

535 HRES - SJR 36 - SJR 37

Mr. Joe McCracken, Western Forest Industries  
Association, Portland

Mr. Bob Robertson, National Association of  
Independent Lumbermen, Washington, D. C.

Mr. Mike Harter, Consultant to the Advisory Commission  
on Intergovernmental Relations, Washington, D. C.

Mr. George Cook, County Supervisors Association of  
California, Sacramento

Mr. Doug Leisz, Regional Forester for Region 5, U.S.  
Forest Service, San Francisco

Mr. Bob Ground, United States Forest Service  
Region 5, San Francisco

Mr. Bob Tyrrel, U.S. Forest Service,  
Region 6, Portland

Mr. Keith Thompson, U.S. Forest Service,  
Region 1, Missoula

Mr. John Thompson, Georgia Pacific Corporation,  
Portland

Mr. John Birch, California Office Bureau of Land  
Management, Sacramento

Mr. Bob McCarthy, California Office Bureau of Land  
Management, Sacramento

Mr. Larry Morandi, Council on Inter-governmental  
Relations, San Francisco

Boise, Idaho  
August 7 and 8, 1976

Ms. Louise Shadduck, Idaho Forest Industry Council,  
Coeur d'Alene

Mr. Dave Graham, U.S. Forest Service, Region 6,  
Portland

Mr. Bill Carter, U.S. Forest Service, Umitilla  
National Forest, Oregon

Mr. R. J. Bruning, Special Assistant to Governor Andrus,  
Boise

Mr. Jay Gruenfeld, Potlatch Corporation, President,  
Western Forest Resource Council

Mr. Glenn Parsons, Boise Cascade Corporation,  
Le Grande, Oregon

Mr. John McGhehey, Boise Cascade Corporation,  
Le Grande, Oregon

Mr. George Kline, Staff Member of Senator Frank Church,  
Idaho

Mr. Harold Geren, Environmental Protection Agency,  
Boise

## RESOLUTIONS: 1974 TO PRESENT

As this document is the First Annual Report of the Task Force, a chronological record is presented of the resolutions adopted by the Task Force since its inception in 1974.

At the first meeting in mid-1974, a number of issue areas were assigned to Task Force members for special study. After three more meetings involving testimony from a wide range of experts, the investigations of Task Force members led to a series of findings and recommendations adopted in December, 1974.

New issues appeared in 1975 and after considerable study led to resolutions presented in the record. Not included in the record are several letters documenting the role of the Task Force in urging the Environmental Protection Agency to utilize DDT to control tussock moth infestations.

With the hiring of full time staff in 1976, the Task Force greatly increased its visibility. The main form of action is the Task Force resolutions, with vigorous follow-up by letter and personal contact. The 1976 resolutions are presented as part of the record.

## RESOLUTIONS -DECEMBER 13, 1974

### FORWARD

The Western States Legislative Forestry Task Force is a permanent fact-finding body created in 1974 by the State Legislatures of California, Oregon, Washington, Idaho and Montana. Comprised of four legislators from each of the five member states, the Task Force is charged with the development of coordinated policies to guide the actions of federal agencies and the states so as to assure the maximum public benefit from the management of western timber resources, including those under federal jurisdiction.

On the basis of prior public hearings conducted in Idaho, Oregon and California, the Task Force adopted the following policy recommendations at its December 12-13, 1974 meeting in San Francisco.

### PUBLIC EMPLOYMENT

#### Findings

Due to inadequate congressional appropriations, there exists a substantial backlog of reforestation and timber stand improvement work which needs to be undertaken on national forest system lands. In its February, 1974 report to the Congress, the Office of the Comptroller General urged that such work be funded to assure that future national timber demands are met. Current economic conditions have resulted in

severe unemployment in the timber resource areas of the West. Increased public employment authorizations, particularly the recent expansion of the Comprehensive Employment and Training Act program, provide important opportunities for undertaking the recommended improvements on national forest lands.

#### Recommendation

It is recommended that Congress and the President of the United States provide the funding and authority necessary to expand public employment on the national forests directed at reforestation, timber stand improvement and related tasks in order to alleviate unemployment in the timber resources areas of the West and to assure future timber supplies for the nation.

It is recommended that each western state pursue, on an emergency basis and in cooperation with appropriate federal officials, the identification of specific public employment opportunities on national forest lands.

### TIMBER SALVAGE

#### Findings

In its recent report on the subject to the Congress, the General Accounting Office concludes that the annual loss of timber due to natural mortality is equal to that amount harvested each year

from the national forests. Salvage or sanitation sales to recover dead or dying trees are, due to their small size and scattered location, difficult to negotiate under the limitations prescribed in existing federal law. The modernization of these limits or, in the alternatives, the express authorization of funds for the conduct of salvage or sanitation sales would contribute both to the biological integrity of the national forests and to the increased availability of forest products.

#### Recommendation

It is recommended that the Western States Legislative Forestry Task Force consult with the Chief of the United States Forest Service and interested members of Congress toward identifying the most effective means of expanding salvage and sanitation timber sales on the national forests.

### NATIONAL ENVIRONMENTAL POLICY ACT

#### Findings

The National Environmental Policy Act has given increased visibility and improved public access to decisions affecting the management of the national forests. We heartily support such a purpose. Implementation of the Act has been handicapped, however, by inadequate statutory definition of those agency activities which come within its provisions requiring the preparation of environmental impact statements. Further, funds for implementing the Act (estimated at \$22 million per year) have not been expressly authorized by

Congress, but have been diverted, instead, from necessary on-going national forest protection and improvement programs.

The inadequacy of statutory standards and the insufficiency of implementation funds have given rise to litigation which has unnecessarily and unreasonably restrained the legitimate utilization of national forest resources.

#### Recommendation

It is recommended that appropriate committees of the Congress conduct oversight hearings concerning the impact of the National Environmental Policy Act on national timber management programs. Such hearings should evaluate the causes of legal actions currently restraining timber harvest programs and seek remedies to such disputes through the development of more precise statutory standards to guide implementation of the Act.

It is recommended further that funds for the implementation of the National Environmental Policy Act be so designated in the budget of the United States Forest Service in lieu of the present practice of diverting resource protection and improvement funds for such purpose.

### FOREST ROAD FUNDING

#### Findings

United States Forest Service road construction standards, when applied to the development of roads required as a condition to timber sales, result in

roads which are superior in quality to those strictly required for the seasonal transport of forest products. The costs of such roads, beyond those costs properly allocable to timber sales activities, should be borne by the general public. Further, the excessive road development costs currently charged to timber sales reduce the net receipts from such sales and correspondingly reduce the shared revenue entitlements of local governments.

#### Recommendation

It is recommended that the United States Forest Service revise its policies for the allocation of costs to forest road developments to more accurately reflect the full range of public benefits accruing from improved national forest road facilities.

It is recommended, further, that Congress increase appropriations designated for national forest road development in order to facilitate resource protection and management capabilities and to enhance public use and enjoyment of the national timberlands.

RESOLUTION - FEBRUARY 22, 1976

RELATIVE TO THE CHRISTMAS TREE  
INDUSTRY

The Western States Legislative Forestry Task Force finds that the Christmas tree industry represents an important economic activity within the member states. The Task Force is concerned by evidence presented to it that U. S. Forest Service officials have failed to recognize adequately the potential role of the national forest system in the production of Christmas trees and, thereby, have diminished Christmas tree harvest opportunities, adversely affected the domestic Christmas tree industry and reduced economic opportunities in the forest industry communities.

The Task Force recommends that the U. S. Forest Service review Christmas tree culture and harvest activities on the national forest system, in cooperation with persons knowledgeable about the Christmas tree industry, toward devising policies and programs to enhance Christmas tree production thereon.

RESOLUTION - JULY 26, 1975

RELATIVE TO AMENDING THE  
WILDERNESS ACT TO PROVIDE A  
TIMBER REPLACEMENT PROVISION  
THEREIN

The Western States Legislative Forestry Task Force, having evaluated the national Wilderness Act program, finds that the unrestrained inclusion of public commercial forest land in the Wilderness Preservation System threatens to substantially diminish the timber production base of certain units of the national forest system, reducing, thereby, timber-related economic activity vital to the welfare of the people of the Western States.

The Task Force has determined that, in addition to wilderness classifications, other factors, such as disease and fire, have diminished the net timber productivity of the national forest system, diminishing, thereby, its ability to contribute adequately to the nation's forest products needs.

Finally, the Task Force finds that there is no deliberate national fiscal policy sufficient to enhance nor even maintain the timber productivity of national lands generally, nor to counteract timber losses attributable to wilderness classification of commercially-useful timber lands, specifically.

Based on the foregoing conclusions, the Western States Legislative Forestry Task Force recommends that the

Wilderness Act be amended to provide that each legislative measure incorporating national lands in the Wilderness Preservation System must, as well, authorize and appropriate funds to the Department of Agriculture or Department of Interior, as appropriate, to permit such agency to replace, on national lands available for harvest, the timber production lost to harvest as result of such a wilderness measure.

## RESOLUTION

Be it resolved this 23rd day of March 1976, by the Western States Legislative Forestry Task Force that this statement of position be presented to the Congress.

The Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, strongly commends those members of Congress concerned with the disruptive impact on forest resource management and the economy resulting from the Monongahela and Tongass court decisions.

States within the jurisdiction of the Ninth Circuit Court of Appeals harvest about 85% of the total national forest timber, pay about 90% of the national forest gross revenues, and receive about \$112.5 million for roads and schools in national forest counties. Congressional action could directly and indirectly affect hundreds of thousands of jobs in the five western states.

The Western States Legislative Forestry Task Force also recognizes the need to preserve and enhance all of the productive elements of the forest resource base. We believe that this can best be accomplished by giving forest managers discretion in the use of proven management techniques.

We therefore wish to go on record as being in full support of the measure as introduced by Senator Humphrey and

Congressman Johnson (S. 3091 and H.R. 12503).

It has also come to the attention of the Western States Legislative Forestry Task Force that the President's Budget for the 1977 Fiscal Year proposes to cut Clarke-McNary, Section 2 funds from the \$22.596 million in congressional appropriations for the 1976 Fiscal Year to \$11.712 million. In addition, the Administration has declared its intention to phase out CM-2 appropriations completely in the 1978 Fiscal Year. Congressional appropriations for forest fire prevention and suppression under Section 2 of the Clarke-McNary Act, have been a vital factor in the protection of forest and water resources in the United States for fifty years. Without this federal support many states could not maintain their forest fire protection programs at the current levels.

The Western States Legislative Forestry Task Force therefore, strongly urges Congress to restore the full \$22.596 million CM-2 appropriations for the 1977 Fiscal Year and to resist any attempt to phase out CM-2 program in the future.

## RESOLUTION

Be it resolved this 7th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force on March 23, 1976, resolved to support S. 3091 as introduced by Senator Humphrey;

Whereas S. 3091 has been significantly amended during the Senate mark-up sessions; and

Whereas the Western States Legislative Forestry Task Force opposes the following amendments:

1. Section 5, NATIONAL FOREST SYSTEM RESOURCE PLANNING (to amend in Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974), subdivision (6) (H) (iv), stating:

"(iv) provide that increases in allowable harvest based on intensified management practices such as reforestation, thinnings, or tree improvement, shall be made only upon demonstration that such practices justify increased allowable harvests and that the outputs projected are being secured;"

2. Section 13, LIMITATIONS ON TIMBER REMOVAL (to amend new Sections 13 and 14 to the Forest and

Rangeland Renewable Resources Planning Act of 1974) subdivision (a) stating:

" The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forest (sic) for purposes of determining (sic) the sustained yield. "

3. Section 14, AMENDMENTS TO ORGANIC ACT (new Section 14) stating:

"(14) The length and the other terms of the contract shall be designated to promote orderly harvesting consistent with the principles set out in Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. . . The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more

unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the extension could be in the public interest."

4. Section 20, TRAIL SYSTEMS ACT (amends Section 4 out of the Act) stating:

"Sec. 4. The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: or provided, that where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. (16 U. S. C. 535)"

Be it resolved:

The Western States Legislative Forestry Task Force urges the United States Senate to defeat these amendments. The Task Force reaffirms its support of S. 3091 as introduced and should the amendments cited above not be defeated the Task Force will reluctantly be compelled to reverse its former position in support of S. 3091.

## RESOLUTION

Be it resolved this 7th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the federal government is a major landholder in the five Western States, and on many acres pay no local taxes;

Whereas The Public Land Law Review Commission concluded that existing revenue sharing laws are generally inadequate and have not kept pace with increasing financial needs of local jurisdictions;

Whereas previous in-lieu-of-tax proposals have been complex and expensive to administer;

Whereas local governments today, more than ever, badly need funds to support essential services;

Whereas H. R. 9719, in a simple and equitable manner, provides payments to local government for revenue losses cause by federal ownership;

Be it resolved:

The Task Force endorses H. R. 9719, as reported by the House Interior Committee and urges members of Congress to expedite its passage.

## RESOLUTION

Be it resolved this 8th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force recognizes the need to protect water quality and strongly supports efforts to do so;

Whereas within the five Western States there are already programs of environmental control such as forest practices, coastal zone management, and stream channel alteration acts;

Whereas Section 208 of Public Law 92-500 provides that states shall have primary responsibility for monitoring water quality;

Whereas the present interpretation of Section 404 of Public Law 92-500 grants the Army Corps of Engineers powers of permit control over water quality beyond that intended by Congress, and this is an inappropriate function for the Corps and likely to create administrative confusion; and

Whereas immediate action, prior to July 1, is necessary to prevent the adverse effects of this interpretation from taking place;

Be it resolved:

The Western States Legislative Forestry Task Force supports the "Breux Amendment" to H.R. 9560, as adopted by the House Committee on Public Works and Transportation on April 13, 1976, which clarifies the definition of "navigable waters" and the Army Corps of Engineers' authority to regulate dredge and fill activities.

## RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the various multiple uses in the national forests compete for the land use base;

Whereas Congress has not reviewed the recommended plan proposed by the United States Forest Service under the Forest and Rangeland Renewable Resources Planning Act of 1974;

Whereas as a result Congress has failed to explicitly define priorities and national targets for the desired level of each use;

Whereas the failure to define priorities and target levels for each use has resulted in haphazard, de facto land use planning in the national forests;

Whereas, in the absence of targets, there has been a continuing withdrawal of national forest land for non-timber uses;

Be it resolved:

The Western States Legislative Forestry Task Force urges Congress to review the recommended plan submitted by the U.S. Forest Service under the Forest and Rangeland Renewable Resources

Planning Act of 1974.

The Task Force further urges Congress to set national targets for the production of outputs from the national forests.

The Task Force also urges that Congress review the timber supply needs of the country to see that targets set for non-timber uses do not prevent the attainment of timber supply goals.

## RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force supports legislation that provides flexibility to the U. S. Forest Service to manage the national forests in their diverse conditions;

Whereas strong directives are proposed to protect the environment in the development of timber harvest plans;

Whereas HR 15069 is substantially consistent with the introduced version of HR 12503 as supported by the Task Force;

Be it resolved:

The Western States Legislative Forestry Task Force endorses HR 15069, the National Forest Timber Management Reform Act of 1976, as reported by the Forests Subcommittee of the House Agriculture Committee.

## RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Forestry Task Force, created by the states legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas massive insect infestations of our national forests and nearby private timberlands have disrupted desirable long term management and multiple use goals;

Whereas the mountain pine beetle infestation alone has reached epidemic proportions and already destroyed well over a billion board feet;

Whereas current research levels are so inadequate and response times so slow as to allow defoliating and tree-boring insects to cause major damage directly and through the severe fire hazard presented by dead or defoliated trees;

Whereas it is well known that the younger and stronger trees produced by more intensive forest management are known to be far less vulnerable to insect infestation and fire;

Whereas projected losses will not only disrupt production of needed wood products, but will also intensify the destruction of wildlife habitat and increase levels of unemployment in the

wood products and housing industries;

Therefore, be it resolved that the Western States Legislative Forestry Task Force urges Congress to:

- (1) Order completion at the earliest possible time of the Western Forest Insect Issues Study now being conducted by the U.S. Forest Service;
- (2) Fund an expanded insect research and control program for the western forests;
- (3) Create summary procedures to reduce the time necessary to register and to apply approved pest controls;
- (4) Fund more intensive timber management and salvage programs in areas of actual or high potential infestation;
- (5) Instruct the U.S. Forest Service to develop cooperative programs with state and private owners to encourage maximum access to infested areas by, for example, waiving road fees on national forest roads.



J WILSON STEEN Chairman  
Idaho State Senator

ROBERT J. BROWN, Vice-Chairman  
Montana State Senator

CALIFORNIA

Senator John Garamendi  
Senator Ray Johnson  
Assemblyman Barry Keene  
Assemblyman Norm Waters

IDAHO

Senator Kermit Kiebert  
Representative Gary Ingram  
Representative C. Wendell Miller

OREGON

Senator Ted Hallock  
Senator Mike Thorne  
Representative Bud Byers  
Representative Robert "Bob" Brogioni

WASHINGTON

Senator Lowell Peterson  
Senator Pat Wanamaker  
Representative John Martins  
Representative Art Morcau

MONTANA

Senator John Manley  
Representative Dorothy Bradley  
Representative Joe Kanduch

RICHARD A. ROBYN  
Executive Secretary

STATEMENT BY THE WESTERN STATES  
LEGISLATIVE FORESTRY TASK FORCE TO THE GOVERNORS

My name is Barry Keene. I am a member of the Legislative Assembly in the State of California and am privileged to represent the North Coast Counties. I have, from its inception, been a member of the Western States Legislative Forestry Task Force. These remarks are on behalf of that Task Force.

The Western States Legislative Forestry Task Force was formed several years ago by concurrent actions of the State Legislatures in Montana, Idaho, Washington, Oregon and California. Each of the Legislatures appointed two Senators and two Representatives, or Assemblymen, to the Task Force. Creation of the Task Force reflected increasing concerns in our states about the management of the forest resources, particularly on Federal lands. The increasing importance of the forest resources to the economy of these states and the increasing demand for forest lands for recreation and wilderness uses was becoming apparent to all of our legislative bodies.

The first Chairman of the Task Force was Senator Randolph Collier of California. The present Chairman is Senator J. Wilson Steen from Idaho. We meet several times a year in the states represented on the

Task Force and have heard on the occasion of each of its meetings from recognized authorities representing a variety of viewpoints on various issues involving forest land management. The Task Force has studied and made its views known with respect to the implementation of the Resources Planning Act that was passed by Congress in 1974.

We were actively involved in seeking a resolution of the Monongahela problem which led to the passage of the National Forest Management Act in 1976. The Task Force has also presented positions in support of the traditional oral auction bidding procedure for Forest Service timber.

At the most recent meeting of the Legislative Forestry Task Force in Missoula, Montana, the Task Force discussed the second roadless area review and evaluation being carried on by the U. S. Forest Service. This issue is now generally known by the acronym of RARE II. The group unanimously felt that this roadless area question was the most serious forest resource issue with which we had yet dealt. It was this view that led to the unanimous decision to call for this meeting with the chief executive officers, or their representatives, of the five member states and Alaska. We wished to discuss the RARE II problem and to evaluate how each of the states might provide the most meaningful input to help resolve the problem.

The issue we are really addressing is how a large percentage of the National Forests in our states should be managed and for what purposes. A brief recital of how decisions have been made, or not made, for the National Forests will help to put our current dilemma in perspective. There are approximately 187 million acres of National Forest land in the National Forest System -- the national forests and national grasslands.

Management decisions on much of this land has not been difficult. Much of it is grassland and, therefore, its management for grazing and watershed protection has been almost a foregone conclusion. Significant parts of the System contain some of America's most treasured wilderness and have been so designated. Indeed, it is in the National Forests that the Wilderness System started nearly two generations ago.

However, at the beginning of this decade, the Forest Service had designated 50 percent of the total acreage as commercial forest land -- land capable of producing 20 cubic feet per acre per year of commercial forest crops, and also land that was, in fact, available for the harvest of commercial forest crops (as distinguished from commercial forest land in wilderness areas or other types of land withdrawals). It is important to keep in our mind that this represented 96 million acres of commercial forest land in the National Forest System. The annual allowable cut of 13.7 billion board feet was based on this acreage and the timber it contained.

Going back several decades, the planning on the commercial forest lands of the National Forest System has been conducted, summarized and published in documents called "Timber Management Plans". Until very recent years, the Timber Management Plan was the only planning document and was the key decision-making process respecting the commercial forest lands. The Timber Management Plan determined the management prescription for these forest lands. The plan considered all multiple use values, determined the volumes of standing timber, the current and prospective growth rates, applied Forest Service policies to the harvest scheduling, and for the ten-year period of the plan, determined an annual allowable

cut. This cut was the basis for the timber selling program. The procedures and requirements for timber management planning were and still are spelled out in regulations of the Secretary of Agriculture. Among other requirements, these regulations require that Timber Management Plans be redone every ten years.

In 1960, Congress passed the Multiple Use Sustained Yield Act which provided broad new guidelines for the management of the National Forests. After passage of this landmark piece of legislation, the National Forests started to develop Multiple Use Plans. Generally, such plans were prepared on each Ranger District. These plans, more precisely than ever before, guided management on the commercial forest lands and other lands in the Ranger Districts. Timber Management Plans, in turn, as they were revised on their ten-year cycle, reflected the management directions contained in these Multiple Use Plans.

It was in the late 50's and early 60's that the problem concerning the commercial forest lands surfaced. Commercial timber harvesting in the National Forests started in most areas after World War II. Prior to that time, commercial timber operations on the National Forests were either minor or nearly non-existent. We have, then, been harvesting timber from the National Forest commercial forest land base for about thirty years. I am told that on the average somewhere between 40 and 60 percent of the commercial forest land upon which the annual allowable cut is based, has been entered. That means some timber harvesting and roadbuilding has occurred on approximately that amount of the commercial land base. I do not have a firm estimate, but it appears reasonable that somewhere between 30 and 45 million acres of commercial forest land

base is unroaded, or roadless. Crucial to an understanding of our dilemma is a realization, however, that the timber sale programs on these Western forests over the past years have been based on all of the commercial forest land base, both roaded and unroaded. The timber sale programs have been based on the explicit assumption that the roadless area component of the commercial forest land base would, in due course, be developed or roaded in some fashion or other. In the late 50's and earliest years of the 60's significant controversy began to develop about the undeveloped or unroaded portions of the commercial forest land base. Pressure began to develop that these unroaded areas should remain unroaded and undeveloped.

Perhaps the first specific reflection of this concern was a letter from Senator Henry M. Jackson of the State of Washington to Secretary of Agriculture Orville Freeman in early 1961, raising concern about these undeveloped commercial forest lands in certain parts of the high country of the North Cascades. Senator Jackson requested that the Department of Agriculture review its policies regarding this high country. This request led to a thorough review on the National Forests in the Oregon/Washington region of management directions on the commercial forest lands in the high country. This study took place in 1961 and led to policy announcements in late 1962 known as the High Mountain Policy for Region Six. The policy delineated four broad resource associations. Each of these associations had key value delineations. In some associations, timber production was a key value and in other associations it was not. The Forest Service carefully stayed away from delineating

specific zones or uses on a map, but rather emphasized multiple use considerations, using the concept of key values. Also, in the decade of the 60's, was the great debate and study in the North Cascades in the State of Washington, leading to the creation by Congress of the North Cascades National Park.

Another key piece of legislation pertinent to today's dilemma was the Wilderness Act passed by Congress in 1964. That Act created a National Wilderness Preservation System. Only lands designated by Congress could be placed into this system, which was to be managed under specific legislative guidelines, calling for a concept of pure wilderness. The Wilderness Act blanketed into the Wilderness System all the existing wilderness and wild areas of the National Forests. Parts of the National Forest System designated at that time as primitive areas were to be studied within a ten-year time frame and recommendations made to Congress for inclusion or exclusion from the Wilderness System. Litigation after the passage of the Wilderness Act settled that lands contiguous to primitive areas under study should also be left in a primitive condition until these studies had been completed and a decision by Congress made. The 1964 Wilderness Act establishing the National Wilderness Preservation System contemplated that the System would be made up of lands from the national forests, national parks and wild life and game refuges, administered by the Fish and Wild Life Service. The national park and refuge lands were also to be studied within a ten-year time frame and recommendations made to Congress respecting lands within these two systems which should be a part of the Wilderness System.

Despite the deliberations and processes just enumerated, the controversy concerning the undeveloped or unroaded portions of the National Forest commercial forest land base continued to escalate through the decade of the 1960's. In response to this increasing controversy, then Chief of the Forest Service, Ed Cliff, by Forest Service Manual dated June, 1967, told the Regions that they should prepare an inventory of roadless areas. The Manual also prescribed standards for selecting the roadless areas and indicated that the inventory of roadless areas should be submitted by the Regions to the Chief's Office by June 30, 1970. In 1969, reflecting the fact that the Regions had not yet really begun to assemble this information, another Manual release was issued extending the deadline for submission of the material to the Chief's Office to June 30, 1972.

The objective of Chief Cliff, I understand, was to obtain an inventory of roadless areas (areas not already in the Wilderness System or in primitive areas then being studied) so that that portion of the roadless inventory which was thought to be suitable and needed as possible wilderness could be withdrawn from development of any kind (commercial forest land and timber withdrawn from the allowable annual cut base) until a more detailed study of each area's wilderness potential could be undertaken following the ten-year evaluation of the then existing primitive areas. It was Chief Cliff's hope that the remaining areas could continue under multiple use management, including timber harvesting, without controversy.

On January 1, 1970, fate intervened in the form of another landmark piece of legislation, the National Environmental Policy Act (NEPA).

Germane to our discussion, Section 102(c) of NEPA mandates that Federal decisions and proposed actions having a significant impact upon the environment should undergo a process known as the Environmental Impact Statement. NEPA mandates that actions under the purview of NEPA should be done by interdisciplinary teams and public involvement is mandated. The relationship between Section 102 of NEPA and proposed timber sales in roadless areas was not long in surfacing. Because of the implications of NEPA, Chief Cliff sent a memorandum to the Regions in 1971 which ordered them to submit their roadless inventories and their recommendations respecting the future of these roadless areas to Washington by June of 1972. The process, four years after the first Manual instruction, began in earnest. This study, announced in 1967, but really starting in 1971, is now known as RARE I (Roadless Area Review Evaluation -- first time). In June of 1972, the Regions did submit their list of roadless areas and their recommendations respecting those areas to Washington. 56 million acres of National Forest land (much of it commercial forest land) not then contained in any wilderness or primitive area, were identified. When the Regions presented their recommendations to Washington in the summer of 1972, it was stated that the lands not recommended by the Region for withdrawal for wilderness study would be immediately available for management, including timber harvesting. Environmental groups protested that there was grossly insufficient time in the summer of 1972 to evaluate 56 million acres of land. An impasse developed and the National Resources Defense Council (NRDC) took the Forest Service to Court. The NRDC asked the Court to mandate that no inventoried roadless area could be entered for development of any kind without going through

the procedure prescribed by Section 102(c) of NEPA. In other words, the inventoried roadless areas would have to undergo a land management planning process accompanied by an EIS before any development could take place. In an historic meeting which took place in the chambers of Federal District Judge Conte in San Francisco on December 1, 1972, the Forest Service agreed with the position of the NRDC and put out Forest Service Manual releases spelling out the new procedure. Based on these representations and the Manual releases, Judge Conte dismissed the lawsuit.

During 1973, the Forest Service concluded its RARE I process and issued its final EIS for RARE I -- a single document for the entire 56 million acres throughout the West. The RARE I decision was that about 12 million acres of the 56 million acres of roadless inventory should be withdrawn from any development pending detailed study and recommendation to Congress for wilderness. Concurrently, the annual allowable cut of the National Forests was reduced from 13.7 billion board feet to 13.3 billion board feet. The remaining 44 million acres of land as per the Conte lawsuit were to go through the land planning process, including EIS procedure. However, the commercial forest land in this 44 million acres continued to be a part of the allowable cut base upon which current timber sale programs are founded.

In the late 1960's, the Forest Service started discussing the pros and cons of a second planning system -- a system that was to be in addition to the Timber Management Plan System required by regulation. In 1972, instructions were sent by the Washington Office of the Forest

Service to the Regions describing this newly adopted second planning system referred to as Land Management Planning as distinct from Timber Management Planning. As a result of the Conte litigation, the Land Management Planning System of the Forest Service has blossomed and for several years now we have had parallel planning systems in effect.

Two seemingly minor, but truly significant, events followed. (1) The Forest Service designated on each of the National Forests large numbers of planning units for which Land Management Plans and EIS's would be prepared. On some forests, I understand as many as 60 individual units were to be planned. (2) Environmental groups made a presentation to then Secretary of Agriculture Earl Butz that in each Land Management Plan and EIS containing roadless areas, wilderness should be considered as an alternative. Secretary Butz concurred. In the past five years, some areas of the Western National Forests have gone through and completed Land Management Planning. Well over half of the roadless areas covered in these plans in the past few years are designated by the plans to remain roadless. Despite the fact that some progress has been made in five years in making land allocation decisions, in many parts of the West, Land Management Planning has bogged down, due to a series of appeals and threatened litigation. One of the principal forests in my own District, the Six Rivers National Forest, has yet to implement a final decision on a Land Management Plan. The result has been a serious deterioration in the timber sale program in that forest.

Two plans have been completed. One is under administrative appeal and the other is being contested in court. The USFS made a settlement

agreement which required them to produce a supplement to the EIS.

Because of this, no timber sales can be offered in these units.

The result of the increasing inability of the Forest Service to make land management decisions respecting the roadless areas has meant that the current timber sale programs have had to be concentrated for many years in areas that had already been roaded and in areas from which timber had already been sold. In many of the Western National Forests, this process cannot continue without serious environmental damage. In some Western forests which were heavily roadless, the timber sale programs have already been eroded seriously or completely halted. The best public record to date of this spreading crisis and its impending severity is contained in the record of two U.S. Senate Energy Committee hearings conducted in the State of Idaho this year by Senator Frank Church. Many of the forest industry dependent communities in Idaho spelled out the urgency for resolving decisions on the roadless areas so that their communities could continue to exist, stark testimony to the fact that the Land Management Planning process of the Forest Service, encumbered as it is by NEPA, has bogged down.

The Department of Agriculture has recognized this crisis. Assistant Secretary of Agriculture Rupert Cutler announced earlier this year a new process called RARE II (Roadless Area Review and Evaluation -- second time). RARE II involved the making of a new inventory of roadless areas under significantly different criteria than in the RARE I process. On the 18th of November in the Federal Register, the new inventory was announced. The new inventory of roadless areas contains about 56

million acres. All of the RARE I areas selected for study for wilderness are now abolished and are made part of the RARE II roadless inventory of 66 million acres. It is the Department's intention to evaluate the 2,100-plus roadless areas containing this vast acreage of National Forest land and come up with decisions by the end of 1978. The decision would place this land into three categories. The first category will be lands to be submitted to Congress for inclusion in the National Wilderness Preservation System. The second category will be lands that should be continued under multiple use management, including timber harvesting. The third category of lands will be those where further study is required. The whole RARE II process will be accompanied with an Environmental Impact Statement. The impact statement will of necessity, be similar to the statement which accompanied the RARE I process. It will be nationwide in scope -- programmatic. Even though the Forest Service indicates the impact statement accompanying RARE II will in some way or other be broken down on a state-by-state basis, the type of EIS contemplated will, of necessity, be vastly different from the type of impact statement necessitated by the Conte litigation. Attorneys familiar with environmental law with whom I have discussed this subject are unanimous about two things: (1) the type of EIS contemplated by the Forest Service for returning roadless areas to multiple use management is unlikely to withstand legal challenge; and (2) even in the unlikely event that such a procedure would withstand legal challenge, tremendous delays caused by appeals and litigation before arriving at final decisions would be inevitable.

The course for resolving the roadless area problem has been blazed by Senator Church of Idaho in what is known as the "Gospel Hump Case". To eliminate the threat to a substantial Idaho community, caused by the inability of the Forest Service to make timber in roadless areas available for harvest, Senator Church asked that local environmental groups and local interested citizens negotiate for a compromise in the Gospel Hump area. The local groups, under dire economic duress, did finally agree to a Gospel Hump compromise. Senator Church has inserted that compromise in the American Endangered Wilderness Bill which is now going through Congress. The essence of the Gospel Hump compromise was the instant creation of a 206 thousand acre wilderness area, the circumvention of the National Environmental Policy Act for a few years with respect to the management of 45,000 acres which would be available immediately for timber harvest. With respect to an additional 92,000 acres, additional planning should take place for multiple use with the timber to continue as a part of the allowable harvest base. A key fact about the Gospel Hump legislation is that with respect to the lands to be returned to multiple use, the legislation bypasses the National Environmental Policy Act for a few years. NEPA is a creation of Congress and only Congress can change it.

The impact of one other recent piece of legislation deserves comment. The Resources Planning Act passed by Congress in 1974 required that the Department of Agriculture prepare an assessment of the fiber needs of the United States. The Act also required that the Department come up with a program for the National Forests that would best fulfill the need

No  
PAGE 14  
IN FILE

American Endangered Wilderness Bill. This bill contains several wilderness area designations in at least seven Western states. One of the things we are observing is that with respect to the decisions for wilderness designation in each state, the Congressional Delegation from that state has great influence. We are also observing that the process by which the Congress can take testimony and evaluate tradeoffs in their proper context is limited. Recognizing these realities, the Legislative Task Force feels that each Western state has a major role to play in evaluating the National Forest land situation in its state and in making its own recommendations to its own Congressional Delegation respecting the resolution of RARE II. On several occasions this year, officials of the Department of Agriculture have urged environmental and user groups to get together and try to work out compromises. This process is unwise and unworkable. It is unrealistic to expect such agreements except under dire economic distress such as in Central Idaho. Where lies the public interest in such a process? We feel the states have a role in trying to evaluate the public interest in each state and that we may be able to assist our respective Congressional Delegations, leaving finally to Congress the responsibility of seeing that the national interest is satisfied. The Task Force recognizes that some states may not wish to become involved in this process. We also recognize that states who may become involved will do so in different ways. We only urge that each state does become involved and involved in depth.

In coming to grips with the roadless area problem, two basic steps are involved:

I. Collection and presentation of basic information

A. Preparation of maps and accompanying statistical information showing the commercial forest land base for each National Forest within a State at the beginning of this decade. Information is needed about the forest land base, by forest, that made up the 96 million acres of commercial forest land in the National Forest System which was mentioned above.

B. Preparation of map overlays and accompanying statistical data describing what has happened to the commercial forest land base, by forest, since the beginning of this decade.

C. Preparation of map overlays and statistical data relating to the RARE II inventory, including the amount of commercial forest land and timber inventory included.

D. Display of the current five-year timber sale program for each forest for the purpose of determining the degree of threat the roadless area problem has to the local communities. This information would indicate how much time there is left to resolve the problem.

E. Preparation of maps and accompanying data showing the existing wilderness areas, primitive areas officially designated wilderness study areas, areas withdrawn from timber harvest through other land designated, such as disbursed recreation zones, semi-primitive areas, high mountain zones, etc.

F. Accumulation of information, by states and forests, if possible, of the commercial forest land base upon which the RPA timber production goals were predicated.

G. Collection of information about the amount of wilderness areas, by states, upon which the RPA wilderness program was established.

H. Any other significant information.

Two types of assistance would be needed in obtaining this basic information. One would be forestry expertise that could obtain the basic forestry and land information necessary. In addition, expert public relations help would be required to assist in taking the basic information and putting it in form that could be readily understood by laymen such as ourselves and the general public. Too often masses of information become meaningless because they are simply incapable of being understood.

The Task Force sees some merit in the possibility of the data-gathering being done on a centralized basis. We note that the Pacific Northwest Regional Commission is now funded and is beginning a major forestry policy study. It might be possible for the acquisition of the data to be done under the leadership of the Northwest Regional Commission with the States of Montana and California contributing on some appropriate basis. The advantages of a centralized data-gathering operation are, among others, cost efficiency, standardization of data and concepts, and time. Time is of the essence in starting the collection of the basic data. We are assured of complete cooperation of the Forest Service in the effort.

II. Following the collection of the information there would then need to be an evaluation and, ultimately, a recommendation respecting

the disposition of the roadless areas contained in RARE II. Each state would have to decide this process for itself.

This Legislative Task Force would be pleased, from time to time, to provide a forum for reports on the activities and efforts of each of the states. Any other suggestions for help from the Task Force would be appreciated.

J. WILSON STEEN  
DISTRICT NO. 22  
CAMAS, ELMORE, GOODING  
AND TWIN FALLS COUNTIES

HOME ADDRESS  
P.O. DRAWER B  
GLENN'S FERRY, IDAHO 83623  
PHONE 366-7956 (RES.)  
384-3570 (STATEHOUSE)



COMMITTEES  
STATE AFFAIRS  
JUDICIARY AND RULES  
TRANSPORTATION

# Idaho State Senate

ASSISTANT MAJORITY LEADER  
CAPITOL BUILDING  
BOISE

June 10, 1977

MEMO TO: Idaho Legislative Council

FROM: Senator J. Wilson Steen, Chairman  
Western States Legislative Forestry Task Force

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Since its inception, in 1974, the Western States Forestry Task Force has developed into an effective liaison between the legislative bodies of the member states, the national congress, and federal agencies involved with forest management.

As particular issues affecting forest management arise, i.e., clearcutting, sealed or oral bidding of timber sales, wilderness areas, drought, etc., the Task Force considers the issue or problem, especially with respect to legislative action that may be needed to help solve or relieve the problem.

The WSLFTF has experienced excellent cooperation from involved agencies of government, industry, and other interested groups who appear before the Task Force, giving testimony and answering questions.

After the Task Force arrives at a decision, their recommendation is usually submitted to all concerned in the form of a Resolution, many times supported by correspondence from each Task Force member to his Congressional Delegation, or from the Executive Secretary of the Western States Legislative Forestry Task Force.

Because of certain federal legislation and new agencies of the federal government, such as the EPA, it became apparent to some of the legislators of the western states that the impact on forest management would be far-reaching, therefore, the Western States Legislative Forestry Task Force was originated to give the five western states who possess and depend a great deal upon forest products a unified position when considering proposed changes of forest practices under the EPA and Resources Planning Act.

One of the first issues the Task Force became involved in was the clearcutting problem brought on by the injunction prohibiting clearcutting of forest lands after the Monongahela and Tongass National Forest decisions. The Task Force reviewed the case and decided it was important enough to travel to

Washington, D.C., as a full committee group to meet with out Western Congressmen and testify before Congressional committee hearings being held on proposed legislation concerning clearcutting in forest management. The Task Force believes this trip was effective in influencing Congress to take a moderate approach to clearcutting laws and regulations that apply to forest management practices in our western states.

Another issue of great importance to the existence of many western communities dependent upon forest products that the Task Force considered and took action on was sealed or oral bidding of timber sales on national forest land. There was a strong effort by a few congressmen to exclude oral bidding of timber sales because of the possibility of collusion among the bidders. After considerable study and information brought before the Task Force, the committee felt going to exclusive sealed bidding of timber sales would not be fair or beneficial to the forest product industry and took a position of opposing only sealed bidding and recommended both oral and sealed bidding be used in timber sales dependent upon circumstances of community dependence and collusive bidding practices. The Task Force felt strongly enough about this to send the Chairman to Washington, D.C., in February 1977, to testify before the Agriculture Department Forest sub-committee who was holding hearings on sealed and oral bidding practices of timber sales. The WSLFTF believes their input into this issue was beneficial in helping influence the drafting of new rules and regulations that appear to be reasonable for sealed and oral bidding of timber sales, and provides protection to communities dependent upon forest resources.

Other issues and problems considered by the Task Force have been water quality problems related to forest practices and management and the changes that would prevail if the Corps of Army Engineers were given exclusive management control over all waters of our nation under the Environmental Protection Act. The Task Force has taken the position that sufficient regulation and management of water quality as it relates to forest practices can be adequately administered by the individual states through their own environmental agencies and the Forest Practices Act, where enacted. The Task Force recommended the federal government retain the original definition of a navigable stream, as used by the Corps of Army Engineers in their past administrative functions and not give them full jurisdiction over all waters and wet lands of our country.

The latest concern and study being performed by the Task Force is on the drought and the effect it is having upon forest management. Considerable testimony was presented at the last Task Force meeting in San Francisco on June 4-5. Dr. Pierre St. Amant, who is with the U.S. Naval Meteorology and Weather Modification Department gave a very interesting speech on weather history, presenting a film made by using satellite weather surveillance photographs put together in a sequence covering the year of 1976. As the film progressed, Dr. St. Amant explained the action of the cloud movements and resulting weather conditions. The Task Force was surprised to learn there does not seem to be any research or extensive study, federal or state, in long range weather forecasting. Dr. St. Amant indicated there are possibly three studies being made on a university level, but their resources are limited because of funding. The Task Force did take action by drafting a resolution recommending federal and state support of an extensive study for long range weather forecasting. This could be quite important in determining programs for drought administration.

Idaho Legislative Council

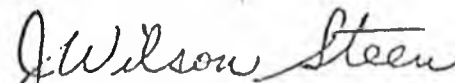
June 10, 1977

Page 3.

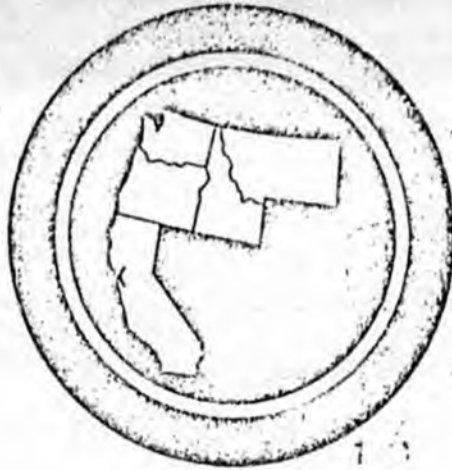
The issue of Instant Wilderness expansion was also reviewed at the San Francisco meeting. The Task Force has been considering various wilderness proposals throughout the existence of the committee. The instant expansion of wilderness boundaries without following previous study and hearing procedures was opposed by the committee. The Task Force felt an instant expansion of wilderness boundaries would result in a sudden adjustment affecting forest related industries thus causing an immediate change in the economic base of dependent communities. If further expansion of wilderness areas is needed and feasible it should be done after adequate study and on a time frame to provide community adjustment.

Many other forest management related subjects are also considered by the Task Force but we have covered only the major ones in this report because of the length of a report needed to detail the full work of the committee. Insect control, other diseases of timber, endangered species both fauna and flora, recreation uses, and wild life are some of the other subjects considered.

Respectfully submitted,



J. Wilson Steen, Chairman  
Western States Legislative  
Forestry Task Force



August 14, 1977

Representative Mike Miller  
Chairman, Alaska Legislative Council  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

The Western States Legislative Forestry Task Force has authorized me to communicate with you in the hope of initiating a dialogue with the aim of bringing the great state of Alaska into the Task Force's membership.

The Task Force is comprised of twenty state legislators, (two Senators and two Representatives), from the states of Idaho, Montana, California, Oregon, and Washington. We meet approximately every two months to review national legislative proposals and to analyze actions and budgets of federal agencies having jurisdiction over public resource lands. After receiving expert testimony in various forestry-related matters and exchanging our ideas and opinions, we generally take action on common problems. As a member of the Oregon delegation since the creation of the Task Force, I can say we have defined a number of common problems and have taken concerted action all to the member states' benefit. The membership of the Task Force believes that Alaska may share the same concerns in forestry-related matters and that it would prove mutually beneficial if Alaska was a member of the Task Force.

For your information and review I am enclosing herewith copies of our Annual Report, dated December 15, 1976, which outlines our past activities and sets forth our income and budget; our financial summary as of April 30, 1977; and, a report submitted by our Chairman, Senator J. Wilson Steen of Idaho, to his Legislative Council.

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We have just completed our August 13 and 14 meeting in Spokane, Washington, and I am enclosing herewith, in addition to the above, a copy of our agenda. Our next meeting will be held in Montana in October.

I sincerely hope you will find the material of interest and are able to consider our membership offer in the near future. We would be most happy to meet with you to discuss this matter further if you so desire.

Sincerely,

Representative  
Bud Byers

Enclosures (4)

cc Senator J. Wilson Steen  
Representative Hugh Malone  
Senator John L. Rader

BB:RAR

SJR

36

# COMMITTEE REPORT

## HOUSE

FURTHER: \_\_\_\_\_

1/30/78

Date: 1/31/78

Mr. Speaker.

The Committee on RESOURCES has had SJR. 36  
Relating to land allocation in the Tongass National Forest.

under consideration and (a majority of the committee) (the committee reports it back as follows)

- 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 \_\_\_\_\_ ( ) new title                      ( ) same title  
( ) AND attaches a Letter of Intent                      ( ) New Fiscal Note  
( ) reports it back without recommendation  
( ) and recommends it be referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

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# Alaska State Legislature

## Senate

JUNEAU, ALASKA

MEMO            January 30, 1978  
FROM            SENATOR ZIEGLER  
TO               REPRESENTATIVE MALONE  
                 REPRESENTATIVE COTTEN  
                 REPRESENTATIVE OSTERBACK  
                 REPRESENTATIVE COWPER  
RE                SJR 36

Representative Osterback has very courteously scheduled a hearing on the captioned resolution, pertaining to land allocation in the Tongass National Forest. It is temperate, moderate and merely urges the appropriate officials in Washington, in a gentle way, to allow the Forest Service a little more time within which to complete its homework.

I may be biased, but I can't see how anybody could object to the resolution. On the assumption that I am right, and Representative Osterback's committee moves the resolution, I would appreciate it if it could be promptly calendared, for it is the type ammunition which Representative Cowper can put to good use on the east coast.

Thanks for your anticipated cooperation.

RHZ/pkz

3



Alaska State Legislature  
Senate

JUNEAU, ALASKA

MEMO            January 30, 1978  
FROM            SENATOR ZIEGLER  
TO               REPRESENTATIVE MALONE  
                 REPRESENTATIVE COTTEN  
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RHZ/pkz

3

SJR

37

# PUBLIC NOTICE

## ALASKA ESKIMO WHALING COMMISSION MANAGEMENT PLAN

### Subpart A — Introduction

#### S100.1 Purpose of regulations

It is the purpose of the regulations contained herein to: (a) insure an efficient subsistence harvest of bowhead whales; and (b) provide a means within the Alaskan Eskimo customs and institution of limiting the bowhead whale harvest in order to prevent the extinction of such species.

#### S100.2 Scope of Regulations

The regulations contained herein apply to the subsistence hunting of bowhead whales by Eskimos located in the State of Alaska.

### Subpart B — Alaska Eskimo Whaling Commission

#### S100.11 Powers

(a) The Alaska Eskimo Whaling Commission (hereinafter AEWG) is empowered to administer the regulations contained herein to insure that the purposes stated in S100.1 of these regulations are attained.

(b) The AEWG is empowered to enforce these regulations by:

- (1) denying any person who violates these regulations the right to participate in hunting the bowhead whale.
- (2) acting as an enforcement agent for any governmental entity authorized to enforce these regulations.

(c) The AEWG is empowered to promulgate interim regulations that are in addition to, but not in lieu of, regulations contained herein.

#### S100.12 Duties

(a) The AEWG shall administer and enforce the regulations contained herein (including any interim regulations).

(b) The AEWG shall conduct village educational programs to facilitate compliance with these regulations, including training programs for whaling captains and crews.

(c) The AEWG shall initiate research for improvement of the accuracy and reliability of weapons.

### Subpart C — Regulations

#### S100.21 Definitions

(a) "bowhead whale" means a whale whose scientific name is *Balean mysticetus* and which migrates past whaling villages in Alaska.

(b) "captain" means the person in charge of a whaling crew.

(c) "harvest" means to kill and bring to shore or butchering area.

(d) "non-traditional weapons" means any

instrument that could be used to harvest a bowhead whale that is not a traditional weapon.

(e) "Scientific Committee" means the committee established pursuant to S100.26 of these regulations.

(f) "traditional weapon" means a harpoon with line attached, darting gun, shoulder gun, lance or any other weapon approved by the AEWG with the concurrence of the Scientific Committee, as such a weapon in order to improve the efficiency of the bowhead whale harvest.

(i) "harpoon with line attached" means. . .

(ii) "darting gun harpoon" means. . .

(iii) "shoulder gun" means. . .

(iv) "lance" means. . .

(g) "whaling crew" means those persons who participate directly in the harvest or attempted harvest of the bowhead whale and are under the supervision of a captain.

(h) "whaling village" means an Alaska Eskimo village in which resides a whaling captain and crew which participates in the harvest or attempted harvest of bowhead whales.

(i) "whaling season" means customary period of time in which the bowhead whale is harvested in either spring or fall.

#### S100.22 Registration

(a) All whaling captains of whaling crews shall file and register with the AEWG on forms provided by the AEWG for that purpose which discloses his name, address, age, qualifications as captain, names of crew members, and his willingness to abide by the regulations of the AEWG and to require his crew to abide by those regulations.

(b) The AEWG shall take into account any reading or language difficulties in developing procedures and forms for registration.

#### S100.23 Reports

(a) Each whaling captain shall be responsible for keeping a written record of the number of whales —

- (1) attempted to be harvested by using traditional weapons but not harvested; or
- (2) harvested by the captain or his crews.
- (3) all sightings of bowhead whales.

(b) Each whaling captain shall report the date, place, and time of any striking not resulting in harvesting and shall describe —

- (1) the size of the bowhead whale,
- (2) any known later attempted harvest or actual harvest of said whale, and
- (3) the reason for the captain or crew not harvesting the whale — e.g. environmental factors, the failure of traditional weapons, or other reason.

## PUBLIC NOTICE CONTINUED

(c) Each whaling captain shall make such other reports as the AEWG requires in order to accomplish the purposes of the regulations herein or in order to advance the scientific knowledge of the bowhead whale.

### S100.24 Permissible harvesting methods

(a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.

(b) "Traditional harvesting manner" means:

- (1) only traditional weapons shall be used; as defined in 100.21(f).
- (2) the bowhead whale may be struck with a harpoon darting gun with line and float attached or simultaneously with harpoon and shoulder gun or darting gun.
- (3) use of shoulder gun or darting gun:
  - (i) when accompanied by harpoon with or without darting gun
  - (ii) after a line has been secured to the bowhead whale
  - (iii) when pursuing a wounded bowhead whale with a float attached.

### S100.25 Traditional proprietary claim

The bowhead whale shall belong to the captain and crew which first strikes the bowhead whale in the manner described in S100.24.

### S100.26 Level of harvest

(a) The AEWG shall establish the levels of harvest and attempted harvest for each whaling village during each season. Such levels may be set by methods including, but not limited to, the following:

- (i) Specification of number of whaling crews permitted to harvest or attempt to harvest bowhead whales during specified periods;
- (ii) Specification of the size or age of whales which may be taken during specified periods, after consultation with the Scientific Committee.
- (iii) Specification of the number of whales that may be taken by each crew.

(iv) Specification of the number of bowhead whales which may be harvested or attempted to be harvested by each village.

(b) The level of harvest supported by scientific data shall be no greater than that necessary to meet the nutritional needs of the Eskimo inhabitants of the State of Alaska.

(c) In establishing the levels of harvest and attempted harvest, the AEWG shall not establish levels of harvest or attempted harvest greater than the carrying capacity of the bowhead whale stock supporting scientific data.

(d) The carrying capacity of the bowhead whale stock shall be determined by a Scientific Committee appointed by the Polar Research Board of the National Academy of Sciences. The Scientific Committee shall consist of nine members who are qualified by reason of their education and experience to make objective determination concerning the carrying capacity of the bowhead whale stock.

(e) In determining the carrying capacity of the bowhead whale stock the Scientific Committee shall not consider any prospective threats to the species resulting from oil and gas development within the habitat of such species. This section may further be implemented by the Scientific Committee and the AEWG at a later date.

(f) The mortality rate for attempted harvest shall be determined by the Scientific Committee.

### Subpart B — Penalties

#### S100.31 Denial of participation in harvest:

(a) Any person who the AEWG determines has violated the regulations contained herein shall, after opportunity for a hearing before the AEWG, be prohibited from harvesting or attempting to harvest the bowhead whale for a period of not less than one season nor more than five seasons.

(b) Any person who wilfully violates the regulations contained herein shall be subject to a fine of not more than \$1,000 assessed by the AEWG. No person shall harvest or attempt to harvest the bowhead whale until such fine has been paid.

The Alaska Eskimo Whaling Commission  
Barrow, Alaska  
Jacob Adams, Chairman



# Alaska State Legislature

## House of Representatives

Official Business

Special Committee  
on Subsistence

Pouch V  
State Capitol  
Juneau, Alaska 99811

Minutes: February 16, 1978  
Labor and Management Hearing Room 207, Assembly Building

The meeting was called to order by Rep. Nels A. Anderson, Jr., Chairman, at 2:40 p.m. Committee members in attendance were: Rep. William Akers, Rep. Sam Cotten, Rep. Steve Cowper, Rep. Joe Hayes, Rep. Al Nakak, and Rep. Nels A. Anderson. Rep. Leo Schaeffer was absent.

Rep. Thelma Buchholdt was present to testify on House Bills: 686 and 687; and House Joint Resolutions: 49 and 55. Also present was Rep. Al Osterback of the Resource Committee, George Utermohle, Research Analyst, and Joe Guthrie, Legislative Counsel.

Chairman Anderson gave an activity report and stated that a staff assistant has not been appointed, but that the secretarial position was filled by Elizabeth Ali.

Rep. Buchholdt stated that HB 686 and 687 were companion bills addressing bowhead whaling. She believes in the conservation of natural resources yet recognizes the need for the coastal people to hunt whales. She is convinced of this need and has had meetings regarding the bowhead whaling controversy. She attended the whaling conference in Pt. Barrow and learned from the hearings and the International Whaling Commission (IWC) at the meeting in Tokyo that Alaskans should get a better view of the issue so she has introduced these bills.

HB 687 would make a special appropriation to the Department of Fish and Game for disbursement to the Alaska Eskimo Whaling Commission (AEWC). Rep. Cowper asked who comprised the AEWC and how the money would be spent. The AEWC members are a group of whaling captains from St. Lawrence, Pt. Barrow, Savoonga, Pt. Hope, and Pt. Leigh. \$250,000 appropriated from the general fund would enable the AEWC to: 1) gather data on the population, migration, and habits of whales; 2) monitor the subsistence harvest of whales; 3) reduce the number of whales struck and lost; and 4) present data gathered and represent the interest of the Alaskan subsistence whalers to the federal government and the IWC.

The IWC granted the AEWC a quota of 12 whales last year, this quota may change if it is known that there are more whales. Rep. Buchholdt asked that Sec. 2 of Senate Bill 440 sponsored by Senator Ferguson be amended to read: "This Act takes effect March 1, 1978".

Rep. Cowper felt that the committee needed to learn more about this issue. However, Rep. Nakak said that the issues had been discussed to his satisfaction and that the intention of the bill was for the Alaskan Eskimo to be the vehicle to conduct a survey with the National Oceanic and Atmospheric Administration and other conservation groups on the ban on bowhead whaling. The agreement of AEWG and IWC sets a quota of 12 whales, but more information is needed for next years meeting.

Rep. Copwer said that the AEWG information was not accepted by the IWC at the Barrow meeting. He asked whether or not the IWC would accept the data gathered by AEWG. Rep. Anderson replied that when Sen. Poland and Rep. Osterback heard the AEWG, the Alaska Department of Fish and Game had neither the capability or the staff to give accurate data on the whale population and the number of whales lost. The federal government stated that neither side has any answers and that the AEWG could gather data.

Rep. Cowper said that the AEWG may gather data, but should have the sanction of the IWC. Rep. Buchholdt was informed in June last year that there would be a ban after the September hearing. The State Department included Alaskan Eskimos as delegates in the United States membership at the conference. The information given at this conference was conjecture and from various opinions. Funding would be necessary to authenticate the account, to study improved hunting methods, to reduce the number of whales lost, and to get an accurate number of whales. Rep. Cowper stated again that the AEWG must have the sanction of perhaps the U.S. Fish and Wildlife so that the IWC accepts AEWG information.

The IWC has no jurisdiction on subsistence whaling, and Rep. Buchholdt felt that if the Alaska State Legislature cosponsor a bill addressing this issue than the AEWG would have more clout. This would impact the federal government. Rep. Hayes pointed out that House Joint Resolution 49 defines the goals and objectives of the AEWG. The appropriation implements the proposed plan, defines the extent and functions of the AEWG.

Rep. Nakak informed the committee that whaling captains were meeting with arms companies and manufacturers to improve antiquated hunting methods and guns.

Rep. Hayes told the committee that this bill should be reviewed before its gets to the House floor. Rep. Nakak replied that testimony material was not available and that the Alaska Department of Fish and Game has endorsed the AEWG management plan so that the Subsistence Committee does not have to convince the Department of Commerce or anyone else of the management plan. Rep. Anderson stated that House Bills 686 and 687 would go to the Resource and Finance Committees once they move from the Subsistence Committee.

Rep. Buchholdt said that House Joint Resolution 55 also addresses the whaling issue. HJR 55 requests the Secretary of Commerce to allocate adequate funding to a comprehensive long-term research program on the bowhead and other arctic whales; and to cooperate with

the State of Alaska and the AEWK in the management of the bowhead conservation program. Rep. Hayes felt that he did not have adequate background and would like to get more information. Rep. Anderson said that there is no satisfactory background, but would get a tape of the joint meeting. There has been no action taken to date so House Bills 686 and 687 should move into the Resource Committee. Rep. Nakak moved to pass HB 686. Motion passed.

A motion was made to amend HB 687, Sec. 2 to read: " This Act takes effect March 1, 1978". Rep. Nakak moved to pass HB 687, motion passed.

HJR 49 endorses the AEWK management plan and urges its full support before the International Whaling commission. Rep. Nakak said that the United States is not a whaling nation. The only people who hunt whales are represented by the AEWK. The motion to move HJR 49 passed.

Rep. Buchholdt is very interested in HJR 55 and wishes the legislature to address the conservation of bowhead whale issue. The resolution asks the United States to address this problem. The Congressional delegation has Senator Ted Stevens assurance that they will cooperate in this venture so this resolution should pass to show that the Alaska State Legislature will cooperate. Rep. Nakek moved to pass HJR 55. Rep. Anderson will ask Speaker of the House Malone to refer this resolution to the House Resource Committee.

Discussion of HJR 48 followed. This resolution is a reflection of the desire of rural people who wish recognition of their need to hunt spring birds. They know that there will be considerable resistance to the spring harvest of migratory birds, but it is necessary to augment their food stores when airplanes are unable to land in rural areas. The resolution requests the President of the United States to amend existing treaties to conform to the approach taken in the recent U.S.-U.S.S.R treaty, allowing rural residents of Alaska to hunt migratory game birds in the springtime if consistent with the conservation of migratory birds stocks.

Rep. Buchholdt sees the need for spring hunting from her experience in traveling up north. She said that the treaty has no regard for Native people. The conservation aspects are important and a measure is necessary to protect the birds. Rep. Nakek gave strong support to the resolution, but stated that it is controversial and asked to hold it and not pass it. He felt that Rep. Cotten should have the opportunity to view the resolution and state his opinion to the committee.

A motion was made by Rep. Nakak to adjourn. Rep. Anderson informed the committee of the upcoming Citizen's Participation Conference in Juneau on February 23, 24, and 25. George Utermohle and Joe Guthrie were recognized and thanked for their work in the committee.

HJR 48 was held over for the next meeting. The meeting adjourned at 3:30 p.m.

Respectfully submitted,

*Elizabeth C. Ali*

Elizabeth C. Ali, Secretary

SJR

49

# TELEGRAM

ALASKA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

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PMS REP ALVIN OSTERBACK

JUNEAU

CIAA AGREES WITH SJR49 BY SEN KERTTULA. HIS IS A REASONABLE APPROACH FOR HELPING SALMON RETURNS IN CONTRAST TO THOSE WHO WOULD CURTAIL ALL AQUACULTURE EFFORTS UNTIL THEY WERE ASSURED OPPORTUNITY TO HARVEST NOW REGARDLESS OF CONSEQUENCES. PLEASE SUPPORT THIS RESOLUTION AND HELP SALMON, NOT VESTED INTEREST GROUPS.

COOK INLET AQUACULTURE ASSN FLOYD E HEIMBUCH, MANAGER

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IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, FEBRUARY 6), 1978

Mr. GRAVEL introduced the following bill; which was read twice and referred to the Committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation jointly by unanimous consent

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A BILL

To provide for the development of aquaculture in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 *That this Act may be cited as the "National Aquaculture*  
4 *Organic Act of 1978".*

5 SEC. 2. FINDINGS, PURPOSE, AND POLICY.

6 (a) The Congress finds the following:

7 (1) The world production of seafood has declined  
8 since 1970 and the harvest of some populations of fish  
9 and shellfish has exceeded levels of maximum sustain-  
10 able yield.

1           (2) Certain stocks of fish and shellfish of impor-  
2           tance to the United States are depleted, or are declining,  
3           and such depletion or decline has an undesirable impact  
4           on both commercial and recreational fisheries.

5           (3) There is an extensive market for seafood in  
6           the United States, but the United States imports in  
7           excess of 50 percent of its fish and shellfish for human  
8           consumption (which imports are ten times the level of  
9           exports), and this dependence on imports as a source of  
10          protein makes it difficult to insure continuous supplies  
11          and suggests that alternatives such as aquaculture be  
12          developed.

13          (4) Many segments of the world population are  
14          now facing serious nutritional deficiencies and food  
15          shortages due to adverse climatic conditions and the  
16          steady growth of population. These problems will be-  
17          come more severe, and the resulting demand for in-  
18          creased food production will have to be met chiefly  
19          through the application of scientific and technological  
20          advances from research on aquaculture and other food  
21          production systems.

22          (5) Aquaculture is contributing significantly to  
23          world food supplies with production equal to 10 percent  
24          of current landings of seafoods and has the potential for  
25          increase by a factor of five before the end of this century.

1       (6) Less than 3 percent of current United States  
2 fisheries production results from aquaculture but there  
3 is a good potential for expanding production from aqua-  
4 culture to equal or exceed the worldwide average, there-  
5 by helping to provide United States consumers with  
6 stable supplies of high quality aquatic foods.

7       (7) Growth of aquatic plants is a source of food for  
8 human and animal consumption as well as a source of  
9 industrial materials and energy. The Congress recognizes  
10 the importance of developing aquaculture of both plant  
11 and animal species.

12       (8) The stocking of advanced life stages of fish  
13 and shellfish produced by aquaculture is a means of  
14 rebuilding and augmenting fish and shellfish populations  
15 and establishing new fisheries.

16       (9) The application of aquaculture technology  
17 offers opportunities for the recovery of wasted thermal  
18 energy, nutrients, and other resources and may be a more  
19 efficient use of these resources for food production than  
20 current methods of agriculture.

21       (10) Where water, whether fresh, brackish, or  
22 marine is suitable for aquaculture, appropriate considera-  
23 tion should be given to the utilization of such water for  
24 aquaculture along with the other uses of such water.

1           (11) Where land-use management policies may in-  
2           hibit the development of aquaculture facilities in areas  
3           suitable for aquaculture, appropriate consideration should  
4           be given to the utilization of these areas for aquaculture  
5           along with the other uses of such areas.

6           (12) Current efforts to develop aquaculture in the  
7           United States are highly diffuse, and a strong commit-  
8           ment by the Federal Government will make aquaculture  
9           more efficient and competitive, thereby stimulating pub-  
10          lic and private investment and development.

11          (13) While many scientific and technological  
12          problems are unsolved, there is sufficient knowledge to  
13          further the development of aquaculture production sys-  
14          tems for many species of fish and shellfish.

15          (14) The development of aquaculture in the United  
16          States has been limited by the inability of producers of  
17          aquatic species to obtain adequate capital and a relia-  
18          ble source of seed stock.

19          (15) Aquaculture in the United States has tradi-  
20          tionally concentrated on a few aquatic species, but many  
21          others have a potential for commercial and other culture.  
22          However, the culture of additional species may include a  
23          higher degree of risk than the culture of traditional  
24          species, especially during the initial stages.

25          (16) Government programs that help to reduce the

1 risks associated with production of agricultural com-  
2 modities have not been generally available to producers  
3 of those aquatic species in which the risk is high.

4 (17) The rehabilitation and enhancement of the  
5 publicly owned fish and shellfish resources are desirable  
6 applications of aquaculture technology as a means to  
7 increase the general public benefits to be derived from  
8 the utilization of these common property resources.

9 (18) Extensions of jurisdiction over marine re-  
10 sources by numerous nations have resulted in the ex-  
11 clusion of many fishing nations from traditional fishing  
12 areas and created a demand in those nations for aquatic  
13 foodstuffs. Aquaculture could supply this new demand.

14 (19) The Select Committee on Nutrition and Hu-  
15 man Needs of the Senate has recommended an increase  
16 in the fish consumption of the American family. Aqua-  
17 culture can help to carry out this recommendation.

18 (b) The purpose of this Act is to promote aquaculture  
19 in the United States by—

20 (1) declaring a national aquaculture policy;

21 (2) establishing and implementing a national plan  
22 for aquaculture; and

23 (3) developing programs and encouraging activ-  
24 ities:

1 which will result in the coordination of domestic aqua-  
2 culture efforts, the conservation of existing aquatic resources,  
3 the rehabilitation and enhancement of the publicly owned  
4 fish and shellfish stocks, the encouragement of commercial  
5 aquaculture activities, the creation of new industries and  
6 job opportunities, and other national benefits.

7 (c) Aquaculture has a high potential for augmenting  
8 existing commercial and sport fisheries, thereby increasing  
9 the supply of aquatic protein for both human and animal  
10 consumption and assisting the United States in meeting its  
11 future food needs and contributing to the solution of world  
12 food problems. It is, therefore, in the national interest, and  
13 it is the national policy, to encourage the development of  
14 aquaculture.

15 SEC. 3. DEFINITIONS.

16 As used in this Act—

17 (1) The term "aquaculture" means the propaga-  
18 tion and rearing of aquatic species in controlled or  
19 selected environments, including ocean ranching.

20 (2) The term "aquaculture facility" means any  
21 land, structure, or other appurtenance, if such land,  
22 structure, and appurtenance is located within the United  
23 States, which is used for aquaculture, including, but  
24 not limited to, any laboratory, vehicle, hatchery, rearing  
25 pond, raceway, pen, incubator, or other equipment.

1       (3) The term "aquatic species" means any species,  
2       native or introduced, of finfish, mollusk or crustacean  
3       or other aquatic invertebrate, amphibian, reptile, or  
4       aquatic plant, other than any such species which is  
5       primarily used for ornamental purposes.

6       (4) The term "Fund" means the Federal Aquacul-  
7       ture Assistance Fund established by section 11.

8       (5) The term "person" means any individual who  
9       is a citizen or national of the United States and any  
10      corporation, partnership, association, or other entity  
11      (including, but not limited to, any community develop-  
12      ment corporation or fisherman's cooperative) organized  
13      or existing under the laws of any State.

14      (6) The term "Secretary" means the Secretary of  
15      Commerce.

16      (7) The term "State" means any of the several  
17      States, the District of Columbia, the Commonwealth of  
18      Puerto Rico, American Samoa, the Virgin Islands,  
19      Guam, the Trust Territory of the Pacific Islands, and  
20      any other Commonwealth, territory, or possession of the  
21      United States.

22      (8) The term "United States", when used in a geo-  
23      graphical context, means all States.

1 SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

2 (a) (1) Before the close of the 1-year period beginning  
3 on the effective date of this Act, the Secretary, after consulta-  
4 tion with the Secretary of the Interior and the Secretary of  
5 Agriculture, shall prepare a national aquaculture develop-  
6 ment plan (hereinafter in this Act referred to as the "plan").

7 (2) (A) The Secretary shall, after consultation with the  
8 Secretary of the Interior and the Secretary of Agriculture,  
9 establish an advisory committee for the purpose of assisting  
10 the Secretary in formulating a plan responsive to the various  
11 regional needs, interests, and approaches to the concept of  
12 aquaculture.

13 (B) Such advisory committee shall be composed of  
14 regional subcommittees. The subcommittee regions shall be  
15 established as follows:

16 (i) Eight regional subcommittees shall be created  
17 which correspond in geographical composition to the  
18 eight regional divisions created under section 302 (a) of  
19 the Fishery Conservation and Management Act of 1976.

20 (ii) Other regional subcommittees shall be created  
21 by the Secretary to represent the remaining nonoceanic  
22 States which are not a part of the regional subcommittees  
23 created by clause (i) of this subparagraph. Such other  
24 regional subcommittees shall be established on the basis  
25 of the following criteria:

1 (I) geographical proximity of States to one  
2 another,

3 (II) similarity of States in aquacultural activ-  
4 ities and potential, and

5 (III) other relevant factors.

6 (C) Membership of the regional advisory subcommittee  
7 from any region must include representatives of at least the  
8 following groups, where such groups exist in that region:

9 (i) State fish and game department;

10 (ii) commercial fishermen;

11 (iii) fishfood processors;

12 (iv) private sector aquaculture organizations;

13 (v) regional fishery management councils;

14 (vi) Federal Fish and Wildlife Agency;

15 (vii) recreational fishermen; and

16 (viii) educational institutions.

17 (D) The Governors of the various States shall appoint  
18 members to the regional advisory subcommittees.

19 (E) The members of the regional advisory committees  
20 established under subparagraph (B), while away from their  
21 homes or regular places of business in the performance of  
22 services for the committee, shall be allowed travel expenses,  
23 including per diem in lieu of subsistence, in the same manner  
24 as persons employed intermittently in the Government serv-

1 ice are allowed expenses under section 5703 of title 5, United  
2 States Code.

3 (b) The plan shall be formulated at the regional level  
4 and coordinated and finalized at the secretarial level. The  
5 final plan shall—

6 (1) identify those aquatic species (hereinafter re-  
7 ferred to in this Act as “priority aquatic species”)  
8 which the Secretary determines to have a potential for  
9 culturing on a commercial or other basis, which deter-  
10 mination shall be made by the Secretary after taking into  
11 account—

12 (A) the extent of commercial aquaculture, if  
13 any, currently being carried out with respect to such  
14 species, and the projected biological and economic  
15 feasibility of culturing such species;

16 (B) the extent to which aquaculture research  
17 and development have been undertaken, within the  
18 public and private sectors, with respect to such  
19 species;

20 (C) the time and resources which will be re-  
21 quired to develop aquaculture technology to the  
22 point where such species can be cultured on a com-  
23 mercial or other basis; and

24 (D) such other factors as the Secretary deter-  
25 mines to be appropriate; and

1           (2) contain an aquaculture development program,  
2 prepared by the Secretary, for each priority aquatic  
3 species.

4           (c) The aquaculture development program contained  
5 in the plan for each priority aquatic species shall set forth  
6 those actions which the Secretary determines should be  
7 undertaken, and the period of time within which each such  
8 action should be completed, to provide for the culture of  
9 each such species on a commercial or other basis. Such ac-  
10 tions, with respect to each priority aquatic species, shall  
11 include—

12           (1) such research and development, technical assist-  
13 ance, demonstration, extension education, and training  
14 as may be necessary and appropriate regarding—

15           (A) aquaculture facility design and operation,

16           (B) water quality management,

17           (C) utilization of waste products (including  
18 thermal effluents),

19           (D) nutrition and the development of economi-  
20 cal feeds,

21           (E) life history, genetics, physiology, and  
22 pathology and disease control (including research  
23 regarding organisms which may not be harmful to  
24 fish and shellfish but are injurious to humans),

1 (F) processing and market development, and

2 (G) production management and quality

3 control;

4 (2) research with respect to the effect of the culture  
5 of such species on estuarine and other water areas;

6 (3) the identification and analysis of any legal or  
7 regulatory constraints which may affect the culture of  
8 such species;

9 (4) the development of adequate supplies of seed  
10 stock;

11 (5) the construction, purchase, lease, or acquisition  
12 of necessary developmental aquaculture facilities; and

13 (6) such other actions relating to research and  
14 development, technical assistance, demonstration, exten-  
15 sion education, and training as such Secretary deems  
16 necessary and appropriate.

17 (d) In preparing an aquaculture development pro-  
18 gram for any priority aquatic species, and in reviewing any  
19 such program pursuant to subsection (f), the Secretary  
20 shall, to the extent practicable, take into account any sig-  
21 nificant action which has been, or which is proposed to be  
22 undertaken by any other Federal agency, any State agency,  
23 or any person, and which may affect the accomplishment  
24 of the program.

25 (e) Each action under each aquaculture development

1 program prepared under this section for a priority aquatic  
2 species shall be implemented, either individually, jointly, or  
3 collectively, by the Secretary, the Secretary of the Interior,  
4 or the Secretary of Agriculture, as specified by the Secretary  
5 in the program on the basis of—

6 (1) responsibilities vested in the respective Secre-  
7 taries by law or any executive action having the effect  
8 of law (including, but not limited to, Reorganization  
9 Plan Numbered 4 of 1970); and

10 (2) in cases where paragraph (1) does not apply,  
11 the experience, expertise, and other appropriate resources  
12 which the department, over which the Secretary con-  
13 cerned has jurisdiction, may have with respect to the  
14 action required under the program.

15 (f) (1) The Secretary, in consultation with the Secre-  
16 tary of the Interior, the Secretary of Agriculture, and the  
17 chief executive officer of any other Federal agency, any ap-  
18 propriate Regional Fishery Management Council, and any  
19 State agency which has significant functions which relate to  
20 aquaculture, shall review on an annual basis—

21 (A) each aquatic species not identified as a priority  
22 aquatic species; and

23 (B) the aquaculture development program estab-  
24 lished under the plan for each priority aquatic species to  
25 determine whether the actions specified in the program



1 species, the Secretary, the Secretary of the Interior, or the  
2 Secretary of Agriculture, as the case may be, shall—

3 (1) provide advisory, educational, and technical  
4 assistance (including training) with respect to culture  
5 of the species to interested public and private organiza-  
6 tions and individuals, but in providing such assistance,  
7 shall, to the maximum extent practicable, avoid dupli-  
8 cation of like assistance provided by other Federal  
9 agencies;

10 (2) consult and cooperate with interested persons,  
11 Federal, State, and local government agencies, regional  
12 commissions, and educational institutions regarding the  
13 development of aquaculture technology;

14 (3) produce, under the authority of section 4(c)  
15 (4), and sell at cost seed stock for the priority aquatic  
16 species when privately produced seed stock is unavail-  
17 able, unreliable, or not sufficient to meet production  
18 needs;

19 (4) encourage the implementation of aquaculture  
20 technology in the rehabilitation and enhancement of  
21 the publicly owned fish and shellfish stocks, as well  
22 as the promotion of private commercial aquacultural  
23 enterprises;

24 (5) assist the development of aquaculture by  
25 requiring that in areas where multiple land and water

1 uses exist, aquaculture should be viewed as an important  
2 use which should be given appropriate consideration;  
3 and

4 (6) prescribe such regulations as may be necessary  
5 to carry out such program.

6 (b) The Secretary, the Secretary of the Interior, or the  
7 Secretary of Agriculture may, incident to such Secretary's  
8 implementation of any aquaculture development program—

9 (1) for the purposes of assessing the biological and  
10 economic feasibility of any aquaculture system—

11 (A) conduct scale tests of the system, and, if  
12 necessary for the conduct of any such test, construct,  
13 operate, and maintain developmental aquaculture  
14 facilities, including, but not limited to, pilot plants  
15 for testing laboratory-scale results; and

16 (B) conduct such other tests or analyses as  
17 may be necessary;

18 (2) develop methods to enhance aquatic species  
19 stocks by aquaculture;

20 (3) carry out such studies and research with re-  
21 spect to aquatic species as may be appropriate regard-  
22 less of whether such species is or has been identified as  
23 a priority aquatic species; and

24 (4) take such other actions as such Secretary deems  
25 necessary and appropriate.

1 (c) In addition to carrying out such other functions  
2 as are required under this Act, the Secretary shall—

3 (1) establish and maintain an aquaculture infor-  
4 mation center which shall function as a national clear-  
5 inghouse for the collection, selection, analysis, and  
6 dissemination of scientific, technical, legal, and economic  
7 information relating to aquaculture;

8 (2) conduct appropriate surveys, in coordination  
9 with other agencies, of public and private aquaculture  
10 being carried out in the United States with respect to  
11 each aquatic species for the purpose of acquiring infor-  
12 mation on acreages, water use, production, culture tech-  
13 niques, and other relevant matters;

14 (3) arrange for the mutual exchange of informa-  
15 tion relating to aquaculture with foreign nations; and

16 (4) conduct a continuing study to determine which  
17 existing capture fisheries could be adversely impacted  
18 in the marketplace by competition from products pro-  
19 duced by commercial aquaculture enterprises signifi-  
20 cantly aided under this Act, which study shall include  
21 an assessment of economic impact by species and by  
22 geographical region, and recommended measures to  
23 ameliorate any adverse impact. The Secretary shall re-  
24 port to Congress on the findings made under such study

1 no later than 2 years following the effective date of this  
2 Act and every 2 years thereafter.

3 Any production information submitted to the Secretary by  
4 any person under paragraph (2) shall be confidential and  
5 shall not be disclosed except to the Secretary, the Secretary  
6 of the Interior, or the Secretary of Agriculture, as the case  
7 may be, for purposes of carrying out this Act, the advisory  
8 committee which may be established under section  
9 4(a)(2)(A), or when required under court order. The  
10 Secretary shall by regulation prescribe such procedures as  
11 may be necessary to preserve such confidentiality, except  
12 that the Secretary may release or make public any such  
13 information in any aggregate or summary form which does  
14 not directly or indirectly disclose the identity or business of  
15 any person who submits such information.

16 (d) (1) The Secretary, the Secretary of the Interior,  
17 and the Secretary of Agriculture are each authorized to  
18 accept any gift, temporary donation, or devise or bequest of  
19 real or personal property, or the proceeds therefrom, or  
20 interests therein, for use in carrying out any function that  
21 such Secretary may have under this Act. Any such accept-  
22 ance may be subject to the terms of any restrictive or affirma-  
23 tive covenant, or condition of servitude, if such terms are  
24 deemed by the Secretary concerned to be in accordance with

1 law and compatible with the purpose for which acceptance  
2 is sought.

3 (2) Any gift or bequest of money, and any proceeds  
4 from the sale of other property received as a gift or bequest  
5 under this subsection, shall be deposited in a separate account  
6 in the Treasury and shall be disbursed upon the order of  
7 the Secretary concerned.

8 SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES

9 REGARDING AQUACULTURE.

10 (a) (1) There is established the Interagency Commit-  
11 tee on Aquaculture (hereinafter in this section referred to as  
12 the "Committee") which shall be composed of the following  
13 officers or their designees:

14 (A) The Secretary, who shall be the Chairman of  
15 the Committee.

16 (B) The Secretary of the Interior.

17 (C) The Secretary of Agriculture.

18 (D) The Administrator of the Environmental Pro-  
19 tection Agency.

20 (E) The Administrator of the Energy Research  
21 and Development Administration.

22 (F) The Commissioner of Food and Drugs.

23 (G) The Administrator of the Small Business Ad-  
24 ministration.

1 (H) The Chief of Engineers.

2 (I) The chief executive officer of any other Fed-  
3 eral agency and any Regional Fishery Management  
4 Council which the Secretary finds to have significant  
5 functions which relate, or may relate, to the development  
6 of aquaculture.

7 (2) The functions of the Committee shall be—

8 (A) to ensure that there is a continuing exchange  
9 of information among the agencies represented on the  
10 Committee with respect to the nature and status of the  
11 programs or projects being carried out by such agencies  
12 which relate, or which may relate, to aquaculture in  
13 general or to the implementation of the plan; and

14 (B) to review on a continuing basis the relevant  
15 programs and projects of all Federal agencies to deter-  
16 mine whether they are being carried out in compliance  
17 with subsection (b).

18 (b) Each Federal agency which has any function or re-  
19 sponsibility with respect to aquaculture or has jurisdiction  
20 over any activity which affects, or may affect, the achieve-  
21 ment of the purposes of this Act, shall, in consultation with  
22 the Secretary and to the maximum extent practicable, carry  
23 out such function, responsibility, and activity in a manner  
24 which is consistent with the purposes of this Act.

25 (c) Nothing in this Act shall be construed to amend,

1 repeal, or otherwise modify the authority of any Federal  
2 officer or any Federal agency to carry out any functions  
3 relating to aquaculture which are authorized under any  
4 other provision of law.

5 SEC. 7. CONTRACTS AND GRANTS.

6 (a) The Secretary may carry out any function under  
7 this Act, and the Secretary of the Interior or the Secretary  
8 of Agriculture may carry out any function relating to any  
9 aquaculture development program which he is specified to  
10 implement under the plan, through grants to, or contracts  
11 with, any other Federal agency, any agency of any State  
12 and, subject to the approval of the State, any agency of any  
13 political subdivision thereof, any regional commission, any  
14 educational institution, or any other person.

15 (b) Any contract entered into, or any grant made,  
16 pursuant to this section shall contain such conditions and  
17 limitations as the Secretary concerned shall by regulation  
18 prescribe as being necessary and appropriate to protect the  
19 interests of the United States; except that no contract may  
20 be entered into, and no grant may be made, pursuant to this  
21 section unless the applicant submits with his application  
22 therefor a certification from each appropriate State agency  
23 and each appropriate local government agency stating that  
24 nothing in the laws administered by such agency prevents

1 the carrying out of the project to which the contract or grant  
2 will be applied.

3 (c) The amount of any grant made pursuant to this  
4 section may not exceed one-half the estimated cost of the  
5 project for which the grant is made.

6 (d) Any person who receives a grant or contract under  
7 this section shall make available to the Secretary concerned  
8 and to the Comptroller General of the United States, or any  
9 of their authorized representatives, for purposes of audit and  
10 examination, any book, document, paper, and record that  
11 is pertinent to the funds received by such person under such  
12 grant or contract.

13 SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR  
14 AQUACULTURE FACILITIES.

15 (a) (1) The Secretary may, subject to the provisions  
16 of this section, guarantee, or make a commitment to guaran-  
17 tee, the payment of interest on, and the principal amount  
18 of, any obligation issued by an obligor for any of the follow-  
19 ing purposes:

20 (A) The financing of the construction, reconstruc-  
21 tion, or reconditioning of any aquaculture facility  
22 (including the financing of the purchase cost of any  
23 aquaculture facility to be reconstructed or recondi-  
24 tioned); except that no obligation may be guaranteed  
25 under this section later than 2 years after the date

1 of the completion of the construction, reconstruction, or  
2 reconditioning of the aquaculture facility involved.

3 (B) The acquisition of stocks of aquatic species  
4 for any aquaculture facility.

5 (C) The financing of the initial operating expenses  
6 of any aquaculture facility.

7 (D) The financing of marketing operations exclu-  
8 sively for aquaculture products.

9 (E) The refinancing of any existing obligation  
10 issued for any of the purposes specified in subparagraph  
11 (A), (B), (C), or (D), whether or not guaranteed  
12 under this section, including, but not limited to, any  
13 short-term obligation incurred for the purpose of ob-  
14 taining temporary funds for refinancing.

15 Guarantees and commitments to guarantee may be made  
16 under this section without regard to section 3679 (a) of the  
17 Revised Statutes of the United States (31 U.S.C. 665 (a)).

18 (2) The full faith and credit of the United States is  
19 pledged to the payment of all guarantees made under this  
20 section with respect to both principal and interest, including  
21 any interest, if provided for in the guarantee, which may  
22 accrue between the date of default under a guaranteed obli-  
23 gation and the payment in full of the guarantee.

24 (3) Any guarantee, or commitment to guarantee, made  
25 by the Secretary under this section shall be conclusive evi-

1 dence of the eligibility of the obligation for such guarantee,  
2 and the validity of any guarantee, or commitment of guaran-  
3 tee, so made shall be incontestable.

4 (4) The aggregate unpaid principal amount of all obli-  
5 gations guaranteed under this section and outstanding at  
6 any one time shall not exceed \$500,000,000.

7 (b) (1) Obligations guaranteed under this section—

8 (A) shall have an obligor approved by the Secre-  
9 tary as being responsible and possessing the ability, ex-  
10 perience, financial resources, and other qualifications  
11 necessary for the adequate operation and maintenance of  
12 the aquaculture facilities;

13 (B) shall be in an aggregate principal amount  
14 which does not exceed  $87\frac{1}{2}$  percent of the actual cost  
15 involved or the depreciated actual cost, as determined  
16 by the Secretary;

17 (C) shall have maturity dates satisfactory to the  
18 Secretary, but not to exceed 25 years;

19 (D) shall provide for payments by the obligor  
20 satisfactory to the Secretary; and

21 (E) shall bear interest (exclusive of charges for  
22 the guarantee and service charges, if any) at rates not  
23 to exceed such percentage per annum on the unpaid prin-  
24 cipal as the Secretary determines to be reasonable, tak-  
25 ing into account the range of interest rates prevailing in

1 the private market for similar loans and the risks as-  
2 sumed by the Secretary.

3 (2) In guaranteeing any obligation under this section,  
4 the Secretary shall give preference to any person with 40 or  
5 fewer employees which, together with its affiliates, is pri-  
6 marily engaged in the business of aquaculture or commercial  
7 fishing for aquatic species.

8 (3) No obligation shall be guaranteed under this sec-  
9 tion unless the obligor conveys or agrees to convey to the  
10 Secretary such security interest as the Secretary may re-  
11 quire to reasonably protect the interests of the United  
12 States.

13 (c) (1) The Secretary may charge a fee for any obli-  
14 gation guaranteed under this section, the amount of which  
15 shall be established by the Secretary by regulation but  
16 which may not exceed one-half of 1 percent per annum of  
17 the outstanding principal balance of the obligation. Fee  
18 payments shall be made by the obligor to the Secretary  
19 when moneys are first advanced under a guaranteed obliga-  
20 tion and at least 60 days before each anniversary date  
21 thereafter.

22 (2) The Secretary shall charge and collect from the ob-  
23 ligor such amounts as he may deem reasonable for the in-  
24 vestigation of the application for any guarantee, for the ap-  
25 praisal of properties offered as security for any guarantee,

1 and for the inspection of such properties during construc-  
2 tion, reconstruction, or reconditioning; except that such  
3 charges shall not aggregate more than one-half of 1 percent  
4 of the original principal amount of the obligation to be  
5 guaranteed.

6 (3) All fees and other amounts received by the Secre-  
7 tary under the provisions of this subsection shall be deposited  
8 in the Fund.

9 (4) Obligations guaranteed under this section, and  
10 agreements relating thereto, shall contain such other provi-  
11 sions with respect to the protection of the security interests  
12 of the United States (including acceleration and subroga-  
13 tion provisions and the issuance of notes by the obligor to  
14 the Secretary), liens and releases of liens, payments of  
15 taxes, and such other matters as the Secretary may prescribe.

16 (d) (1) In the event of a default, which has continued  
17 for 30 days, in any payment by the obligor of principal or  
18 interest due under any obligation guaranteed under this  
19 section, the obligee or his agent shall have the right to  
20 demand, at or before the expiration of such period as may  
21 be specified in the guarantee or related agreements, but not  
22 later than 90 days from the date of such default, payment  
23 by the Secretary of the unpaid principal amount of said  
24 obligation and of the unpaid interest thereon to the date  
25 of payment. Within such period as may be specified in the

1 guarantee or related agreements, but not later than 30 days  
2 from the date of such demand, the Secretary shall promptly  
3 pay to the obligee or his agent the unpaid principal amount  
4 of the obligation and unpaid interest thereon to the date of  
5 payment; except that the Secretary shall not be required  
6 to make such payment if before the expiration of such period  
7 he finds that there was no default by the obligor in the pay-  
8 ment of principal or interest or that such default has been  
9 remedied before any such demand.

10 (2) Payments required to be made by the Secretary  
11 under paragraph (1) shall be made by the Secretary from  
12 the Fund.

13 (3) In the event of any payment by the Secretary  
14 under paragraph (1), the Secretary shall have all rights in  
15 any security held by him relating to his guarantee of such  
16 obligations as are conferred upon him under any security  
17 agreement with the obligor. Notwithstanding any other pro-  
18 vision of law relating to the acquisition, handling, or disposal  
19 of property by the United States, the Secretary may, under  
20 such terms and conditions as the Secretary prescribes or  
21 approves, complete, recondition, reconstruct, renovate, re-  
22 pair, maintain, operate, or sell any property acquired by  
23 him pursuant to a security agreement with the obligor.

24 (4) After any default referred to in paragraph (1),  
25 the Secretary shall take such action against the obligor or

1 any other parties liable thereunder that, in his discretion, may  
2 be required to protect the interests of the United States.  
3 Any suit may be brought in the name of the United States  
4 or in the name of the obligee and the obligee shall make  
5 available to the United States all records and evidence neces-  
6 sary to prosecute any such suit. The Secretary may accept  
7 a conveyance of title to and possession of property from the  
8 obligor or other parties liable to the Secretary and may pur-  
9 chase the property for an amount not greater than the un-  
10 paid principal amount of such obligation and interest there-  
11 on. In the event the Secretary receives through the sale of  
12 property an amount of cash in excess of any payment made  
13 to an obligee under paragraph (1) and the expenses of  
14 collection of such amounts, he shall pay such excess to the  
15 obligor.

16 (5) Whoever, for the purpose of obtaining any loan  
17 or advance of credit from any person with the intent that  
18 an obligation relating to such loan or advance of credit shall  
19 be offered to or accepted by the Secretary to be guaranteed,  
20 or for the purpose of obtaining any extension or renewal of  
21 any loan, advance of credit, or mortgage relating to an  
22 obligation guaranteed by the Secretary, or the acceptance,  
23 release, or substitution of any security on such a loan, ad-  
24 vance of credit, or for the purpose of influencing in any  
25 way the action of the Secretary under this section, makes,

1 passes, utters, or publishes, or causes to be made, passed,  
2 uttered, or published any statement, knowing the same to be  
3 false, or alters, forges, or counterfeits, or causes or procures  
4 to be altered, forged, or counterfeited, any instrument, paper,  
5 or document, or utters, publishes, or passes as true, or causes  
6 to be uttered, published, or passed as true, any instrument,  
7 paper, or document, knowing it to have been altered, forged,  
8 or counterfeited, or willfully overvalues any security, asset,  
9 or income shall be punished by a fine of not more than  
10 \$5,000, or by imprisonment for not more than 2 years, or  
11 both.

12 (c) The Secretary shall promulgate such rules and regula-  
13 tions as may be deemed necessary or appropriate to carry  
14 out the purposes and provisions of this section.

15 (f) For purposes of this section—

16 (1) The term “actual cost” of an aquaculture  
17 facility, as of any specified date, means the aggregate,  
18 as determined by the Secretary, of—

19 (A) all amounts paid by, or for the account  
20 of, the obligor with respect to such facility on or  
21 before that date; and

22 (B) all amounts which the obligor is then obli-  
23 gated to pay from time to time thereafter, for the  
24 construction, reconstruction, or reconditioning of  
25 such facility.

1           (2) The terms "construction", "reconstruction", or  
2 "reconditioning" include, but are not limited to, design-  
3 ing, inspecting, outfitting, and equipping of the aqua-  
4 culture facility involved.

5           (3) The term "depreciated actual cost" means the  
6 actual cost depreciated on a straightline basis over the  
7 useful life of the property involved as determined by the  
8 Secretary.

9           (4) The term "obligation" means any note, bond,  
10 debenture, or other evidence of indebtedness issued for  
11 one of the purposes specified in subsection (a).

12           (5) The term "obligee" means the holder of any  
13 obligation.

14           (6) The term "obligor" means any person pri-  
15 marily liable for payment of the principal of or interest  
16 on any obligation.

17 **SEC. 9. DISASTER LOANS.**

18           (a) (1) The Secretary may make one or more loans  
19 from the Fund to any person if—

20           (A) an aquaculture facility, or stock of aquatic  
21 species at the facility, or both, that is owned by such  
22 person is damaged or destroyed as a result of a natural  
23 disaster; or

24           (B) the stock of aquatic species at an aquaculture  
25 facility owned by such person is damaged or destroyed