investment - to fulfill the law, notwithstanding the already minimal effect on water quality of the plant's operation.

The alternative to this expenditure is ceasing operation according to the law, thus ending the prosperity of South-east Alaska, bringing unemployment to more than one thousand people, depression to twelve thousand people and a loss of an industry and its revenue to the State and the Country.

KETCHIKAN PULP COMPANY

The Honorable Nelson A. Rockefeller
February 20, 1975
Page 2

The National Commission on Water Quality must study this situation. There must be an alternative. The expenditure, approximately two to four times that of the company's dissolving pulp competition, would result in disproportionate costs, no base for competitive profit and hence economic failure. The owner's choice, to cease operations, while not desirable, is the only justifiable alternative.

We understand that your commission will study many facets of the law - one of them being the social and economic effects on single industry communities. I submit that Ketchikan, Alaska, in fact the whole of Southeast Alaska, is a prime example of this kind of community.

This unfair act of legislation can have these consequences: little, if any, improvement in water quality should the high expenditure be made, or total economic depression in the area should the pulp industry be abandoned.

We invite your investigation of this dilemma.

More comprehensive information has been sent to the members of the staff of your Commission.

Yours very truly,



b1s

cc: Senator Edmond S. Muskie
Representative Robert E. Jones
Mr. Edwin A. Gee
Mr. Raymond R. Gianelli
Mr. Raymond Kudukis
Senator Jennings Randolph
Senator Lloyd M. Bentsen
Senator Howard H. Baker, Jr.
Senator James L. Buckley
Representative John A. Blatnik
Representative James C. Wright, Jr.
Representative William H. Harsha

KETCHIKAN PULP COMPANY

The Honorable Nelson A. Rockefeller
February 20, 1975
Page 3

Representative James R. Grover, Jr.
Representative Harold T. Johnson
Senator Ted Stevens
Senator Mike Gravel
Representative Don Young
Governor Jay Hammond
Mr. H. A. Merlo
Mr. R. H. Malott
Mr. R. C. Tower
Mr. D. R. Kayser
Mr. D. A. Westenhaver
Mr. M. B. Hodges

GOVERNOR NELSON A. ROCKEFELLER
CHAIRMAN

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JAMES L. BUCKLEY

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JAMES C. WRIGHT, JR.
WILLIAM H. HARSHA
JAMES R. GROVER, JR.

FREDERICK J. CLARKE

EXECUTIVE DIRECTOR

TELEPHONE

202 254-7800

National Commission on Water Quality

P. O. Box 19266
WASHINGTON, D. C. 20036

December 13, 1974

MEMORANDUM TO: THE AMERICAN INDUSTRIAL COMMUNITY

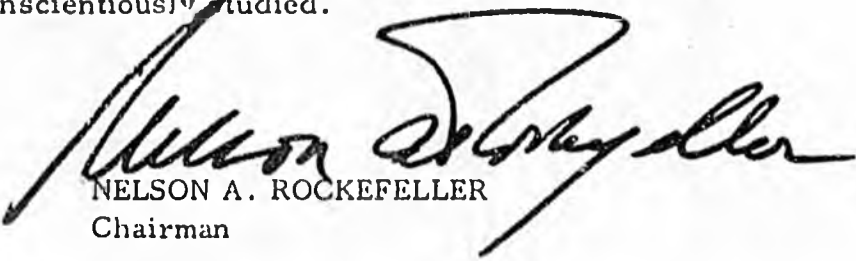
SUBJECT: The National Commission on Water
Quality's Industry Studies

My fellow Commissioners and I are grateful to the industrial community for the help we are receiving in our investigations into the impacts of the Federal Water Pollution Control Act Amendments of 1972.

As you know, Congress has asked us to make a comprehensive report on the economic, social and environmental effects of this legislation. Our professional contractors are now gathering information and data. Everywhere they are receiving your help and cooperation.

The enclosed leaflet explains our industry studies and how their results will feed into our final report next year.

Now, may we ask a favor? Because we recognize that some questions cannot be answered by statistics and engineering reports, we would value your thoughts regarding our study. We would like to know your views on the best ways to reach our goal of better water quality and to learn of the problems you may be encountering. I assure you that all letters received will be conscientiously studied.



NELSON A. ROCKEFELLER
Chairman

Enclosure

I hereby certify the annexed instrument is a true and correct copy of the original on file in my office.

ATTEST: Judith A. Meyer
Clerk Ketchikan Gateway Borough

Approved: 3/3/75

Voting "yes": Hanger
Zastrow
Elkins
Davidson
Kamm
Johnson
Taylor
Robertson
Guymon
Voting "no": None
Absent: Simpson
Pomtier

K E T C H I K A N G A T E W A Y B O R O U G H

RESOLUTION NO. 185

A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA, URGING THE PRESIDENT AND THE VICE PRESIDENT OF THE UNITED STATES, THE ENVIRONMENTAL PROTECTION AGENCY, THE NATIONAL COMMISSION ON WATER QUALITY, THE CONGRESS OF THE UNITED STATES; THE GOVERNOR OF ALASKA, AND THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION, TO TAKE WHATEVER STEPS ARE NECESSARY TO PREVENT THE CLOSING AND ABANDONMENT OF THE KETCHIKAN PULP COMPANY, NECESSARILY REQUIRED BY KETCHIKAN PULP COMPANY'S INABILITY TO COMPLY WITH THE PROVISIONS OF THE 1972 WATER QUALITY ACT, AND REGULATIONS PROMULGATED THEREUNDER, AND REMAIN COMPETITIVE IN THE PULP INDUSTRY.

The Ketchikan Gateway Borough lies in the rugged, mountainous, wilderness archipelago region of Southeastern Alaska, familiarly called the Alaska Panhandle. It is located generally 100 miles north and west of Prince Rupert, British Columbia, its nearest sizable neighboring city to the South, and approximately 100 miles south and east of Wrangell, Alaska, its nearest sizable neighboring city to the North. It is one of only five sizable communities scattered along the 500 miles of wilderness islands which comprise the bulk of Southeastern Alaska.

The major employers in Ketchikan are the Ketchikan Pulp Company, employing 650 workers and Ketchikan Spruce Mills, a subsidiary of the Ketchikan Pulp Company, employing 150 workers. In addition, the Metlakatla Hemlock Mill, on neighboring Annette Island (an Indian Reservation), and the Thorne Bay Lumber Camp, are closely related industries which employ approximately 200 workers. The rest of the labor force in this community is closely related to and dependent upon the existence and well-being of the Ketchikan Pulp Company. Briefly, we are talking about the direct employment of approximately 1,000 people and the indirect employment of 12,000 people.

Recent information indicates that the local insured unemployment rate is between 8.5% and 9.0%, with seasonal unemployment running as high as 18%. This information assumes continuing operation of the Ketchikan Pulp Company and associated industries. Under the circumstances now existing throughout the country, this figure may well be higher.

As a result of the 1972 Water Quality Act, the Ketchikan Pulp Company has been required to make environmental expenditures of more than Thirty-four Million Dollars (\$34,000,000.00). These expenditures will proportionately cost the Ketchikan Pulp Mill from two to four times the amount necessarily expended by competitive pulp mills in the lower forty-eight states. This means that the price required by Ketchikan Pulp Company for its product will be approximately \$34.00 per ton, compared to a cost of approximately \$10.00 a ton, an obviously disproportionate, non-competitive price. Because of the requirements of the 1972 Water Quality Act, and because of the concomitant resulting non-competitive price of Ketchikan Pulp Company's product, the management of Ketchikan Pulp Company has declared its present intention of closing the pulp mill at Ketchikan, Alaska, on or about July 1, 1975.

If the Ketchikan Pulp Company is required to close its mill in Ketchikan, Alaska, the result will be, without a doubt, total economic depression throughout the community and the ruin of many businesses with consequential damage to hundreds of homes, families, and individuals.

NOW, THEREFORE, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA, as follows:

Section 1. The President of the United States, the Vice President of the United States, the Environmental Protection Agency, the National Commission on Water Quality, Members of Congress, the Governor of the State of Alaska, and the Alaska Department of Environmental Conservation, are jointly and severally urged to take whatever steps are necessary to prevent the closing and abandonment of the Ketchikan Pulp Company necessitated by the company's inability to comply with the provisions of the 1972 Water Quality Act, and at the same time remain competitive in the pulp industry.

Section 2. The Borough Clerk is directed to send copies of this Resolution to:

The officers and agencies referred to above
in Section 1;
Members of the Alaska Legislature;
Board of Directors of Louisiana-Pacific
Corporation;
Board of Directors of FMC Corporation;
Ketchikan Pulp Company;
Mr. Edwin A. Gee;
Mr. Raymond R. Gianelli;
Mr. Raymond Kudukis;
Mr. H. A. Merlo;
Mr. R. H. Malott;
Mr. R. C. Tower;
Mr. D. R. Kayser;
Mr. D. A. Westenhaver; and
Mr. M. B. Hodges.

Section 3. This Resolution is effective immediately.

ADOPTED this 3rd day of March, 1975.

Karl E. Steward
BOROUGH MAYOR

ATTEST:

Judith A. Lajoie
BOROUGH CLERK

Approved as to Form:

Henry R. Giddell
Borough Attorney

SJR

41

Requesting amendment of the Organic Act of 1897 to permit management of the national forests in Alaska according to modern silvicultural techniques.

COMMITTEE REPORT

1/15/76

HOUSE

Mr. Speaker:

Date 1-16-76

The Committee on RESOURCES has had SJR #1 am

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

W. B. Anderson _____
John H. ... _____
... _____
... _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

W. B. Anderson Chairman

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802

1560

January 23, 1976



Honorable Nels Anderson
Chairman
House Resource Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Anderson:

Bob Tracy has informed me of some of the testimony given by Alan Stein on January 16 when the House Resources Committee was deliberating on SJR No. 41 regarding clearcutting.

Mr. Stein is one of the plaintiffs in the case Zieske vs. Butz, et al. We are well aware of his views on logging practices in southeast Alaska.

We have not seen any of the photos he displayed to the committee. They are obviously purported to show unacceptable resource damage. We do know that pictures, as well as words, are rather easily taken out of context and it would be impossible for us to comment specifically on them without knowing their exact location, the time and circumstance in which they were taken, the duration of the condition shown, and whether or not the condition still exists. We suspect that most of them are not nearly so alarming once that information is known. We can assert very positively that our present environmental analysis procedures, strict timber sale contract requirements, and increased contract administration abilities do not permit any widespread and flagrant abuse of National Forest lands and waters. Occasional mistakes, accidents, or even rare intentional violations will occur, but these would be picked up and corrected almost immediately.

One of our current contract requirements, for example, is that if logging debris does get into a stream, it is required to be removed within a period of 48 hours. We vigorously enforce this requirement. Mr. Stein made some statement to the effect that 80 miles of fish stream were damaged by logging last year. We deny that this is even close to a true statement and challenge anyone to present such specific evidence. Again, this is not as satisfactory a response to you as would be possible if we knew the specific 80 miles Mr. Stein is referring to.

We would welcome the opportunity to respond to specific charges of damage. As a matter of fact, Alaska Department of Fish and Game named 150 streams in southeast Alaska they claim were damaged by logging. We have no information from them as to what they consider to be damage, the extent of the damage, or whether or not the streams remain in a damaged state. But we have asked our fisheries biologists on each Area to report their

findings on the streams so that we can discuss and reach a common understanding with ADF&G as to just what has happened on the streams they have named.

You heard Commissioner Brooks mention mud from logging in streams discoloring water as much as 10 miles out from their mouths. We don't know what streams those would be either, but will ask him to have them identified. Commissioner Brooks also told the Forest Practices Committee of the Alaska Loggers Association that he does not consider logging to be the significant reason for reduced salmon runs.

Mr. Stein testified that 158 culverts were installed improperly last year, and, as a result, fish passage was blocked. He has never discussed this with us, and we can't comment specifically without knowing what culverts are referred to. However, many culverts are designed for road drainage only and do not need to pass fish. Those culverts in streams that do need to pass fish are designed to do that, but we have learned that our design has not always accomplished what was intended, nor were design specifications always followed precisely in the past. Consequently, we do find occasional examples of inadequate design and installation. This concerned us enough that we formed a task force of our engineers, biologists, and hydrologists to determine what changes are needed to prevent future problems in design and installation and to correct existing culverts that are, in fact, barriers to fish passage. We can't speak more to the 158-culvert charge without knowing specifics, but we believe this charge is not remotely close to being accurate.

Another of Mr. Stein's statements was that many streams on Prince of Wales Island did not meet State water quality standards for temperature. The Federal Water Pollution Control Act amendments of 1972 do require conformance to State water quality standards for both temperature and turbidity. We are establishing a responsive water quality monitoring program throughout the Tongass and Chugach National Forests to help us with meeting these standards. To implement this program, we hired hydrologists for each of our Forest Supervisor's offices. They, in turn, ordered equipment and instrumented some monitoring sites during last year. We know, from our own and other agency measurements, that several streams in their natural state (no logging) do exceed State allowable maximums for temperature fluctuations. Once again, there may be information available on specific streams, but we cannot speak to Mr. Stein's charge without knowing his source of information or what streams he refers to.

One last comment we would make is with regard to Mr. Stein's references to leaving buffer strips along streams. Past practices did indeed permit cutting adjacent to both sides of streams for long, unbroken stretches. Our current practices do not permit this. We may or may not leave buffer strips, depending again on the specific needs of a given stream and location. We may have a buffer on one side of a stream and not the other. Or if we do cut to the edge of a stream from both

sides, it will not be for long unbroken stretches of stream in any one logging entry or time period. To protect stream temperature regimes, subsequent streamside cutting is not permitted until adequate shade is established in previous cutting units. It should be noted, however, that mature trees are not the only vegetation that can provide adequate shade and temperature control. In many cases, especially the smaller streams, alders and other smaller brushy vegetation are just as effective in providing shade as are taller forms of vegetation. Each stream is considered on its own merits. This seems far preferable to a blanket requirement for buffer strips which are often either subject to windthrow, or, if wide enough to be protected from windthrow, would make serious inroads into the volume of timber available for harvest. We believe sound multiple use practices do allow us to optimize (not maximize) timber use in harmony with water quality and fish habitat protection.

This has been a lengthy discussion, difficult to write because of the lack of specifics for us to speak to. I hope it is of some help to you. If your committee is interested, we would welcome the opportunity to prepare a more specific background report on our current activities and practices. We, too, have slides that depict our current standard of performance, including the good, the bad, and the most common. Without claiming to be perfect, we do believe our planning procedures and careful dedicated administration are accomplishing a good job of resource management that is a credit to Alaska. That is our goal. We appreciate your interest and help in seeing that we achieve it.

Sincerely,



C. A. YATES
Regional Forester

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802

1560

January 23, 1976



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Chairman
House Resource Committee
Alaska State Legislature
Pouch V
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Sincerely,



C. A. YATES
Regional Forester

SJR

47

COMMITTEE REPORT

2/23/76

HOUSE

Mr. Speaker:

Date 2-23-76

The Committee on Resources has had SJR 117

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

Robert B. Anderson _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Robert B. Anderson Chairman

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 19, 1976

The Honorable Jay S. Hammond
Governor of Alaska
State Capitol
Juneau, Alaska 99811

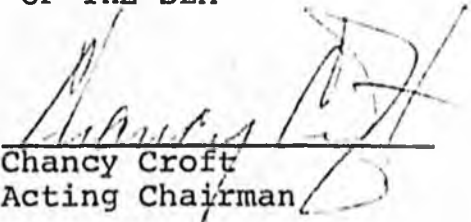
Dear Governor Hammond:

In accordance with AS 44.19.797, we have the honor to transmit to you the attached position on the House of Representatives and Senate versions of H.R. 200.

Since Congressional deliberations on this legislation are presently in progress and are expected to be concluded in the near future, the Commission has voted to request that Mr. Edgar Huizer of the Department of Fish and Game and Mr. Jeff Haynes of the Department of Law be sent to Washington, D.C., for the purpose of discussing this position with the Alaska delegation, the House and Senate conferees, and members of the appropriate committee staffs.

Sincerely,

THE ALASKA COMMISSION ON THE CONFERENCE OF THE LAW
OF THE SEA


Chancy Croft
Acting Chairman

I. STATEMENT OF GENERAL PREFERENCE

The Senate version of H.R. 200 more closely coincides with the interests of Alaska than does the House version. Our reasons for favoring the Senate version are set out more completely below. As a generalization, we believe that the House version contains an excessive amount of detail and an unnecessary number of procedural mechanisms and safeguards which will tend to inhibit implementation of timely and efficient fisheries conservation and management measures.

However, this is a general preference only; there are many concepts and provisions in the House versions which should be included in the final product. In addition, several sections of the Senate version are in need of amendment for clarification purposes. In some instances, discussion of certain language in the Conference Report is important if misinterpretation is to be avoided.

General Recommendation: Except where otherwise stated in this paper, we request that the Conferees utilize in general the language and provisions of the Senate version.

II. FINDINGS AND STATEMENTS OF POLICY

A. We have no strong feelings about these portions of the respective versions with the following exceptions:

Section 2(a)(8) of the Senate version [Com. Print, page 5], which mentions the importance to the United States of developing a United States fishery for bottomfish adjacent to Alaska. Since many United States fishermen are anticipating their eventual participation in this fishery, it is important that this statement be retained.

Recommendation: Regardless of which set of findings and policy statements is adopted by the Conferees, Section 2(a)(8) of the Senate version should be included.

B. We also are concerned with the broad implications of Section 2(a)(5) [Com. Print, page 5] of the Senate version, since it does not accurately reflect the situation of many fisheries in Alaska and other states where they have traditionally been well managed by the states.

Recommendation: Avoid usage of Section 2(a)(5) of the Senate version unless it is properly qualified to indicate that not all fisheries are depressed. This

NOTE: Page and line citations in this paper for the most part are for the Comparative Print (Com. Print) on H.R. 200. On occasion it was necessary for clarity to cite either the House approved bill dated October 20, 1975; or the Senate approved version of H.R. 200 dated February 3, 1976.

could be achieved either directly by amendment or indirectly by appropriate language in the Conference report.

C. Again, Section 2(a)(7) of the Senate version [Com. Print, page 4] is appropriate with respect to some, but certainly not all, United States fisheries stocks.

Recommendation: The first sentence of Section 2(a)(7) of the Senate version should read:

"A national program for management and conservation of some of the fishery resources . . .".

III. DEFINITIONS

Many of the definitions in the respective versions are similar. Since we are recommending more close adherence to the Senate version, it would be preferable if the Senate definitions are used.

However, one exception is the definition of fishing. The House version is preferable because it contains the phrase "any action which can reasonably be expected to result in the catching", etc. This would facilitate enforcement and prosecution by allowing arrest of violators at the preparatory stage.

Recommendation: Utilize the Senate definitions. However, substitute Section 3(8) of the House version in place of Section 3(10) of the Senate version [Com. Print, page 12].

VI. CONTROL AND AUTHORIZATION OF FOREIGN FISHING

A. We favor strongly the Senate language as contained in Sections 101 and 102 of the Senate version [Senate Bill, pages 82-86]. These provisions are relatively simple and clear, provide adequate protection, and state in straightforward fashion the harvesting preference granted to United States fishermen.

In contrast, the House version would institute a complex permit system, and vest substantial authority in the Secretary to follow his own preferences for allowing foreign fishing without any distinct standard of accountability. We are particularly disturbed that the House version incorporates Article 7 of the Geneva Convention with respect to the measures that would protect anadromous species seaward of the conservation zone, as this would invite delays and disputes and risk mandatory international arbitration procedures. Consequently, the Senate bill is especially preferable from the standpoint of salmon protection.

We also protest the concept embodied in the House version whereby

license fee receipts emanating from the Alaska bottomfish fishery would be utilized to subsidize the tuna fleet [House Bill, Sec. 306(d), pages 49-50].

Recommendation: The Conferees should utilize Sections 101 and 102 of the Senate version rather than similar sections (especially Section 201) of the House version. It is extremely important that the provisions of the Senate version regarding anadromous species and United States preferential harvest rights be retained.

B. The Senate version [Senate Bill, Sec. 203, pages 101-108] is much clearer than the House version, that the regional councils will be authorized to develop management programs for foreign as well as domestic fisheries.

Recommendation: Retain Sec. 203 of the Senate version with respect to council management program jurisdiction.

V. RENEGOTIATION OF NONCONFORMING TREATIES AND AGREEMENTS

The concept contained in Sec. 103(b) of the Senate version [Com. Print, pages 31-32] is important; without such a stimulus, renegotiation processes could drag on indefinitely. However, it appears unclear under the existing language whether the Secretary is expected to merely initiate negotiations by January 1, 1977, or to actually amend or terminate these agreements by that date. We also believe that an annual report to the Congress from the Secretary on the progress of renegotiations, as required in Sec. 202(c) of the House Bill [Com. Print, page 32] is desirable.

Recommendation: For clarity, include a statement in the Conference Report that it is the intention of the Congress that the Secretary initiate action on nonconforming agreements no later than January 1, 1977, and that he proceed on renegotiations as expeditiously as possible. In addition, the language contained in Sec. 202(c) of the House Bill should be added to Sec. 103(b) of the Senate version.

VI. CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS

International fisheries agreements are and will continue to be important factors regarding long term protection of fisheries resources adjacent to, emanating from, or depended upon by the United States. Inasmuch as many of these agreements are executive agreements rather than treaties and therefore not subject to ratification by the Senate, the receptiveness of the Executive Branch to the needs of United States citizens is by no means guaranteed. Therefore, we strongly favor the concept in Sec. 206 of the House version [Com. Print, pages 38-42].

Recommendation: Sec. 206 of the House version should be inserted as a new section after Sec. 103 of the Senate version. We question whether Sec. 206 must be as explicit and detailed as it now exists. However, since much of this section relates to the internal operations of the Congress, we believe that the Conferees are best qualified to make this determination.

VII. TERMINATION OF AUTHORITY

Both versions contemplate the possibility of the United States becoming a party to a Law of the Sea or similar treaty which could conflict with the provisions of this Act. However, while the Senate version would cancel the authority of Title I of the Act entirely, the House version merely provides that regulations affecting foreign nationals be amended by the Secretary to conform to the elements of such a treaty. We believe that terminating the authority of Title I without mitigation could seriously disrupt the workings of the Federal bureaucracy and lead to the potentiality for misunderstandings and confusion. Consequently, we prefer the approach taken by the House.

Undoubtedly, there may also be conflicts between a Law of the Sea Treaty and the provisions of the Act itself. However, it is unlikely that such a treaty would be self-executing. Therefore, implementing legislation by the Congress is a virtual certainty, and any necessary amendments to the Act could be taken care of at that time.

Recommendation: Insert the substance of Sec. 205 of the House version in place of Sec. 104 of the Senate version [Com. Print, pages 37-38]. Some editorial changes will be necessary. The language of the House version which references treaties emanating from the Law of the Sea Conference only (rather than other comprehensive treaties) should be retained so as to prevent the possibilities of a misunderstanding.

VIII. NATIONAL STANDARDS

A. The national standards set forth in the respective versions are substantially similar. One element which concerns us is the prohibition against discrimination [Com. Print, page 45]. We understand that the Councils are basically interstate organizations, and therefore may not be subject to Fourteenth Amendment nondiscrimination requirements, which is the reason for including this prohibition in the bill. However, this is not spelled out. Consequently, there is a danger that (1) individuals who are somewhat disenchanted with conservation measures may engage in frivolous lawsuits or appeals based on this phrase, and (2) courts may misunderstand the reason for its inclusion and decide that it was intended to impose a stricter nondiscrimination

standard than is provided by the Fourteenth or Fifth Amendments.

Recommendation: The Conference Report should state clearly that the nondiscrimination prohibition in the bill is intended to cover the novel concept represented by the Councils, and that the standard for review is the same as for claims brought under the Fourteenth or Fifth Amendments.

B. We have an additional concern with respect to Sec. 201(a)(4) of the Senate version [Com. Print, page 45] relating to national standards. The reference in this paragraph to "allocation" operates to encourage Federal limited entry, and the legislative history demonstrates that this was intended. We are adamantly opposed to Federal limited entry.

Recommendation: Delete all of Sec. 201(a)(4) of the Senate version after the first sentence.

C. We believe very strongly that implementation of the programs contained in this legislation should take into account existing management entities which are performing satisfactorily so as to avoid duplication of effort and changes which result in no benefit. Section 201(a)(7) of the Senate version [Com. Print, page 46] appears to recognize this. However, specific mention should be made of the desirability of this approach in the Conference Report.

Recommendation: In discussing Sec. 201(a)(7) of the Senate version, the Conference Report should indicate the intention of the Congress that existing fisheries management organizations (such as those of the states) should be utilized to the fullest possible extent so as to preclude duplication of effort and meaningless changes of jurisdiction.

IX. GUIDELINES FOR REGIONAL FISHERY MANAGEMENT COUNCILS

Section 201(b) of the Senate version [Com. Print, page 47] requires the Secretary of Commerce to establish guidelines for the Fishery Management Councils to follow in the development of management, laws and proposed regulations. It is our belief that this authorization provides an opportunity for the Secretary to abuse the intended relationship between the Councils and the Federal government by using the guidelines to affect the outcome of Council deliberations on plans and regulations as well as the mechanisms by which they are obtained. The presence of national standards and the opportunity for review by the Secretary are a more than sufficient safeguard to protect the interests of the Federal government. Concurrently, the Councils should be free to develop their recommendations without significant Federal interference if rational measures conforming to regional conditions are to be expected.

Recommendation: Section 201(b) of the Senate version should be deleted.

X. COMPOSITION OF FISHERIES COUNCILS

First of all, we recognize that conditions in various United States fisheries differ substantially, and that the composition of the Councils and the means of determining that composition may necessarily have to vary.

However, we strongly object to the composition of the Council in our region as it is presently set forth in the House version [Com. Print, pages 50-52]. The failure of the House version to specify the origin of eight of the Council members guarantees continuous uncertainty, confusion, and hardship among fishermen within the region. It would insure that political consideration and the formation of political coalitions, replete with constant power struggles and political compromises divorced from rational fisheries management, would take place continuously. Long delays in the formulation of management programs and a preference for half-measures representing only the lowest common denominator would be commonplace. As the wild card members changed, so would the political coalitions, and in turn so would the management programs. The big loser would be the fishermen, regardless of which state he came from. In sum, utilization of the House version would result in the imposition of an additional and unmanageable layer of bureaucracy with no corresponding benefits. While we sympathize with the attempt of the House draftsmen to construct a council in the most democratic means possible, we would emphasize that democracy without a means of insuring final resolution of problems is virtually useless.

For those who feel that, under the Senate version, they would be in the minority, we would point out that the Secretary has powers of review of proposed management plans in accordance with the national standards, and that such standards prohibit discrimination.

Some may also believe that the House version would more accurately provide for representation of the total public interest on the Council. In response, we question whether the Federal government (in the form of the Secretary appointing eight members) is anywhere near as qualified as the Governors of the respective states to determine which persons from their state represent the public interest.

Recommendation: We reiterate that if representatives from other regions wish to utilize the House version or a combination of the House-Senate approaches, we have no objection; consistency is not as important as creation of a workable council reflecting the conditions in each region. With respect to Alaska's Fisheries, however, we urge in the strongest terms possible that the composition system embodied in the Senate version be retained.

XI. STAFFING

Section 202(d) (2) of the Senate version [Com. Print, pages 50-57] permits regional councils to retain individuals for purposes of obtaining information necessary to formulate management programs. We believe it to be

important for this responsibility to lie with the Councils rather than the Secretary so that the Councils are free to develop their programs as they see fit, using such data as they consider relevant.

Recommendation: Retain Section 202(d)(2) of the Senate version.

XII. TIME CONSTRAINTS

It is important to retain the time constraints for appointments and development of management regulations and plans contained in the Senate version. Without this stimulus, delays running into years could result before the programs envisioned by the bill are implemented.

Recommendation: Retain provisions in Sec. 202 and Sec. 203 and other appropriate parts of the Senate version imposing deadlines on review of agreements, appointments and formulation of management programs.

XIII. PRE-EMPTION OF STATE FISHERIES MANAGEMENT RESPONSIBILITIES

The Senate version recognizes the traditional right of the states to manage fisheries at least within the territorial sea. Senate Bill, Sec. 202(g)(1) [Com. Print, pages 62-63] deprives the Councils of any authority to make recommendations regarding fisheries occurring principally within such waters. Federal authority is treated similarly in Senate version, Sec. 205 [Com. Print, page 87].

The House version, however, clearly authorizes Federal incursions into state domain in Sec. 309 [Com. Print, pages 87-89].

We strongly urge that the provisions of the Senate version be employed by the Conferees. There is no significant justification for Federal intervention into local coastal fisheries utilized only by United States fishermen.

Recommendation: Retain Sections 202(g)(1) and 205 of the Senate version; avoid Section 309 and related sections of the House version.

XIV. CONTINUATION OF ACCEPTABLE STATE REGULATIONS

Section 202 (g) (3) of the Senate version [Com. Print, page 69] encourages the use of existing state regulations where they are acceptable. Obviously, regulations which have proven their value should not be discarded merely because new legislation is enacted.

Recommendation: Retain Section 202(g)(3) of the Senate version.

XV. NONDISRUPTION OF FISHERIES

Similarly, Sec. 202(g) (4) of the Senate version [Senate Bill, page 101, lines 8-10] is intended to insure that the transition from existing management to the new arrangement involving regional councils be accomplished in a manner which does not needlessly inconvenience the fisherman, who is the beneficiary of the legislation.

Recommendation: Retain Section 202(g) (4) of the Senate version.

XVI. NATURE OF COUNCIL REGULATIONS

A. Section 203(b) (1) of the Senate version [Senate Bill, page 102, lines 22-25] is in need of a minor clarification to distinguish between limited entry and other types of regulations governing fishing vessels.

Recommendation: Section 203(b) (1) to read:

"designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified types or sizes of vessels or gear;"

D. Section 203(c) (2) of the Senate version [Senate Bill, page 105, lines 3-7] contains an incorrect citation to another part of the bill. Section 203(b) (2) rather than (b) (1) relates to limited entry.

Recommendation: Change the reference in Section 203(c) (2) from "(b) (1)" to "(b) (2)".

XVII. CONFIDENTIALITY OF STATISTICS

For reasons of consistency and clarity, we favor the Senate version regarding the general operations of the Councils except as otherwise stated in this paper. However, while we encourage the collection of statistics, we believe the requirement of the House version that statistics relating to the financial and other records of individuals be kept confidential is an important safeguard to individual privacy. Moreover, our experience with a similar Alaska state law has demonstrated that this protection encourages fishermen and processors and others to submit accurate statistics.

Recommendation: Retain Sec. 202(f) (1) of the Senate version [Com. Print, page 59], but incorporate appropriate language from Sec. 304(b) (d) of the House version [Com. Print, page 67].

XVIII. FOREIGN STATISTICS

Statistics on foreign fishing effort and related data will be necessary if the regional Councils are able to efficiently perform their function of developing management programs regarding foreign fishing. However, it is necessary that this information be accurate, detailed, and meaningful. The Conference Report should indicate clearly that the United States must require detailed data and economic information from foreign governments, including production costs and figures on the value of fisheries products. In turn, the Federal government must deliver this information to the regional Councils so they will be able to set the value of fishing privileges from the standpoint of foreign vessel license fees.

Recommendation: In discussing Sec. 102(b)(2) of the Senate version [Senate Bill, page 84] in the Conference Report, appropriate mention should be made of the type of foreign statistics which will be required by the United States.

XIX. SECRETARIAL REVIEW

The review standard contained in the Senate version is more clear and provides for greater accountability than does the House version.

Recommendation: Emphasize Section 203(c) of the Senate version [Senate Bill, pages 104-105].

XX. NATURE OF SECRETARIAL REGULATIONS

A. It is the general consensus that existing state regulatory and administrative organizations will be relied upon in many cases by the Secretary to continue to carry out management responsibilities and to participate in decisionmaking in the field. It is important that the Act specifically authorize the Secretary to take advantage of such organizations.

While this type of regulation should be authorized, we object to the power of the Secretary to adopt regulations governing the operation of Councils. Internal workings of Councils should be established by them according to their needs and objectives.

Recommendation: The second sentence of Sec. 203(c) of the Senate version should be amended to read [Senate Bill, page 106, lines 7-11]:

"In addition, such regulations shall pertain to, but need not be limited to, [THE OPERATION OF COUNCILS] the setting of fees, procedures for obtaining data and statistics relating to fishing,

implementation of conservation and management programs in the field, and other matters relating to the purposes of this Act."

So that it is clear that the Councils are empowered to establish their own procedures, Sec. 303(e)(4) of the House version [Com. Print, page 58] should be added to the appropriate part of Sec. 202(d) of the Senate version [Com. Print, page 56].

B. Alaska is opposed to any Federally-initiated limited entry or limited access program. Sec. 203(c)(2) of the Senate version [Senate Bill, page 105] reflects this point of view by prohibiting such action unless it is specifically approved by the appropriate Council. We cannot overemphasize the importance of maintaining this prohibition in the final product adopted by the Conferees.

Recommendation: Retain the prohibition against a limited entry program independently initiated by the Federal government contained in Sec. 203(c)(2) of the Senate version.

XXI. EMERGENCY ACTION

Where genuine emergencies exist, regulatory action may be required within a matter of hours. Immediate action may be impossible if it is necessary for the Secretary to approve an emergency measure. Rather, the responsibility in this area should be vested in the Secretary's regional representative, who will be familiar with local conditions.

Recommendation: Section 203(f) of the Senate version [Senate Bill, page 106] should begin as follows:

"If the Secretary or his delegate determines. . ."

XXII. INTERIM PLANS

A. While the language of the Senate version regarding emergency action is satisfactory, the situation of management of stocks pending development of management programs is not specifically covered. Therefore, the essence of Sec. 308 of the House version [Com. Print, pages 80-81] should be incorporated into the Senate version after Sec. 203(f) [Senate Bill, page 106].

Recommendation: Include Section 308 of the House version, with appropriate editorial changes, after Sec. 203(f) of the Senate version.

In addition, include in the Conference Report a statement that it is expected that the Secretary will subdelegate his responsibility regarding emergency action and interim plans to the Regional Director of the National Marine Fisheries Service or other field personnel.

For purposes of consistency with this recommendation, the definition of "depleted" in Sec. 3(4) of the House version [Com. Print, page 11] should be included in the Senate version.

B. Emergency regulations promulgated under Sec. 308 of the House version are clearly temporary in nature since they will remain in effect no longer than 180 days. However, it is not spelled out that management plans prepared under Sec. 308(a)(3)(A) of the House version [Com. Print, page 80] are also interim in nature until the appropriate Council has had the opportunity to develop a permanent plan. Finally, we see no rationale for limiting temporary emergency plans and regulations to the present nine-mile contiguous fishery zone rather than for the enlarged zone.

Recommendation: Amend Sec. 308(a)(3)(A) of the House version [Com. Print, page 80] to read:

"prepare, after consultation with appropriate States and fishing industry representatives, (A) an interim management plan which will remain in effect until the appropriate council develops a permanent plan, which shall apply within the conservation and management zone established by this Act [THOSE WATERS WHICH COMPOSE THE CONTIGUOUS FISHERIES ZONE ESTABLISHED BY THE FIRST SECTION OF THE ACT OF OCTOBER 14, 1966, FOR THE FISHERY; AND]."

XXIII. FISHERY MANAGEMENT REVIEW BOARD

We have considered carefully the advantages and disadvantages of the review board concept, which is included in the Senate version but not the House version. For the following reasons, we believe that the review board is not desirable:

1. There being only one board, it will have a national rather than regional orientation (the opposite of the Council arrangement). The board may feel constrained to make decisions which are consistent and symmetrical nationally but which do not properly consider inherent regional differences.
2. We are not convinced that administrative review procedures will result in expedited settlement of disputes. Our

experience, in fact, would tend to lead us to the opposite conclusion. Often, such disputes will be carried to the courts anyway, and the presence of an appeal board may do nothing but insert an extra step.

3. We believe that the courts are more likely to uphold a Fisheries Management Council than would an appeals board. We foresee that a number of individuals may undertake what amount to obstructionist appeals, and be encouraged to do so simply by the presence of a board. Since the board is established to hear appeals, it may feel more constrained to be receptive to frivolous or unjustifiable appeals. A district court, however, should be inclined to recognize that the Councils are governmental entities and were established by the Congress to represent the public interest; consequently, their determinations should be given great deference.

4. Under the Senate version, foreign nationals (as well as resident aliens) would be given virtually automatic standing to obtain an appeal. Thus, for example, Soviet or Japanese fishermen could conceivably tie up management plans or proposed regulations developed by a Council through the appeals board. While it might be possible to do so as well through the courts, standing to sue would have to be demonstrated; the review board, on the other hand, virtually invites them to take action.

Recommendation: Section 204 of the Senate version [Senate Bill, pages 103-113] should be deleted. For consistency, Section 3(2), defining "Board", [Senate Bill, page 75] should also be removed.

XXIV. PENALTIES

Section 301(c) of the Senate version [Com. Print, pages 94-95] fails to provide for vessel forfeitures. This is a highly important legal weapon where expensive vessels and large catches are involved in violations, as has been demonstrated in prosecutions and settlements under the Bartlett Act with respect to illegal fishing by foreign nationals. Since the House version does provide for vessel forfeiture, appropriate language should be inserted authorizing this procedure.

Recommendation: The words "any fishing vessel" from Sec. 313(a) of the House version [Com. Print, page 94] should be included in the first sentence of Sec. 301(c) of the Senate version.

XXV. ENFORCEMENT AND REPEAL OF BARTLETT ACT

Section 303(b) of the Senate version [Com. Print, page 101] provides for

repeal of the Bartlett Act, under which foreign fishing violations are presently prosecuted, at the effective date of the Act. However, enforcement of the Act is itself delayed until July 1, 1977 by virtue of Sec. 302(d). This would result in an interim of more than a year during which there would be no statute under which to prosecute violations by foreign nationals in the existing nine-mile Contiguous Fisheries Zone.

Recommendation: Redraft Sec. 303 to provide for a continued nine-mile Contiguous Fisheries Zone for enforcement purposes until July 1, 1977, as well as continued application of the existing Bartlett Act during that period.

XXVI. MARINE MAMMALS

The Senate version includes all marine mammals in the definition of "fish" [Com. Print, page 12] and thus would extend full United States jurisdiction over all marine mammals within the 200 mile zone. The House version, on the other hand, does not extend United States jurisdiction over marine mammals in the 200 mile zone but would amend the Marine Mammal Protection Act of 1972 so that its provisions would apply to United States nationals throughout the 200 mile zone.

Alaska continues to support the Senate version. However, in order to minimize problems in administering provisions of the 200 mile law with regard to marine mammals and the Marine Mammal Protection Act of 1972, we recommend that the Senate version be further amended so that United States jurisdiction in the 197 mile zone outside territorial waters would apply only to foreign nationals.

Recommendation: Amend Sec. 3(7) of the Senate version [Com. Print, page 12] as follows:

"'fish' means all living marine organisms, including, but not limited to, finfish, mollusks, crustaceans, [MARINE REPTILES, AND] all other forms of marine animal and plant life (but not including birds); and marine mammals only with respect to foreign nationals not legally admitted to the United States;"

SUMMARY
RECOMMENDATIONS
OF THE
ALASKA LAW OF THE SEA COMMISSION

Prepared by:
Office of Senator Chancy Croft

February 20, 1976

IN A WORLD WITH RAPIDLY SHRINKING FOOD SUPPLIES AND POPULATION GROWTH RISING JUST AS RAPIDLY, THE OCEANS OFFER AN ABUNDANT SOURCE OF PROTEIN. BUT IN RECENT YEARS, WASTEFUL HARVESTING PRACTICES AND THE INABILITY OF THE UNITED STATES TO EFFICIENTLY PROTECT ITS FISHERIES HAVE THREATENED THAT FOOD SOURCE. SCIENTISTS HAVE IDENTIFIED 25 STOCKS OF FISH WHICH ARE EITHER CONSIDERED TO BE DEPLETED OR THREATENED WITH DEPLETION.

IN ALASKA, THE ONCE GREAT FISHERIES HAVE BEEN REDUCED MERCILESSLY DUE IN LARGE PART TO UNCONTROLLED HARVESTING BY FOREIGN FLEETS OUTSIDE THE JURISDICTION OF U. S. AUTHORITIES. EACH YEAR THOUSANDS OF SALMON ARE TAKEN BY FOREIGN VESSELS, OFTEN USING EQUIPMENT DECLARED ILLEGAL FOR ALASKAN FISHERMEN. ALSO TAKEN INCIDENTALLY TO BOTTOM FISH HARVESTING ARE HALIBUT AND CRAB. ANNUAL LOSSES OF SUCH MAGNITUDE CAN BE ILL AFFORDED IN A STATE WHERE, IN 1972, 16 OF THE 19 FISHERIES WERE CLASSIFIED BELOW THE POVERTY LEVEL.

ON JANUARY 28, 1976, THE UNITED STATES SENATE PASSED THE 200 MILE ZONE BILL, FOLLOWING ACTION TAKEN LAST YEAR BY THE U. S. HOUSE OF REPRESENTATIVES. THE TWO BILLS HAVE BEEN SENT TO A CONFERENCE COMMITTEE TO WORK OUT THEIR DIFFERENCES.

THE ALASKA LAW OF THE SEA COMMISSION HAS REVIEWED BOTH VERSIONS OF THE BILL AND, WHILE ENDORSING THE CONCEPT, HAS MADE SEVERAL RECOMMENDATIONS. THE MAJOR RECOMMENDATIONS TO THE CONFERENCE COMMITTEE ARE DEFINED IN THE FOLLOWING TWELVE POINTS.

REGIONAL COUNCILS

THE ALASKA LAW OF THE SEA COMMISSION ENDORSES THE ESTABLISHMENT OF REGIONAL

COUNCILS AS PROVIDED IN THE SENATE VERSION OF THE 200 MILE LIMIT BILL. THE SENATE VERSION PROVIDES NINE SEATS ON THE ALASKA REGIONAL COUNCIL WITH FIVE ASSIGNED TO ALASKANS.

FISHERY MANAGEMENT

THE COMMISSION RECOMMENDS RETENTION OF LANGUAGE IN THE SENATE BILL WHICH RECOGNIZES THE TRADITIONAL RIGHTS OF THE STATES TO MANAGE THEIR FISHERIES.

DISPUTES

IF DISPUTES DEVELOP BETWEEN UNITED STATES FISHERMEN AND FOREIGN NATIONALS WITH U. S. JURISDICTION, THE SENATE VERSION GRANTS A HARVEST PREFERENCE TO THE UNITED STATES FISHERMAN. IT ALSO LEAVES THE AUTHORITY TO DECIDE SUCH DISPUTES WITH THE REGIONAL COUNCIL. THE COMMISSION ENDORSES THIS CONCEPT.

INTERNATIONAL AGREEMENTS

CURRENTLY MANY INTERNATIONAL FISHERY AGREEMENTS ARE IN FORCE THROUGH EXECUTIVE ORDER. THE HOUSE VERSION OF THE 200 MILE LIMIT BILL WOULD PROVIDE FOR CONGRESSIONAL CONCURRENCE ON INTERNATIONAL FISHING AGREEMENTS. THE COMMISSION SUPPORTS THIS PROPOSAL.

LIMITED ENTRY

THE COMMISSION CAN FIND NO JUSTIFICATION FOR A FEDERAL LIMITED ENTRY PROGRAM. BOTH THE SENATE AND HOUSE VERSIONS ALLOW FOR THE ESTABLISHMENT OF A FEDERAL PROGRAM WITH THE SENATE VERSION ALLOWING IT ONLY ON INITIATION BY THE REGIONAL COUNCILS. THE COMMISSION RECOMMENDS THE EXCLUSION OF ANY AUTHORITY FOR THE ESTABLISHMENT OF A FEDERAL LIMITED ENTRY PROGRAM.

GUIDELINES FOR REGIONAL COUNCILS

THE SENATE VERSION OF THE BILL AUTHORIZES THE SECRETARY OF COMMERCE TO ESTABLISH GUIDELINES FOR THE OPERATION OF THE REGIONAL COUNCILS. THE COMMISSION RECOMMENDS THAT THE GUIDELINES BE ESTABLISHED BY THE REGIONAL COUNCILS THEMSELVES.

FOREIGN STATISTICS

UNITED STATES FISHERMEN HAVE OFTEN BEEN HAMPERED IN THEIR EFFORTS TO PROTECT THE NATION'S RESOURCES BY A LACK OF ACCURATE STATISTICS ON FISHING ACTIVITIES BY FOREIGN FLEETS. THE COMMISSION RECOMMENDS THAT THE REPORT OF THE CONFERENCE COMMITTEE CLEARLY DEFINE THE TYPE OF STATISTICS REQUIRED FROM FOREIGN GOVERNMENTS.

EMERGENCY ACTION

IN TIMES OF GENUINE EMERGENCY, THERE MAY NOT BE TIME FOR REACTION BY THE SECRETARY OF COMMERCE. FOR THIS REASON, THE COMMISSION RECOMMENDS THAT RESPONSIBILITY TO APPROVE EMERGENCY MEASURES SHOULD BE GRANTED TO THE SECRETARY'S REGIONAL REPRESENTATIVE WHO IS MORE FAMILAR WITH LOCAL CONDITIONS. THIS EMBODIES THE CONCEPT OF MANAGEMENT BY EMERGENCY ORDER WHICH IS A CORNERSTONE OF ALASKA'S FISHERIES MANAGEMENT.

FISHERIES MANAGEMENT REVIEW BOARD

THE SENATE BILL ESTABLISHES A NATIONAL FISHERIES MANAGEMENT REVIEW BOARD. THE COMMISSION FEELS THE NATIONAL CHARACTER OF THE BOARD DILUTES THE LOCAL COUNCIL APPROACH AND COULD LEAD TO FRUSTRATION AND UNNECESSARY DELAY IN IMPLEMENTING COUNCIL DECISIONS. THE COMMISSION BELIEVES COURT REVIEW ALONE WILL ADEQUATELY PROTECT THE RIGHTS OF ALL CONCERNED.

VESSEL FORFEITURE

THE HOUSE VERSION PROVIDES FOR THE FORFEITURE OF VESSELS FOUND IN VIOLATION OF THE LAW. THE COMMISSION FEELS VESSEL FORFEITURE IS AN EFFECTIVE AND NECESSARY DETERRENT TO VIOLATORS.

EXTENT OF JURISDICTION

THE COMMISSION RECOMMENDS THE SENATE VERSION WHICH RECOGNIZES THE UNITED STATES POTENTIAL HARVEST RIGHTS WITHIN THE 200 MILE LIMIT AND EXTENDS U. S. CONTROL OF ANADROMOUS SPECIES THROUGHOUT THE MIGRATORY RANGE.

FINDINGS AND STATEMENT OF POLICY

GENERALLY EITHER VERSION IS ACCEPTABLE. BUT THE SENATE VERSION PROVISION EMPHASIZING THE IMPORTANCE OF DEVELOPING A U. S. FISHERY FOR BOTTOM FISH IN ALASKAN WATERS SHOULD BE INCLUDED.