

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 80/2

1839

HRES

HB 313

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ALASKA FISHERIES CENTER

The objective of this document is to describe in summary form, some of the primary considerations which have led to the conclusion that an Alaska Fisheries Center is critically needed in Alaska. Other factors also briefly addressed in this document include descriptions of some of the characteristics of the proposed Center.

The Need/Opportunity For an Alaska Fisheries Center

The Alaska Constitution, Article VII, Section 2, states, "The legislature shall provide for the utilization, development and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." The question is, what actions should the legislature take to assure this constitutional mandate is being carried out for its fisheries?

We believe the establishment of an Alaska Fisheries Center would be a major step toward meeting this constitutional obligation. In addition, we believe the establishment of such a Center would provide an effective means for carrying out Article VII, Section 5, which states, "The legislature may provide for facilities, improvements and services to...assure fuller utilization of the fisheries, wildlife and waters.

In addition to the constitutional requirements placed upon the legislature, it is also important to recognize the tremendous size and value of the Alaskan fisheries resource. In terms of value in 1979 the 900 million pounds of Alaskan commercial landings had a value of almost 600 million dollars. The value of this catch was 26.7 percent of the total U.S. harvest. By way of comparison the states with the next highest harvest values were: California \$227.5 million; Louisiana \$198.5 million; Massachusetts \$175.5 million; and Texas \$160.2 million.

If both the domestic and foreign harvest in Alaskan waters were added together, the 1.6 billion metric tons harvested in 1978 would rank Alaska 15th among the nations of the world in commercial landings.

The U.S. fishing industry employs over a quarter of a million people and provided in 1979 a \$7 billion contribution to the U.S. Gross National Product. Alaska's fishery provides a substantial contribution to this important sector of the U.S. economy.

Other countries such as Japan and the Soviet Union invest heavily in fisheries research and provide a wide variety of financial incentives to support their fisheries. In the United States a limited amount of research is provided and financial incentives are generally limited to boat and gear loans. A recent study indicates that \$24.6 million was spent in 1979 on Alaska fisheries research. Of that amount \$8.5 million was spent on research by organizations not located in Alaska.

Partly, because the fishery is a common property resource, and partly because the structure of the U.S. fishing industry does not lend itself to long-term investments in fisheries research, more knowledge and better management tools are needed, if Alaska is to provide for the effective utilization, development and conservation of its fisheries resource for the maximum benefit of its people.

The best weapon Alaska has in reducing intervention by outsiders is to know more about its resources and how they should be managed than anyone else.

Goals for the Alaska Fisheries Center

1. Gather, organize and disseminate information about Alaska fisheries which will encourage the wise utilization, development and conservation of these resources for subsistence, commercial and recreational purposes.
2. Provide for improving coordination and communication among members of the fisheries scientific and management communities, fishermen, seafood processors and the public.
3. Improve the long-term economic viability of the Alaska and U.S. seafood industry.
4. Encourage the development of Alaska's fisheries resources to help meet the world's need for protein.
5. Conduct and coordinate the research activities necessary to accomplish the above purposes.

Scope of Alaska Fisheries Center

1. The Center shall encompass the renewable marine and freshwater fishery resources including groundfish, aquatic plants, shellfish and salmon.
2. Two general types of functions would be carried out at the Center. These are:

A. Prime Functions

- Basic Research (research directed at a specific research goal)
- Applied Research (research directed at a specific resource goal)

- Stock enumerations and habitat surveys
- Management research
- Industry technology
- Fishery food sciences
- Market and economic research
- Aid to fisheries education

B. Support Functions

- Data processing center
- Library (including A/V and communications)
- Support facilities (including Center, research vessels, etc.)

Location of the Alaska Fisheries Center

The primary criteria for selecting the Center location should include the following:

1. The location must provide a pleasing professional environment which will aid in attracting highly qualified professionals.
2. It should have excellent communications and transportation facilities for domestic and international linkages and travel.
3. It should be centrally located and reasonably accessible from the various fishing areas.
4. The location should have the capacity to host state-wide, national and international fisheries meetings.

Management of the Alaska Fisheries Center

One of the following alternative forms of management could be employed in managing the Center.

1. Governance by a Board of Directors who may be composed of a majority of Alaskans with others appointed based upon their recognized expertise in the national and international fisheries scientific community. A Technical Advisory Board composed of representatives from research and management organizations (see attached list of potential sources of Advisory Board members) would be established to serve in an advisory capacity to the Board of Directors. An Executive Director would be appointed by the Board of Directors to carry out the executive duties and responsibilities of the Center

2. Governance could be provided by a User Group committee comprised of representatives from Alaska fishery research and management organizations identified in the attached list.

3. The Center could also be operated along the lines of a research park in which many different organizations would use the facilities. Coordination could be formally achieved through the appointment of interagency committees and informally through such shared facilities as the cafeteria, library and data center.

STATEMENT FROM REP. TERRY GARDINER
FISH CENTER HB 313

House Bill 313 establishes a fishery center. We have spent many years searching for goals and objectives to guide us in the renewable resource area, but I think it would be more productive to instead focus attention on the means for achieving those goals.

One of the key elements which has been missing is a coordinated technical development and research effort. Perhaps the most important means for ensuring greater coordination, would be the establishment of a comprehensive joint fisheries facility, encompassing technical development and research.

Alaska produces as much as 80% of the nation's groundfish resources, it the largest producer of salmon and is a major source of shellfish, Alaska should have a major center for fisheries activities.

THE NEED

The need for a consolidated Alaskan Fisheries Research Facility is based upon four major factors.

1. There is a need to have a scientific and research basis to provide the technical support to state and federal agencies which have the responsibility to manage the Alaska fishery.
2. The State of Alaska and the federal government both have a legitimate interest in protecting and developing the Alaskan fisheries resource. Knowledge gained through research can provide the state and the federal government with the capability to develop improved regulatory practices aimed

at more effectively achieving the desired balance between allowable harvest levels and stock protection.

3. By any standard Alaska's fishery resource is enormous. Consider these statistics:

- * Alaska's 1978 harvest of 80 million salmon amounted to 85 - 90% of the entire U.S. harvest and about 40 - 50% of the world harvest of salmon.¹
- * The 1978 harvest of Alaskan shellfish (shrimp and crab) of 300 million pounds amounted to approximately 40% of the entire U.S. harvest of these species.¹
- * The annual harvest level of 3 to 4 billion pounds of bottomfish within the North Pacific Fisheries Conservation and management zone places Alaska in the top 12 among countries in world production of fisheries resources.¹
- * Currently the combined annual wholesale value of all Alaskan fisheries resources exceeds 2 billion dollars. By way of comparison this level of sales would rank the Alaskan fishery among the top 150 of the fortune 500 corporations.

¹ Contractor estimates developed with assistance of NMFS personnel and fisheries information.

4. A substantial amount of Alaskan fisheries research is currently being largely independently conducted by a number of different organizations including:

The Alaska Department of Fish and Game
The National Marine Fisheries Service
The University of Washington
The University of Alaska
The U.S. Fish and Wildlife Service
Alaska Fisheries Development Corporation
The U.S. Forest Service
The North Pacific Management Council
Alaska Sea Grant Program
Alaska Office of the Governor (Fisheries Council)
Alaska Seafood Foundation
Alaska State Legislature
Private Non-Profit Aquaculture

Notwithstanding the significant involvement of Alaska organizations in conducting research on Alaskan fisheries, a significant portion of the research staffing and expenditures are not being made in Alaska. The economic benefits from this employment and expenditures accrues to other states and it is expected that less than full benefit is received by Alaskan's from this off-site research activity.

There is a need. But for whom should research be done and what directions will the technical and research work take? These are the difficult questions.

An analysis of the make up of the industry may shed

some light on the subject. There are approximately ten major elements to the fishing industry, some larger and more complex than others. But lets examine the progression of a fish through the industry.

First the resource, under the scope and purview of nature generally, and ADF&G is assigned to monitor natures progress and report back. In some cases ADF&G cautiously intrudes into the natural cycle with a fish hatchery, enhancement program, or fertilization. But for the most part reacts to natures whims. We spend almost 90% of ADF&G's budget on this monitoring effort.

The second element is marine survival. This is an area we know little to nothing about. Since it seems to be the area where the greatest loss of the resource occurs, even a small improvement would have a tremendous impact on the harvest.

The third element is the allocation of the resource. There are two areas: one, the resource itself, to ensure sufficient brood stock survival, secondly allocation amongst user groups. It seems that most of the problems are in this area. We are all aware of most of these issues so I won't dwell on them. Except to point out that the greater the pressure on user group allocations, the more the need for accurate, reliable information is realized.

The fourth state is the actual harvest. Both the methods of harvest and the time and place is set by the government. But again, the policy decisions are based on the technical data regarding the resource.

The fifth element is the onboard handling of the resource. Only lately has much attention been paid to this area. This is the first time in the process that the resource comes under 100% control of people. Although we expose quality control and preservation of quality we have done very little. The assumption is that from the minute the fish is removed from the water it starts to deteriorate. That process of deterioration must be slowed down as much as possible until the product is consumed in order to maximize its value.

Again, one of the goals is to develop and improve the economy of the industry and one good way is to increase the value of the product.

There are very few places where ice is available to fishermen outside of Southeast Alaska. Boat design for efficient handling of fish on board can be improved.

This is an area which can use a lot of help.

The sixth element is transporting the fish from the harvesting site to the processing facility. Again the goal is to increase the value of the product and decrease the cost of delivery. To deliver a higher quality product at a lower cost. This is particularly true in the fresh fish market. A timely efficient delivery is essential.

Basically, the elements are handling, storage and delivery time. The rising costs of energy is a major factor in the transportation portion.

The seventh element is processing the product for consumption. Generally, this is the highest capital investment in the industry. Innovations in the area are urgently needed.

In the groundfishery, there is a need for machinery to handle the smaller size pollock. New techniques for preserving the fresh fish quality for a longer period. New product forms for fiddrent markets need to be developed. And many more challenges exist.

The eight element is storage of the processed product, either fresh, frozen or canned, controlled atmosphere.

The ninth, tenth, and eleventh are transportation to market, marketing, and actual consumption. The average American ate 13.3 pounds of edible meat in 1979, down from 13.6 pounds in 1978.

I only want to go through this process to emphasize the diversity of the fishing industry. It seems only too often, we only look at the resource and allocation issues and not at the economic values.

The problem we are challenged with is to help develop a coordinated effort to effectively interact with the industry.

WHERE DOES A FISHERIES CENTER FIT IN

If the State were to proceed with a plan to establish a fisheries facility, a logical concern is, who would manage the facility?

There are several alternative management plans which could be implemented.

The center could be an independent entity, or operated by a State agency (ADF&G), a federal agency (NMFS), or the University of Alaska. Each agency (federal & state) who assigns research personnel to the research center, would be

responsible for paying and providing benefits to their own employees. Space assignments, priority use of laboratory equipment could be resolved by a operations officer or committee composed of representatives from the various agencies performing research at the center. Research policies and programs under this concept would be subjected to the review and approval of a Research Policy Committee.

These issue and others need to be discussed and thoroughly evaluated. To be successful the center must have a close coordinated role with the Department of Fish & Game, the University of Alaska, the industry, and the federal government.

It is my intention to hold hearings on this bill and use it as a vehicle to discuss the issue of research and development in the fisheries area.

MEMORANDUM

February 4, 1980

TO: Dereck Poon
Floyd Heinbuch
Robert Burkett
Curt Kearns

FROM: Wallace G. Miller *WGM*

SUBJECT: Subcommittee Report on Fisheries Research Facility

In our report to the Aquaculture Policy Study Group, Mr. Wilkerson and I recognized the need to have an improved and expanded research program for an Alaskan Fisheries Resource Development Program as one means for ensuring that the legitimate state interests in protecting and developing its fisheries resources are met.

In addition to an improved and expanded fisheries research program, we further recognized the need to improve the coordination among federal, state and others involved in fisheries research in Alaska, not only to avoid duplication of effort but also to establish coordinated fisheries research priorities and programs.

In recognition of these needs the report suggests that, "Perhaps the most important means for ensuring greater coordination of research would be the establishment of a comprehensive joint fisheries research facility in Alaska." While the report discusses several additional means for securing a coordinated fisheries research program, the report recognized the importance that federal, state and tribal fisheries scientists and biologists in Washington attached to an expanded and more coordinated fisheries research program in that state.

In Washington State a \$16.0 million fisheries research facility to house federal, state and tribal fisheries researchers is currently being designed with construction scheduled to begin later this year.

The report makes the argument that in as much as Alaska, produces as much as 80% of the nation's bottomfish resources, is the largest producer of salmon and is a major source of shellfish, Alaska should have a major center for fisheries research activities.

During the past several months I have reviewed the new Washington State Manchester Laboratory plan and have provided some general design and program information to you. In addition, I have attempted to compile staffing and budget information on organizations involved with fisheries research with a particular emphasis on identifying those organizations who perform the work at a location outside of Alaska.

Attached is a preliminary "prospectus" which discusses various aspects of an Alaskan Fisheries Research Center. In accordance with our earlier discussions about maintaining a minimum level of contact on this plan until additional review can be performed, I have limited my discussions to include only individuals who have information regarding the Manchester Lab and fisheries research expenditures and staffing.

I hope you can review the attached prospectus which I have purposely kept brief pending your further recommendations regarding this matter.

A PROSPECTUS FOR A CONSOLIDATED
ALASKA FISHERIES RESEARCH FACILITY

The Need

The need for a Consolidated Alaskan Fisheries Research Facility is based upon four major factors.

These are:

1. There is a need to have a scientific and research basis to provide the technical support to state and federal agencies which have the responsibility to manage the Alaskan fishery.
2. The State of Alaska and the federal government both have a legitimate interest in protecting and developing the Alaskan fisheries resource. Knowledge gained through research can provide the state and the federal government with the capability to develop improved regulatory practices aimed at more effectively achieving the desired balance between allowable harvest levels and stock protection. Through research the state can continue to develop such artificial propagation techniques as lake fertilization for salmon as well as other new propagation techniques for other species. Research in such areas as stock enumeration, reproduction, growth rates, genetics, disease, nutrition, and habitat are but a few of the areas in which increased knowledge would provide the information necessary to ensure that the state's and federal government's interests in protecting and developing the Alaskan fisheries resources are realized.
3. By any standard Alaska's fishery resource is enormous. Consider these statistics:
 - * Alaska's 1978 harvest of 80 million salmon amounted to 85 - 90% of the entire U.S. harvest and about 40 - 50% of the world harvest of salmon.¹
 - * The 1978 harvest of Alaskan shellfish (shrimp and crab) of 300 million pounds amounted to approximately 40% of the entire U.S. harvest of these species.¹
 - * The annual harvest level of 3 to 4 billion pounds of herring within the North Pacific Fisheries Conservation and Management Zone places Alaska in the top 12 among the countries in world production of fisheries resources.¹

¹Contractor estimates developed with assistance of NMFS personnel and fisheries information.

*Currently the combined annual wholesale value of all Alaskan fisheries resources exceeds 2 billion dollars. By way of comparison this level of sales would rank the Alaskan fishery among the top 150 of the Fortune 500 corporations.

4. A substantial amount of Alaskan fisheries research is currently being largely independently conducted by a number of different organizations including:

- The Alaska Department of Fish and Game
- The National Marine Fisheries Service
- The University of Washington
- The University of Alaska
- U.S. Fish and Wildlife Service
- Alaska Fisheries Development Corporation
- The U.S. Forest Service
- The North Pacific Management Council
- Alaska Sea Grant Program
- Alaska Office of the Governor (Fisheries Council)

Notwithstanding the significant involvement of Alaskan organizations in conducting research on Alaskan fisheries, a significant portion of the research staffing and expenditures are not being made in Alaska. The economic benefits from this employment and expenditures accrues to other states and it is expected that less than full benefit is received by Alaskan's from this off-site research activity.

Alaskan Fisheries Research

Listed below in Table I is an approximation of the expenditures for Alaskan fisheries research for selected organizations. The Table does not include research expenditures made by regional aquaculture associations or for various studies (i.e., A.D. Little, Earl Coombs, etc.) performed by private contractors and others.

Table I
Alaskan Fisheries Research Expenditures

<u>Organization</u>	<u>Research</u>		<u>Total</u>
	<u>In Alaska</u>	<u>Outside Alaska</u>	
Alaska Dept. Fish & Game	\$3.5	-	\$3.5 (1)
Nat'l Marine Fisheries Service	3.2	\$7.4	10.6 (2)
University of Wash.	-	1.0	1.0 (3)
University of Alaska	7.3	-	7.3 (4)
U.S. Fish & Wildlife Service	.2	.1	.3 (5)
Alaska Fish. Develop. Corp.	1.3	-	1.3 (6)
The U.S. Forest Service	.1	-	.1 (7)
The North Pacific Mgmt. Council	.5	-	.5 (8)
TOTAL	\$16.1	\$8.5	\$24.6

- (1) Alaska Dept. of Fish and Game estimate; approximately 50 employees.
- (2) 1971 NMFS Budget. Research in Alaska includes \$3.1 million for Auks Bay and other southeast facilities and \$.1 million for a project at Kodiak. The \$7.4 million in Seattle is for an estimated equivalent of 100 employees performing research on Alaskan fisheries.
- (3) Recently announced \$1.0 million federal grant to conduct an 18 month study of Washington salmon harvested in Alaskan waters. Information regarding other Alaskan related research projects not available.

(4) University of Alaska Fisheries Research Budget includes:

<u>(U of A 1980 Budget)</u>		
Institute of Marine Science	111*	5.1
Sea Grant Program	27	1.6
Juneau Fisheries Program	6	.3
Other	2	.1
Subtotal	<u>146</u>	<u>7.1</u>
Cooperative Fisheries Res.Unit**	4	.2
TOTAL	<u>150</u>	<u>7.3</u>

* Includes only full-time positions.

** Fresh water fisheries research program for arctic and interior areas.

- (5) Includes approximately 5 employees in Alaska and 4 in Washington.
- (6) Recently announced grant to conduct bottomfish research and test program.
- (7) U.S. Forest Service (Forest Service Laboratory-anadromous fish habitat study; 2 employees).
- (8) North Pacific Mgmt. Council estimate; primarily contract funds and one (1) full-time staff.

As the preliminary expenditure data indicates, the aggregate, current expenditures for Alaskan fisheries research is approximately \$25.0 million, with over 1/3 of the research expenditures and staffing not located in Alaska.

If all Alaskan related fisheries research were performed in Alaska the total number of people employed would be over 300.

In addition to the research activity, the National Marine Fisheries Service operates two research vessels, the Miller Freeman and the Oregon whose primary function is research and related activities in Alaskan waters. The Miller Freeman has a shipboard crew of 24 and a \$990,000 annual operating budget. The Oregon has a shipboard crew of 5 and an annual operating budget of \$467,000.

Table 2
Types of Alaskan Fisheries Research Conducted Outside of
Alaska

Resource Surveys
Data Analysis
Fishery Oceanography
Survey Technology Development
Fisheries Habitat Investigations
Marine Mammals Conservation
Economics and Commercial
Fisheries Statistics

Availability of Research Funding

Research funding for fisheries research activities in Alaska is for the most part provided by the federal and state government. Because research programs are considered discretionary, as opposed to mandatory, research budgets tend to be reduced in tight budget periods. Fisheries research budgets could, however be substantially increased in the United States given the increased emphasis on fishing resulting from the enactment of the 200 mile territorial limit on fisheries. Another potential source for increased fisheries research funding is from the dedicated import tax receipts imposed by the Saltonstall Kennedy Act. Estimates indicate receipts to this dedicated fund could annually exceed \$100 million during the decade. Notwithstanding the predicted increase in fund receipts, congressional action may be necessary to remove expenditure ceilings imposed on the fund by the Office of Management and Budget.

A Consolidated Fishery Research Facility²

The National Marine Fisheries Service in cooperation with the University of Washington and other federal and state agencies are in the process of designing a \$16.0 million fisheries laboratory at Manchester, Washington. It is intended that this new facility be used for both interdisciplinary cooperative research programs and individual research projects in fisheries and marine science relating to the protection and management of the marine resource.

²A program concept for the Manchester Fisheries Laboratory, April 1979, Kramer, Chin & Mayo, Inc.

The new laboratory is intended to house 30 resident research scientists, technical assistants, visiting scientists and 10 resident postgraduate researchers. The primary research themes will be aquatic animal and plant husbandry, nutrition, physiology and reproduction, breeding and health.

The new facility will provide a 35,890 gross square feet building and 24,340 square feet of outside experimental areas.

The anticipated annual operating and maintenance cost excluding scientific and other technical laboratory personnel is estimated to be \$704,800.

Fishery Research Facility Management Options

If the State of Alaska, were to proceed with a plan to establish a multi-jurisdictional fisheries research facility, a logical concern is, who would manage the facility?

There are several alternative management plans which could be implemented.

A state agency (ADF & G) or a federal agency (NMFS) could be assigned the responsibility for the general maintenance and operation of the research center. Each agency (federal and state), who assigns research personnel to the research center, would be responsible for paying and providing benefits to their own employees. Space assignments, priority use of laboratory equipment could be resolved by an operations officer or committee composed of representatives from the various agencies performing research at the center. Research policies and programs under this concept would be subjected to the review and approval of a research policy committee.

Another less bureaucratic approach to the management of a multi-jurisdictional fisheries research facility could be based upon a "research park" approach which is similar in concept to that of an industrial park in which businesses with different ownerships, organizations and products independently pursue their own businesses while sharing some common buildings, other space and services.

A fisheries research park developed and operated by independent research organizations would individually pay for their capital equipment, maintenance and operations. Under this concept research policies and programs would be "coordinated" and not subjected to committee review and approval.

Fishery Research Facility Location

No attempt has been made to identify specific sites where fisheries research facilities might be located. It may be desirable to have several research facilities, at different locations, each of which specializes in some aspect of the fishery. (For example, a shellfish/bottomfish research center might be located at Kodiak, while the salmon research center might be located elsewhere).

Fishery Research Facility Cost & Source of Funds

In order to provide the State of Alaska with the fisheries research capability proposed for the new \$16.0 million Manchester Laboratory, an expenditure of \$20-25 million would be required given the higher construction costs in Alaska. Additional costs could result from specialized facilities for shellfish and bottomfish not included in the Manchester facility.

The State of Alaska and the federal government singularly or under a joint agreement could finance the capital construction costs.

Alternatively the State of Alaska could finance the capital construction of the laboratory and ask the federal government to provide research funds to the new center equivalent to those being expended outside of the State of Alaska. The state could continue to provide for state funded fisheries research through AD' & G.

MARCH 18, 1981
DHR.

HB 313

An Act relating to the Alaska Fisheries Center and to appropriations to the center.

SECTION 1. POLICY AND FINDINGS. (a) It is the policy of the state to provide facilities, improvements, and services to use, develop, and conserve fishery resources for the maximum benefit of the people of the state and the Nation.

(b) The legislature finds

(1) that long-term research is essential to the wise use, development, and conservation of Alaska fishery resources; investments are not now made in long-term fishery research because of the common property nature of fishery resources and because of the structure of the United States fishing industry; the Alaska Fisheries Center will fulfill the need to coordinate and conduct ~~for~~ long-term research ~~of~~-on fishery resources off Alaska;

(2) that there are at least 19 organizations involved in research and management of Alaska fisheries off Alaska; a center to gather, coordinate, and disseminate ~~research~~ and scientific data and information produced by these organizations is needed;

(3) that the establishment of a center ~~for fishery resource research and information~~ in Alaska will reduce reliance on out-of-state sources in the management of Alaska fisheries off Alaska;

(4) that the establishment of a research center which can attract leading world scientists will require strong linkage to State and Federal resource agencies, their management and resource problems; to the University of Alaska, its student and academic programs and to the fishing industry, its developmental and resource problems.

Sec. 16.12.020. PURPOSE. The purposes of this chapter are

(1) To establish a center in the state which will encourage the cooperation of federal, state, ^{and} university and industry agencies and organizations which are involved in research on the fishery resources off Alaska.

(2) to provide establish a center in the state to gather, conduct research and gather, organiza², and disseminate research and scientific information on Alaska fishery resources off Alaska which will encourage the wise use, development, and conservation of fishery resources for subsistence, commercial, and recreational purposes;

(3) to provide a center to for improved coordination and communications among fishermen, seafood processors, members of the scientific and fishery management committees, and the public; and

(4) to provide the principal center in the state for conducting and coordinating research for the long-term improvement of the Alaska and United States seafood industry and the encouragement of the development of the Alaska fishery resources off Alaska to help meet the world need for protein.

Sec. 16.12.110. DUTIES. The primary functions of the center shall be research and information service. (a) The center shall conduct both general and applied research, including but not limited to,

- (1) stock enumerations research;
- (2) habitat surveys;
- (3) research on methods and strategies of resource management research;
- (4) fishery ~~industry~~ technology research;
- (5) fishery food sciences research;
- (6) fishery marketing and economic research; and
- (7) research on social and economic impacts and implications

of resource management decisions and options.

~~(7)--aid-to-fisheries-education,-and-~~

~~(8)--research-on-the-allocation-and-impact-of-fisheries-resources-~~

(b) The center shall provide information services to interested organizations and individuals, including but not limited to;

- (1) library;
- (2) catch and status of stocks reports ~~and~~
- (3) marketing reports.

(c) The center shall provide support services to cooperating organizations and agencies, including but not limited to;

- (1) computer services,
- (2) audio-visual facilities,
- (3) research laboratories and special equipment,
- (4) research vessels ~~and~~
- (5) secretarial and publication services.

(d) ~~-(b)-~~ The facilities of the center and its facilities shall be available to undergraduates and graduate fisheries and fisheries related students of the University of Alaska and other accredited universities and to visiting scientists and professors for research.

~~--(c)--The-center-shall-provide-services-available-to-interested-organizations--including-but-not-limited-to,-(1)--data-processing;-(2)--library,-audio-visual---facilities,-and-communication-services,-and-(3)-research-vessels,-----~~

Sec. 16.12.140. BUDGET AND APPROPRIATIONS. (a) The center is subject to the Executive Budget Act AS 37.07.

(b) The budget of the center shall be separated into;

(1) The operating budget for the center including personnel services, supplies, services, travel and equipment necessary for the upkeep and maintenance of the center's facilities and for providing the basic support services. The budget shall include a description of and amount of support services to be provided.

(2) The research budget for the center including a statement of the goals and objectives and the amount of proposed funding for each research project.

~~include a description of and ---
amount of proposed financing for projects to be conducted or supported ---
by the center. --- A request in the budget for money for research shall include
a statement of the objectives and goals of the research. --- The operating ---
budget for the center shall be separate from the budget for proposed research. ---~~

H B

3 8

The proposed committee substitute makes three changes to the original bill.

1. Section 1.

Sec.02.47.010. Prohibitions. Originally the bill prohibited used equipment from being brought into the state. The proposed CS, however, provides an exception to that: the exception includes used equipment "made exclusively of glass or metal."

Sec 03.47.020. Importation of Bees. The original bill requires that all bees not on bee combs must be accompanied by a health certificate before they can be allowed into the state. The CS, however, changes this requirement requiring bees to come from "disease free bees" and that the health certificate be signed by a ^{qualified} apiary inspector.

Sec. 03.47.040. Definitions. (2) in the original bill defines "bee-keeping equipment" (2) in the CS defines "used beekeeping equipment" - the CS does not, however, provide a definition for the latter. Should this definition have been included?

Mr. Fletcher T. Miller
Cook Inlet Beekeepers Assn.
Box B-173
Anchorage Ak 99504

Feb 28, 1981
+30°F Partly Cloudy

Mr. Miller,

It is really sad to hear of Adolf Zuh's death -
he was a fellow worker in geology as well as a
beekeeper.

Here is a copy of a bill that the Interior
Beekeepers believe will be enforceable and not cost
the State a bundle of money to enforce. Let me
know if it is acceptable to the beekeepers down
your way? I believe that a single bill of simple
nature has the best chance of passage, as you do.
If we can convince the Legislators that all the
beekeepers in Alaska are behind one bill, they
are more apt to act on it.

Hal Livingston



(over)
NORTH TO THE FUTURE IN 1967!

I'm sending an information copy of the proposed Honeybee Act to Nick Carney of the Division of Agriculture and would like to hear what you think of the proposal, hopefully within the next 2 weeks, so that a final version can go to the Legislature this year in time for it to be acted upon.

Sal



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Malone	Bill Number HB318
Department Position avored		
Division Director Carney	Date 3-17-81	Commissioner
Date 		

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) none	1. b) Other Agencies Affected by Bill none
2. a) Organizational Support for Bill Beekeepers in State Cook Inlet Beekeepers Assn Kenai Peninsula Beekeepers Assn	2. b) Organizational Opposition to Bill none, except for phrase restricting import of all used equipment.

3. Program Effects of Bill

4. Fiscal Impact: None Fiscal Notes Attached

5. Amendments Proposed:

eliminate phrase "not on bee combs" in line 12

6. Comments:

Help from other states may be solicited until the industry expands enough to warrant a State apiarist. A needed addition to our authority.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB318
 Title Control of Bee disease
 Requested by Malone, Roger & Phillips Date 3/11/81

II. FISCAL DETAIL

Agency Affected Department of Natural Resources
 Program Category Affected Economic Development
 Budget Request Unit(s) Affected Ag Management

EXPENDITURES (Thousands of Dollars)

	FY 82.	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	40.0	40.0	65.0	65.0	
200 TRAVEL	2.0	3.0	3.0	3.0	3.0	
300 CONTRACTUAL	12.0	6.0	6.0	6.0	6.0	
400 COMMODITIES	0.1	0.1	0.1	0.1	0.1	
500 EQUIPMENT	1.0	1.0	1.0	1.0	1.0	
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	15.1	50.1	50.1	75.1	75.1	
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	-0-	0.5	0.5	1.0	1.0	
FULL TIME						
PART TIME						
TEMPORARY						

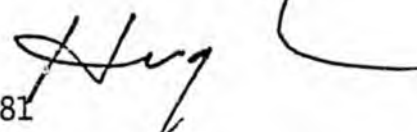
III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III')

- Assumes: 1) Regulation and inspection through FY82 done by contract
 2) 1/2 time Entomologist in FY83 (1/2 by u of A Exp Station)
 3) Full time Entomologist in FY85

IV. DATE March 17, 1981 PREPARED BY Domonic L Carney, Director
 AGENCY Dept of Natural Resources/Div of Agric
 Original: Legislative Finance PHONE 376-3276
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM

TO: Ramona Barnes, Chairman
Subcommittee on House Bill 318

FROM: Hugh Malone 

DATE: April 23, 1981

RE: House Bill 318
"An Act relating to the control of bee disease."

Attached please find CSHB 318 for the subcommittee's consideration.

CSHB 318 (Res) is sought to correct certain problems pointed out during the teleconference held on March 31, 1981.

Section 1.

- Sec. 03.47.010. Prohibits the importation into Alaska of used beekeeping woodenware.
- Sec. 03.47.020 This section clarifies that all bees not on bee combs imported into the State shall be accompanied by a health certificate which states that they come from apiaries which are free of all bee diseases and which is designed by an apiary inspector.
- Sec. 03.47.040 Deletes the unnecessary language "any any device used to handle bees."

January 29, 1981

From: Kenai Peninsula Beekeepers Association

To: Members of the State of Alaska Legislature

Subject: Proposed legislation on prevention of disease to the
Beekeepers Industry.

The Kenai Beekeepers Association wants to see the following:

1. Disease free environment for Alaska bees and the following are the items required to insure such:

- A. "All combless package bees imported into Alaska shall be accompanied by a certificate of health stating that they are free of all bee diseases". (Taken from Cook Inlet proposal)

This inspection shall be accomplished at point of origin by a State Bee Inspector or qualified representative.

- B. Permit required for importation of used beekeeping equipment from Division of Agriculture. Permit to be worded by Division of Agriculture. Purpose of permit is for notification to Division of Agriculture for purpose of inspection by State of Alaska Bee Inspector. Permit to include:

Place of origin

Time of Arrival in Alaska

Place of arrival

Carrier

Destination

Certificate of health must accompany any used beekeeping equipment as to disease free status.

2. Taken from Cook Inlet Beekeepers Association proposal:

The Division of Agriculture shall have the authority to take appropriate action in dealing with any reported or discovered cases of bee disease and to prevent their spread.

3. The acquisition of a State Entomologist (Bee Inspector) is mandatory to initiate the desired program. Nick Carney of Division of Agriculture suggested that a State Entomologist could be divided, both use and cost, with the State Agricultural Experiment program where he could be utilized year round for Bee Inspection and Agricultural Experimentation.

4. We wish to acknowledge the effort and time spent by the Cook Inlet Beekeepers Association but feel strongly that the simpler the bill the easier and more effective it can be enforced and the better chance we have of getting this bill passed and implemented.

We also feel that prevention of bee disease is our greatest concern now. That legislation concerning labeling, etc. can be accomplished at a later date if the need is found to exist.

Edmund K. Knutsen
Box 1525
Soldotna, Ak 99669

March 21, 1981

REP

~~Senator~~ Hugh Malone
Pouch V
Juneau, Ak 99811

Dear ~~Senator~~ ^{Hugh} Malone:

Thank you for your letter of March 18, 1981 and for the work you have done on the legislative measure on control of bee disease.

I am inclosing a copy of the proposal by Harold Livingston on used beekeeping equipment entering the State. Harold is from Fairbanks and spoke on Beekeeping in Alaska at the Western Apiculture Society when they met in Victoria, British Columbia last August. As you will see from his article he did an extensive study on the subject for his article.

Harold has been in contact with several beekeepers in Fairbanks, North Pole, and Delta Area and they are all in favor of the legislative control over used bee equipment coming into the State.

There are three suggested methods of treating the Bee disease called American Foul Brood:

- A. Ethlene Oxide Fumigation
- B. Boiling Lye Water Bath
- C. Burning bees and equipment to ashes and burying the ashes at least 18 inches deep in the ground.

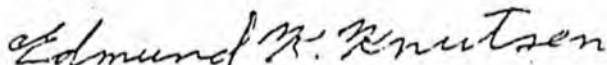
Equipment for the Ethlene Oxide Fumigation can be purchased from the New Miskoe Engineering Co., Little Pond Rd., Concord, New Hampshire, Zip 03301. Telephone 603-225-6546. I have not learned the cost or the availability to move it around the State.

The Cook Inlet Asso. of Beekeepers seem to be in favor of the proposed legislation as submitted.

If we can stop the incoming of used equipment I feel we can continue to keep Alaska nearly disease free.

Again, thank you for your time and effort in the proposed legislation.

Sincerely,


Edmund K. Knutsen

Cc: Don Gilman
Pat O'Connell
Fred F. Zharoff, Co-Chairman
House Resource Committee

Hal Livingston
1812 Central Ave.

Latitude 64° 50'
Longitude 147° 40'
Elevation 429 ft.

Fairbanks Alaska 99701

Feb 28, 1981 12" snow
+ 36° F Clear except ~~ice~~

Ed Knudsen,

Dear Ed,

Enclosed is a check for one package (3#) of bees and a Buckfast Queen from Navasota. \$30⁰⁰. Let me know if that is not enough for the freight when Mike Crawford picks them up in Anch.

Also attached is a copy of the proposed legislation related to control of bee diseases in Alaska. I've talked it over with Dave Tozier and a number of the other beekeepers here. They are willing to back this version as workable.

Sincerely,

Hal Livingston

My Phone No. is 456-7202

in case Mike wants to call me.

(over)

For an Act entitled: "AN ACT TO MAINTAIN THE HEALTH OF HONEYBEES IN ALASKA".

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

Section 1. The importation into Alaska of used beekeeping woodenware, accompanied by bees or not, shall be prohibited. Used beekeeping woodenware is defined as any wood, straw, plastic, or composition material fabricated into top boards, inner covers, hive boxes, frames, bottom boards, feeders, pollen traps, or other beehive furniture normally used to house honeybees, that has ever been in contact with honeybees.

Section 2. All combless package honeybees imported into Alaska shall be accompanied by a certificate of health, signed by a qualified Apiary Inspector, stating that they come from disease-free apiaries.

Section 3. The Department of Agriculture shall have the authority to take appropriate action in dealing with any reported or discovered cases of honeybee brood diseases to prevent their spread within Alaska. Appropriate action shall consist of supervising one of the following:

- a. Disinfection of equipment by fumigation with ethylene oxide.
- b. Disinfection of equipment by boiling lye-water bath.
- c. Burning bees and equipment to ashes and burying the ashes at least 18 inches deep in the ground.

Mr. Fletcher T. Miller
Cook Inlet Beekeepers Assn.
Box B-173
Anchorage Ak 99504

Feb 28, 1981
+30°F Partly Cloudy

Mr. Miller,

It is really sad to hear of Adolf Zuh's death -
he was a fellow worker in geology as well as a
beekeeper.

Here is a copy of a bill that the Interior
Beekeepers believe will be enforceable and not cost
the state a bundle of money to enforce. Let me
know if it is acceptable to the beekeepers down
your way? I believe that a single bill of simple
nature has the best chance of passage, as you do.
If we can convince the Legislators that all the
beekeepers in Alaska are behind one bill, they
are more apt to act on it.

Hal Livingston

(over)

NORTH TO THE FUTURE IN 1967!



I'm sending an information copy of the proposed Honeybee Act to Nick Carney of the Division of Agriculture and would like to hear what you think of the proposal, hopefully within the next 2 weeks, so that a final version can go to the Legislature this year in time for it to be acted upon.

Sal

Mar 8, 1981

Hal Livingston
1812 Central Ave
Fairbanks, Alaska 99701

Dear Hal

The proposed Legislation that the Interior beekeepers have come up with deals with the entire picture more completely than what we have.

Due to the nature of the case in that beekeeping is a relative new thing across the State there has been no real contact on a general basis with the other beekeepers.

When we started the ball rolling down this way last fall we felt the urgency to get something on the books. We had no reading as to how the other beekeepers of the State would react to the legislation and what the Agriculture Dept. position would be.

I feel definitely that it should be spelled out exactly how diseased bees should be dealt with as you people did.

Section 3-A is the best way of dealing with diseased equipment but due to the cost of the equip. and other things it is a ways down the road but feel this should be included in the legislation and would be something to work toward.

Section 3-C has for more years than I can remember been the best and most effective way of controlling the spread of disease.

Section 3-E has also been used over the years. I have personally run many pieces of equipment through this process.

My only concern with this portion is not what it says but what it doesn't say.

Is the cutting out of the combs from the frames and rendering of the wax going to be allowed? The handling of diseased material is a serious matter. The woods are full of beginner hobbyist beekeepers who until a few months ago didn't know that there was anything such as a bee disease.

There is more than one commercial beekeeper in this end of the world who have had no real experience with bee disease and handling of diseased equipment.

Enclosed is a copy of a letter from James C. Bach, Chief Apiary Insp. from the State of Washington in reply to my question to him in regard to the matter of individual rendering of diseased combs.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Malone	Bill Number HB318
Department Position favored		
Division Director Carney	Date 3-17-81	Commissioner Date

GOVERNOR'S OFFICE USE

Comments:

Position Note: By Date

SUMMARY

1. a) Related Bills (Similar or Conflicting) none	1. b) Other Agencies Affected by Bill none
2. a) Organizational Support for Bill Beekeepers in State Cook Inlet Beekeepers Assn Kenai Peninsula Beekeepers Assn	2. b) Organizational Opposition to Bill none, except for phrase restricting import of all used equipment.

3. Program Effects of Bill

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
eliminate phrase "not on bee combs" in line 12

6. Comments:
Help from other states may be solicited until the industry expands enough to warrant a State apiarist. A needed addition to our authority.

Cook

Original sponsors: Malone, Rogers
and Phillips

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 318 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the control of bee disease."

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

8 * Section 1. AS 03 is amended by adding a new chapter to read:

9 CHAPTER 47. BEES AND BEEKEEPING EQUIPMENT.

10 Sec. 03.47.010. PROHIBITION. The importation into the state of
11 bees on bee combs ~~and the importation of used beekeeping equipment,~~
12 ~~except equipment and accessories of glass or metal, is prohibited.~~

13 Sec. 03.47.020. IMPORTATION OF BEES. All bees not on bee combs
14 imported into the state shall be accompanied by a health certificate
15 which states that they ~~are from apiaries which are free of all bee~~
16 ~~diseases and which is signed by an apitary inspector determined to be~~
17 ~~qualified by the department.~~

18 Sec. 03.47.030. DUTIES OF THE DEPARTMENT. (a) The department
19 shall investigate reported cases of diseased bees and cases of diseased
20 bees discovered by the department.

21 (b) The department shall take any action necessary to prevent the
22 spread of bee diseases, including destroying bees and beekeeping equip-
23 ment found to be contaminated.

24 (c) The department shall adopt regulations necessary to carry out
25 the purposes of this chapter.

26 Sec. 03.47.040. DEFINITIONS. In this chapter

27 (1) "bees" means honey producing insects of the genus Apis
28 and includes the adults, eggs, larvae, pupae, and other immature stages
29 of the insects;

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(2) "~~XXXX~~ beekeeping equipment" means equipment which has been used to feed or house bees, including hive boxes, frames, supers, lids, bottom boards, and bee combs.

FROM TERMINAL LJ22 ON PRINTER LJH6; DATE=81090, TIME=151929

MSG 81-00010447 PRTY 1 03/31/81 15:05:25 ORIG: LF01 IN= 0003 OUT= 0004
FROM: TAMMY **FRBX** TO: JACK IN JUNEAU
TARGET: LJ22 SUBJ: 770 PART BEE KEEPERS PAGE 0001

NO PART. AT THIS TIME FROM FAIRBANKS.

THANK YOU

Anchorage, Alaska
March 23, 1981

Rep. Ramona Barnes
Pouch V. Juneau, Ak.

Dear Ramona:

I do appreciate your replying to the letter I sent to the legislators regarding Bee Disease and Honey regulations.

I didn't get many replys but I wasn't really asking for any. I wanted to inform the Legislators on the subject. It is scomething new and different and you people wouldn't have much of a source to draw on.

The Cook Inlet Beekeepers Assoc. had a bill prepared that Arlis Sturgulewski was going to introduce in the Senate. That hasn't been done yet which is all right because the Interior Bee Keepers came up with a proposal which is more complete than ours.

When we started we had no idea what response we would have from the beekeepers across the State so we started easy. We didn't want the thing to go down the tube.

You have or will have received the Interior Beekeepers Proposal soon.

Hal Livingston (their spokesman) said that he was going to contact some legislator and have it introduced. I don't know if this in the program now or not. I havn't been in contact with within the last several days.

I don't know why any knowledgeable person, beekeeper or other wise would have any objection to their proposal. It covers the subject well and more complete than House Bill 318.

I don't feel much improvement could be made on the Interior Proposal. it covers the subject well and gives methods dealing with the disease in tried and true ways by beekeepers who are experienced in these matters.

We have a chanc' of doing things right in regard to dealing with bee disease. As far as we knot there is no disease in the State now but if and when it gets here we need knowledgeable people to identify and control it.

Bee disease is a problem to the beekeepers and no one else. The beekeepers want legislat on to prevent and control disease in this State if and when it should show up.

The disease is spread almost entirely through the use of used equipment.

The Interior Beekeepers have come up with a proposal to prevent and control the discase which we of the Cook Inlet Beekeepers Asso. totally endorse.

House Bill 318 prohibits used bec equipment.

Sec 1. of the interior proposal spells out what beekeeping equipment is so it leaves no doubt to the beekeepers or enforcing agency. We are requesting that this will be included in the current bull for us. It wont hurt anyone but will prevent problems in the future.

Ramona Barnes (2) Mar 23, 1981

Sec 2 of the Interior Proposal spells out the method of dealing with any disease that is found.

The three things listed are time proven and we feel it should be included in the bill and not left up to some agency who has no experience or knowledge to write the regulations.

These are from knowledgeable beekeepers who will be effected by the Statute.

There will always be judgment matters in this as a police officer does in deciding what particular direction should be taken in a given situation but feel the main thing should be spelled out.

It bothers us that the writing will be left up to an agency that may or may not have the expertice and understanding of the problem, writing something which the beekeepers would have to live with which may not be the best for them or the problem.

Again I say this expertice is in the Alaska Beekeeping Industry. That has been shown in the Interior proposal. There is no need for some outside group spending a lot of money to write regulations that they know nothing about.

The conditions in Alaska are UNIQUE. Everything they do outside doesn't necessarily mean that it is good for Alaska.

If the Proposal of the Interior Beekeepers is adopted it will be complete and everyone will know whats going on and it can be implimented immediately.

I trust you will work toward this end for us and inform your colleges of our needs.

If you have any further questions please contact us.

Thanking You

Fletcher F. Miller

Fletcher F. Miller (sec.)
Cook Inlet Beekeepers Assoc.
Box. 8-173 Anch., Ak. 99504

cc

Hugh Malone
Randy Phillips
Brian Rogers

(Interior Beekeepers Proposal)

For an Act entitled: "AN ACT TO MAINTAIN THE HEALTH OF HONEYBEES IN ALASKA"

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Mar 8, 1981

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Hal Livingston (2) 3-8-81

QUOTE "Rendering by the individual causes me some apprehensions. Most Apiarists do not recognize the need for sanitation and cleanliness around a disease situation. In Washington they have been allowed to render their own disease. When I came in we adhered to the letter of the law. We found anything from a poor job of rendering with comb still hanging from the wires to no rendering because of supposed breakdown of the equipment. Also some of the equipment to be rendered mysteriously turned up in the warehouse. What I am saying is that the inspector loses control of the situation."

I have coordinated the proposed bee legislation and personally feel there would be strong backing for your proposal.

The other thing that isn't covered is who would do the inspecting?

The Agriculture Dept. wants it mandatory that an entomologist be tied with a disease bill. He would take care of the inspection work and divide his time with other work that they would have for him to do.

What is your position on this?

As I have stated before the entomologist would have to be an Apiaculturist also in order to be a help and not a hinderance to the beekeeping industry.

The other thing is that the Agriculture Dept. would want to write the regulations dealing with disease, which they have no business doing since they don't know anything about it.

The interior beekeepers proposal proves that the beekeeping industry has what it takes to write something that will take care of the problem without any one else getting in to muddy up the water.

The beekeepers can come up with what is best for the beekeeping industry better than anyone else.

Will be waiting for you to get in contact with us again soon on this matter.

Fletcher F. Miller (sec.)

Fletcher F. Miller
Cook Inlet Beekeepers Asso.
Box 8-173 Anch., Ak. 99504

12
12

SUBJECT

BEEKEEPING INDUSTRY LEGISLATION

Feb. 15, 1981

Dear Legislator:

In my home State of Colorado they are having to remove thousands of nice big Chinese Elm trees due to the fact that they have the Dutch Elm disease of which THERE IS NO CURE.

Now if you were in an area and were in the need of shade trees but did not have the Dutch Elm disease in your area it wouldn't be very logical to ship in diseased trees from an area which had the disease which would affect the trees that you currently have.

This is a paralell of what the Kenai Peninsula Beekeepers Asso. is proposing in that we allow used bee equipment in to the State which carries INCURABLE bee disease. Their reason is of the possible need of equipment in the Rape Seed Project. New equipment is readily available (I don't sell equipment).

I trust that they are doing this due to the lack of understanding and not as a result of some special interest.

The Kenai Asso. is also proposing, at the suggestion of Nick Carney of the Ag. Dept that it would be mandatory that there be an Entomologist hired to do their work and also do the bee inspecting. Now this is fine if he is also an Apiculturist who would be qualified to be an inspector and have proper knowledge on how to handle bee disease problems.

The worst thing that could happen to the bee industry would be to get an Entomologist who knew nothing about bees. It would be like trying to communicate with a tree.

Now the other aspect of the Bee Industry Legislation is in regard to the labeling of honey.

The adulteration of honey is becoming almost epidemic in proportion in the So. 48. Corn Syrup is being mixed with honey and is being sold as honey. They are using as high as 90% syrup.

We need legislation specivically dealing with honey. We are proposing that the Oklahoma Statute be used. It spells out exactly what honey is and covers the adulteration problem. It does this in plain english.

Nothing can be called honey unless it is 100% bee produced from flowers. There are ways of getting around this now. Even if the product was put in the hive by the bees it wouldn't necessarily mean that the product was pure honey. If the bees were fed Isomerized syrup or syrup made from granulated sugar that is what you would have. We need legislation & education on this matter. This is the reason ofr the need of a statute which spells out what honey really is.

People are willing to pay a much better price for Alaska Honey dut to several reasons. One is the fact that it is Alaskan. Another is that it is free from possible contamination from pesticides as is the case in the Lower 48.

Each type of flower produces its own flavor of honey. The plants in Alaska in areas of concentration would probably be different than elsewhere. This would give a different honey than other places.

Legislators - Bee Industry (2) Feb 15, 1981

We are proposing legislation that would require any honey shipped into the State and packed here to be labeled as to the place of origin or the words imported printed on the label.

At the present time honey is being sold and people are assuming it is Alaskan Honey because it is packed in Alaska. Later they find out this is not the case and many are very unhappy.

We are not trying to stop outside honey from coming in. There are major packers that send honey into the State through the various stores. This is all pre packaged and there is no problem with this. Everyone knows it isn't Alaskan Honey.

We don't care if others bring in honey from the outside and pack it here. We just want it to show that it's not Alaskan Honey.

The people who produce honey here would probably want to put on the label that it was produced here. We are proposing no labeling requirement for any honey produced in the State. It would have to be 100% honey though.

The labeling of outside honey would encourage the honey production in this State. This is what we want and the State should also be interested in furthering Alaska industry.

A word of caution to the beginner beekeepers and potential beekeepers and others. NO honey bought in a store or elsewhere should be fed to bees. This is the other main source of bee disease. The Bee Disease spores are carried in honey and equipment. NOTE - This in no way affects honey for human consumption.

It has been reported that granulated honey has been offered for sale in this State for bee feed. This is the worst thing a person could do. I trust that the people who are doing this are doing so in ignorance.

We are asking your support in this matter. If you have any questions please contact us.

Thanking you,

Fletcher F. Miller

Fletcher F. Miller (sec.)
Cook Inlet Beekeepers Asso.
Box 8-173 Anch Ak. 99504

Bill Markis Pres. 333-7657

Feb. 8, 1981

Kenai Beekeepers Asso.
Box 1525 Soldtna, Ak. 99699

Fellow Beekeepers:

In response of your letter to Rep. Hugh Malone of Jan. 29, 1981.

You have missed the whole point in regard to the honey regulations. The proposal reads "any honey packed, processed or sold in Alaska from any source OTHER THAN ALASKA --- "

This deals only with honey shipped into this State and processed and re-packed here.

Do you have a problem with this? Reply requested. Be specific.

It would have no effect on all major brands or any other coming into Alaska already packaged and labeled.

If honey is produced and packed here in Alaska there is no labeling requirement. The intent of the regulation is to prevent Outside honey being pawned off as Alaskan honey.

Do you have any objection to this. Reply requested. Be specific.

The adulteration of honey in the South 48 is a major problem. The proposed legislation would hurt no one who doesn't adulterate or intend to do so. There would be very little inconvenience to label change.

All labels on hand could be used on honey produced in Alaska.

In spite of what Nick Carney says there is nothing I have found yet that will deal with the situation in any reasonable manner.

In Nicks letter to me of Jan. 15 he says existing statutes concerning labeling (AS 45.75) are administered by the Weights and measures people. I picked up that statute along with another one and read them. They only deal with Weights and Measures in regard to labeling. Their concern is that the contents of the container match the amount stated on the label.

I have been in contact with the Food and Drug office here and the fellow said he can understand why we want State regulations to cover our problem.

I have also been in contact with the Consumer Protection people. I will follow with a letter on all this when I get it together.

Alaska isn't without honey adulteration problems.

Bee Disease

In paragraph 4 in your letter states that the simpler the bill the easier and more effective it can be enforced and the better chance of getting the bill passed and implemented.

With this we agree 100%. There is nothing more simple and easily enforced than a total ban on all Bees on Combs and Used Equipment..

All shippers and beekeepers can be notified of the ban through the bee industry publications.

All bee equipment coming over the Hy. can be stopped at the border like everything else that is not allowed to come in.

You would need a hundred pencil pushers writing regulations and permits. The less we have of this the better for the taxpayer and everyone else concerned. We want something that is adequate and practical.

We have done our home work on this. We as I have stated before that we sent inquiries to all State and Province Head Inspectors. We received 43 replys. There were only two or so that opposed the total ban of bees on combs. They wern't aware of the lack of migratory beekeeping. I doubt that Migratory beekeeping will ever be a thing here in this State. It is an awfully long way to transport bees from here to the South for wintering.

Any bees that would come in from Canada couldn't return there because they have a ban of all bees on combs. There are a number of States that have a ban like we propose.

These men that we inquired of are dealing with the disease problem daily. You would be surprised at the number that recommend a total ban.

I am interested in finding out what you have to back up your position. Our letters are from Beekeepers in the thick of the battle not pencil pushers with no expertice or knowledge on the subject.

Kenai Beekeepers Asso. 2-8-81 (2)

Knowledgeable beekeepers know that Bee Disease can't be detected in used equipment without the aid of a microscope. Neither can it be detected in the brood of bees which drugs have been used to control disease.

A certificate of inspection isn't worth any more than the paper that it is written on.

As you will see from Mr. Footes letter that a certificate of inspection is given on inspection of 2 or 3 frames of 15 colonies out of 100. This means that 85 havn't been inspected.

There is no way a person could guarantee that the bees were disease free. If every one of the colonies was inspected and no disease was found the use of drugs could cover it up or if no drugs were used the spores could be present to show up in the brood later.

You are buying a pig in a poke by accepting used equipment even though it has a certification of inspection on it. Neither is there a guarantee that the equipment is the same that was inspected.

I have been involved in the queen raising and package bee production and shipment in Texas and can testify first hand as to how things work in a practical manner.

Enclosed is a copy of letters from the current and past Presidents of the Apiary Inspectors of America.

The past Pres. Gerald Stevens who is a third generation commercial beekeeper and now Head Inspector for the State of New York heading up a force of 20 inspetors advises us to ban the importatiom of comb, used equipment and ANYTHING that might carry the spores of AFB (pollen ect) except that for human consumption.

Including this and other recommendations is far stronger than what we are proposing. He and others are the ones in the know.

He further states it would be a mistake to start "LOOSE" and try to tighten things after the problems have compounded.

There is no use trying to lock the barn door after the horse is gone.

We aren't playing "tiddly winks". The whole beekeeping industry future is at stake. Some are very short sighted or ignorant of the problem since we have the opportunity to do things differently due to the lack of disease. We would like to keep it that way. There is NO WAY you can delay it long by allowing used equipment to be brought in. You will then be playing "catch up" all the time with unnecessary expense if its not done right to begin with.

I don't know how many colonies of bees that the rape seed project will need. I don't think it will cause much of a problem by not allowing used equipment to come in. I do know what kind of a problem we can expect if it is.

One Delta beekeeper brought in New equipment and had package bees shipped in. Another took out a state loan for 100 colonies and then defaulted on the loan. He abandon without taking any of the honey. The bees (if they survived) and the equipment is still there. This would be a good start for some new comer.

It would be very foolish for any one to come in from the South 48 and to go into beekeeping with the potential not proven. If they did there would be a lot more equipment idle.

Our interest should be in building Alaska Industry not some fly by night operation that will go belly up.

Copies to be sent to all that you sent your letter to plus other Legislators and to Beekeepers across the State.

Fletcher F. Miller (sec.)

Fletcher F. Miller

Cook Inlet Beekeepers Asso.
Box 8-173 Anch Ak. 99504

Edmund K. Knutsen
Box 1525
Soldotna, Ak 99669

March 21, 1981

Rep

~~Senator~~ Hugh Malone
Pouch V
Juneau, Ak 99811

Dear ~~Senator~~ ^{Hugh} Malone:

Thank you for your letter of March 18, 1981 and for the work you have done on the legislative measure on control of bee disease.

I am inclosing a copy of the proposal by Harold Livingston on used beekeeping equipment entering the State. Harold is from Fairbanks and spoke on Beekeeping in Alaska at the Western Apiculture Society when they met in Victoria, British Columbia last August. As you will see from his article he did an extensive study on the subject for his article.

Harold has been in contact with several beekeepers in Fairbanks, North Pole, and Delta Area and they are all in favor of the legislative control over used bee equipment coming into the State.

There are three suggested methods of treating the Bee disease called American Foul Brood:

- A. Ethlene Oxide Fumigation
- B. Boiling Lye Water Bath
- C. Burning bees and equipment to ashes and burying the ashes at least 18 inches deep in the ground.

Equipment for the Ethlene Oxide Fumigation can be purchased from the New Miskoe Engineering Co., Little Pond Rd., Concord, New Hampshire, Zip 03301. Telephone 603-225-6546. I have not learned the cost or the availability to move it around the State.

The Cook Inlet Asso. of Beekeepers seem to be in favor of the proposed legislation as submitted.

If we can stop the incoming of used equipment I feel we can continue to keep Alaska nearly disease free.

Again, thank you for your time and effort in the proposed legislation.

Sincerely,

Edmund K. Knutsen
Edmund K. Knutsen

Cc: Don Gilman
Pat O'Connell
Fred F. Zharoff, Co-Chairman
House Resource Committee

Hal Livingston
1812 Central Ave.

Latitude 64° 50'
Longitude 147° 40'
Elevation 429 ft.

Fairbanks Alaska 99701

Feb 28, 1981 12" snow
+ 36° F Clear except ~~ice fog~~

Ed Knudsen,

Dear Ed,

Enclosed is a check for our package (3#) of bees and a Buckfast Queen from Navasota. \$30.00 Let me know if that is not enough for the freight when Mike Crawford picks them up in Anch.

Also attached is a copy of the proposed legislation related to control of bee diseases in Alaska. I've talked it over with Dave Tozier and a number of the other beekeepers here. They are willing to back this version as workable.

Sincerely,

Hal Livingston

My Phone No. is 456-7202
in case Mike wants to call me.

(over)

For an Act entitled: "AN ACT TO MAINTAIN THE HEALTH OF HONEYBEES IN ALASKA".

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

Section 1. The importation into Alaska of used beekeeping woodenware, accompanied by bees or not, shall be prohibited. Used beekeeping woodenware is defined as any wood, straw, plastic, or composition material fabricated into top boards, inner covers, hive boxes, frames, bottom boards, feeders, pollen traps, or other beehive furniture normally used to house honeybees, that has ever been in contact with honeybees.

Section 2. All combless package honeybees imported into Alaska shall be accompanied by a certificate of health, signed by a qualified Apiary Inspector, stating that they come from disease-free apiaries.

Section 3. The Department of Agriculture shall have the authority to take appropriate action in dealing with any reported or discovered cases of honeybee brood diseases to prevent their spread within Alaska. Appropriate action shall consist of supervising one of the following:

- a. Disinfection of equipment by fumigation with ethylene oxide.
- b. Disinfection of equipment by boiling lye-water bath.
- c. Burning bees and equipment to ashes and burying the ashes at least 18 inches deep in the ground.

Mr. Fletcher T. Miller
Cook Inlet Beekeepers Assn.
Box 8-173
Anchorage Ak 99504

Feb 28, 1981
+30°F Partly Cloudy

Mr. Miller,

It is really sad to hear of Adolf Kuhns death -
he was a fellow worker in geology as well as a
beekeeper.

Here is a copy of a bill that the Interior
Beekeepers believe will be enforceable and not cost
the state a bundle of money to enforce. Let me
know if it is acceptable to the beekeepers down
your way? I believe that a single bill of simple
nature has the best chance of passage, as you do.
If we can convince the Legislators that all the
beekeepers in Alaska are behind one bill, they
are more apt to act on it.

Hal Livingston

(over)

NORTH TO THE FUTURE IN 1967!



I'm sending an information copy of the proposed Honeybee Act to Nick Carney of the Division of Agriculture and would like to hear what you think of the proposal, hopefully within the next 2 weeks, so that a final version can go to the Legislature this year in time for it to be acted upon.

[Signature]

Mar 8, 1981

Hal Livingston
1812 Central Ave
Fairbanks, Ak. 99701

Dear Hal

The proposed Legislation that the Interior beekeepers have come up with deals with the entire picture more completely than what we have.

Due to the nature of the case in that beekeeping is a relative new thing across the State there has been no real contact on a general basis with the other beekeepers.

When we started the ball rolling down this way last fall we felt the urgency to get something on the books. We had no reading as to how the other beekeepers of the State would react to the legislation and what the Agriculture Dept. position would be.

I feel definitely that it should be spelled out exactly how diseased bees should be dealt with as you people did.

Section 3-A is the best way of dealing with diseased equipment but due to the cost of the equip. and other things it is a ways down the road but feel this should be included in the legislation and would be something to work toward.

Section 3-C has for more years than I can remember been the best and most effective way of controlling the spread of disease.

Section 3-B has also been used over the years. I have personally run many peices of equipment through this process.

My only concern with this portion is not what it says but what it doesn't say.

Is the cutting out of the combs from the frames and rendering of the wax going to be allowed? The handling of diseased material is a serious matter. The woods are full of beginner hobbyist beekeepers who until a few months ago didn't know that there was anything such as a bee disease.

There is more than one commercial beekeeper in this end of the world who have had no real experience with bee disease and handling of diseased equipment.

Enclosed is a copy of a letter from James C. Bach, Chief Apiary Insp. from the State of Washington in reply to my question to him in regard to the matter of individual rendering of diseased combs.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Malone	Bill Number HB318
Department Position favored		
Division Director Carney	Date 3-17-81	Commissioner Date

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) none	1. b) Other Agencies Affected by Bill none
2. a) Organizational Support for Bill Beekeepers in State Cook Inlet Beekeepers Assn Kenai Peninsula Beekeepers Assn	2. b) Organizational Opposition to Bill none, except for phrase restricting import of all used equipment.

3. Program Effects of Bill

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
eliminate phrase "not on bee combs" in line 12

6. Comments:
Help from other states may be solicited until the industry expands enough to warrant a State apiarist. A needed addition to our authority.

SERVING INTERIOR ALASKA'S BEEKEEPERS
Hives & Honey

SALES:
3/4 MILE HURST ROAD
NORTH POLE, ALASKA

APIARY
PHONE
(907) 488-6484

MAIL:
S. R. BOX 80632
FAIRBANKS, ALASKA 99701

April 20, 1981

Rep. Bob Bettisworth
Fouch V
Juneau, Alaska 99811

Dear Bob:

Here's my belated, coffee-stained questionnaire. Have at it.

Mostly I'm writing about H.B. 318, what beekeepers refer to as the "Bee Bill," currently (I believe) in Resources. The Bill as introduced by Malone et al needed some rewriting. I'm sure you have the suggested changes as presented by Harold Livingston of Fairbanks. Hal's tendered Act is comprehensive and definitive, specifically listing accepted means of dealing with diseased honey bee colonies if and when they are discovered. It also defines what consists of "used beekeeping woodenware," which is essential in such a proposed Bill. We discussed and agreed upon Hal's proposal before he sent it to you folks, and copies were sent to the interested beekeepers' groups south of the Alaska Range.

Alaska is unique regarding honey bee diseases: For all practical purposes we have none. We want to keep it this way. For this reason it is imperative that a tight and inclusive law be passed by the current Legislature regarding importation of used beekeeping equipment in any form. By "regarding" I mean total prohibition of importation of such equipment.

I've talked with Nick Carney several times regarding this proposed Bill and the attendant means of controlling honey bee diseases if and when they are exposed. The Department of Agriculture seems more than willing to work in full cooperation with Alaska's beekeepers in all aspects of beekeeping regulation. Once apprised of the need for such absolute legal control of disease prevention, and action necessary if disease is discovered in established colonies within Alaska, Nick has been helpful and interested and has promised his continued full support.

We in Fairbanks didn't get word of the telecon of 3/31 until too late to participate. Do understand that our apparent disinterest was not intentional--we are vitally concerned with this issue and want you to know of our concern. There are about 650 colonies run by about 400 beekeepers in Fairbanks area alone, another 200 in Delta. Alaska's total, as near as I can estimate from contacts throughout the state, is probably close to 1300 colonies minimum to 1500 maximum. We currently

4/20/81

have no central data collecting point nor coordinated information exchange. This is another area we're working in to correct.

Beekeeping may seem small and in the "back of the bus" to you and other legislators, Bob, but it's coming along on an individual basis as fast as any other phase of agriculture in Alaska. I realize you can't be expected to know the needs and wants of the people without, in some instances at least, being apprised. I'd estimate persons keeping honey bees have doubled within the past 10 years. In Fairbanks alone the annual package bee shipments from the lower 48 have more than doubled since 1968. Commercial sales of locally produced honey have leaped from nearly nothing 10 years ago to more than 8000 pounds last year, and the potential market is practically limitless.

Beekeepers are a growing part of Alaska's future, both individually and commercially. We have as I've already stated a unique status in being blessed with a disease-free environment. But we need your and other legislators' help to maintain this condition. A comprehensive, practical and livable bill prohibiting the importation of used bee-keeping equipment in whatever form is needed immediately. You have the information necessary to work up such a bill. Please work at it.

Incidentally, used equipment and honey in such equipment is the primary means of spreading honey bee brood disease. Disease spores and protozoans, once established, will remain viable for many years in honey and in the comb (beeswax) of hives and ^{IN} components, even though they may not have been in active use for years. New equipment, naturally, won't have disease. Honey bees themselves can also transmit certain diseases but here is where we place great reliance on the inspection system of the state shipping the packages of honey bees. Bees shipped in packages only (no used equipment included) from routinely inspected apiaries have a tremendous, smaller probability of harboring infectious disease.

Will you please let me know if the ^{BILL} (H.B. 318) is being rewritten? Will there be another telecon pertaining to this bill? I'll appreciate you keeping me informed on all aspects concerning our "bee bill."

Sincerely,



Dave Tozier

SERVING INTERIOR ALASKA'S BEEKEEPERS

Hives & Honey

SALES:
3 / 4 MILE HURST ROAD
NORTH POLE, ALASKA

APIARY
PHONE
(907) 488-6484

MAIL:
S. R. BOX 80632
FAIRBANKS, ALASKA 99701

April 20, 1981

Rep. Sally Smith
Pouch V
Juneau, Alaska 99811

Dear Sally:

I just wrote a longish letter to Bob Bettisworth on H.B. 318; perhaps you can get a copy of that for some fill-in information on honey bees. I don't have a copy machine, the North Pole library is closed today, and my typing is so error-filled you wouldn't be able to read a carbon copy.

We in Fairbanks didn't hear about the telecon held from 1300-1400 on March 31 until too late to participate. During the telecon held that evening with the Fairbanks delegation, I was slated to talk with Bob but we found out he was on the way to Fairbanks. You talked with Harold (Hal) Livingston that evening, though, and I was there too.

The proposed Act as submitted to you and other legislators by Hal is better worded and more comprehensive than the original Bill as introduced by Hugh Malone et al. We do need a plainly worded Bill that will prohibit importation into Alaska used beekeeping equipment in any form or for any purpose. I believe the original Bill is being rewritten (by you and Resources Committee?) before further action. Is this so?

Is it possible for you to let me know of any proposed teleconference pertaining to H.B. 318 in its revised form? Can you let me know of any changes and any action at all concerning this important matter?

If there's any way I can help please let me know.

Sincerely,



Dave Tozier

(Interior Beekeepers Proposal)

For an Act entitled: "AN ACT TO MAINTAIN THE HEALTH OF HONEYBEES IN ALASKA"

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

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- c. Burning bees and equipment to ashes and burying the ashes at least 18 inches deep in the ground.

Anchorage, Alaska
Mar 23, 1981

Rep. Ramon Barnes
Pouch V. Janenu, Ak.

Dear Ramona

I do appreciate your replying to the letter I sent to the legislators regarding Bee Disease and Honey regulations.

I didn't get many replies but I wasn't really asking for any. I wanted to inform the Legislators on the subject. It is something new and different and you people wouldn't have much of a source to draw on.

The Cook Inlet Beekeepers Assoc. had a bill prepared that Arlis Sturgulewski was going to introduce in the Senate. That hasn't been done yet which is all right because the Interior Bee Keepers came up with a proposal which is more complete than ours.

When we started we had no idea what response we would have from the beekeepers across the State so we started easy. We didn't want the thing to go down the tube.

You will have or will have received the Interior Beekeepers Proposal soon.

Hal Livingston (their spokesman) said that he was going to contact some legislator and have it introduced. I don't know if this is in the program now or not. I haven't been in contact with him within the last several days.

I don't know why any knowledgeable person, beekeeper or otherwise would have any objection to their proposal. It covers the subject well and more complete than House Bill 318.

I don't feel much improvement could be made on the Interior Proposal. It covers the subject well and gives methods dealing with the disease in tried and true ways by beekeepers who are experienced in these matters.

We have a chance of doing things right in regard to dealing with bee disease. As far as we know there is no disease in the State now but if and when it gets here we need knowledgeable people to identify and control it.

Bee disease is a problem to the beekeepers and no one else. The beekeepers want legislation to prevent and control disease in this State if and when it should show up.

The disease is spread almost entirely through the use of used equipment.

The Interior Beekeepers have come up with a proposal to prevent and control the disease which we of the Cook Inlet Beekeepers Asso. totally endorse.

House Bill 318 prohibits used bee equipment.

Sec. 1. of the interior proposal spells out what beekeeping equipment is so it leaves no doubt to the beekeepers or enforcing agency. We are requesting that this will be included in the current bill for us. It won't hurt anyone but will prevent problems in the future.

Ramona Barnes (2) Mar. 23, 1981

Sec. 2 of the Interior Proposal spells out the method of dealing with any disease that is found.

The three things listed are time proven and we feel it should be included in the bill and not left up to some agency who has no experience or knowlege to write the regulations.

These are from knowledgeable beekeepers who will be effected by the Statute.

There will always be judgment matters in this as a police officer does in deciding what particular direction should be taken in a given situation but feel the main thing should be spelled out.

It bothers us that the writing will be left up to an agency that may or may not have the expertice and understanding of the problem, writing something which the beekeepers would have to live with which may not be the best for them or the problem.

Again I say this expertice is in the Alaska Beekeeping Industry. That has been shown in the Interior proposal. There is no need for some outside group spending a lot of money to write regulations that they know nothing about.

The conditions in Alaska are UNIQUE. Everything they do outside doesn't necessarily mean that it is good for Alaska.

If The Proposal of the Interior Beekeepers is adopted it will be complete and everyone will know whats going on and it can be implimented immediately.

I trust you will work toward this end for us and inform your colleged of our needs.

If you have any further questions please contact us.

Thanking you

Fletcher F. Miller

Fletcher F. Miller (sec.)
Cook Inlet Beekeepers Assoc.
Box 8-173 Anch., Ak. 99504

cc

High Malone
Randy Phillips
Brian Rogers

Mar 8, 1981

Hal Livingston
1812 Central Ave
Fairbanks, Ak. 99701

Dear Hal

The proposed Legislation that the Interior beekeepers have come up with deals with the entire picture more completely than what we have.

Due to the nature of the case in that beekeeping is a relative new thing across the State there has been no real contact or a general basis with the other beekeepers.

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Section 3-B has also been used over the years. I have personally run many pieces of equipment through this process.

My only concern with this portion is not what it says but what it doesn't say.

Is the cutting out of the combs from the frames and rendering of the wax going to be allowed? The handling of diseased material is a serious matter. The woods are full of beginner hobbyist beekeepers who until a few months ago didn't know that there was anything such as a bee disease.

There is more than one commercial beekeeper in this end of the world who have had no real experience with bee disease and handling of diseased equipment.

Enclosed is a copy of a letter from James C. Bach, Chief Apiary Insp. from the State of Washington in reply to my question to him in regard to the matter of individual rendering of diseased combs.

Hal Livingston (2) 3-8-81

QUOTE "Rendering by the individual causes me some apprehensions. Most Apiarists do not recognize the need for sanitation and cleanliness around a disease situation. In Washington they have been allowed to render their own disease. When I came in we adhered to the letter of the law. We found anything from a poor job of rendering with comb still hanging from the wires to no rendering because of supposed breakdown of the equipment. Also some of the equipment to be rendered mysteriously turned up in the warehouse. What I am saying is that the inspector loses control of the situation."

I have coordinated the proposed bee legislation and personally feel there would be strong backing for your proposal.

The other thing that isn't covered is who would do the inspecting?

The Agriculture Dept. wants it mandatory that an entomologist be tied with a disease bill. He would take care of the inspection work and divide his time with other work that they would have for him to do.

What is your position on this?

As I have stated before the entomologist would have to be an Apiaculturist also in order to be a help and not a hinderance to the beekeeping industry.

The other thing is that the Agriculture Dept. would want to write the regulations dealing with disease, which they have no business doing since they don't know anything about it.

The interior beekeepers proposal proves that the beekeeping industry has what it takes to write something that will take care of the problem without any one else getting in to muddy up the water.

The beekeepers can come up with what is best for the beekeeping industry better than anyone else.

Will be waiting for you to get in contact with us again soon on this matter

Fletcher F. Miller (sec.)

Fletcher F. Miller
Cook Inlet Beekeepers Asso.
Box 8-173 Anch., Ak. 99504

H

B

350

COMMITTEE REPORT

HOUSE

3/17/81

FURTHER:

(11)

Date: 6/4/81

Mr. Speaker:

The Committee on RESOURCES has had HB350

"An Act relating to mineral leasing; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 350 same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Frank J. Zboroff

A. Smith

Steve Paska

William

Rick Halford

B. Stewart

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Eui Sutcliffe NO REC

AGO 886249

CHAIRMAN

Frank J. Zboroff

try under the laws of the United States. The Department assures compliance with this provision by excluding from selection all lands noted on its records as being appropriated and reserved, or subject to valid existing interests, and by requiring that adequate notice be given to all other persons claiming an interest in the selected land. The Department can then receive objections to the issuance of a patent and can render a determination as to the availability of the selected lands.

3. Alaska: Land Grants and Selections: Mineral Lands—Alaska: Land Grants and Selections: Validity—Alaska: Statehood Act—Patents of Public Lands: Reservations

Section 6(1) of the Alaska Statehood Act provides that grants of mineral lands to the State are made upon the condition that all subsequent State conveyances of the mineral lands shall be subject to and contain a reservation to the State of all the minerals in the lands so conveyed. The Act does not require that federal patents to the State include a proviso to the above effect, rather, it is subsequent State conveyances which must contain a reservation for minerals.

APPEARANCES: Max Barash, Esq., Washington, D.C., for appellants; James N. Reeves, Esq., Office of the Attorney General, for the State of Alaska; Karen A. Shaffer, Esq., Office of the Solicitor, Department of the Interior, for the United States.

AGO 886243

RICHARD W. ROWE,
DANIEL GAUDIANE

20 IBLA 59

Decided April 21, 1975

Appeal from decision of the Alaska State Office, Bureau of Land Management, rejecting oil and gas lease offer F 694.

Affirmed.

1. Alaska: Land Grants and Selections: Generally—Notice: Constructive Notice

Published notice of a proposed State selection in accordance with regulatory requirements is adequate notice to all persons claiming the lands adversely to the State.

2. Alaska: Land Grants and Selections: Validity—Alaska: Statehood Act—Notice: Generally—Patents of Public Lands: Generally

Section 6(b) of the Alaska Statehood Act does not require that patents issued to the State include a proviso that the conveyed lands are vacant, unappropriated, and unreserved, and do not affect any valid existing claim, location or en-

OPINION BY ADMINISTRATIVE JUDGE RITVO
INTERIOR BOARD OF LAND APPEALS

[1] In their initial argument, appellants contend that it was improper for the Department to issue a patent to the State without having first given appellants *actual* notice and an opportunity to object to the issuance of the patent. In accordance with 43 CFR 2627.4(c), the State of Alaska published notice of its proposed selection for five consecutive weeks in order to bring to the knowledge and attention of all persons who were interested in the lands described therein the fact that the State proposed to establish and perfect its claim to the selected lands. The State's publication specifically stated that, "One purpose of this notice is to allow all persons claiming the lands adversely to file in this [BLM] office their objections to issuance of patent to the State." Publication in accordance with regulatory requirements is

adequate notice. *Duncan Miller*, 20 IBLA 1 (1975); *Chemical-Petroleum Corp. v. Bowen*, 72 I.D. 403 (1965); see also 66 C.J.S. *Notice* §§ 13, 18 (1955), and cases cited therein. Accordingly, we find that, as a result of the publication, appellants received adequate notice and an opportunity to object to the issuance of the patent to the State of Alaska.

In their next argument, appellants contend that it was improper for the Department to issue a patent to the State which failed to describe the lands selected as vacant, unappropriated, and unreserved, and as not affecting any valid existing claim, location, or entry under the laws of the United States. Appellants also object to the fact that the patent did not include a proviso prohibiting the State from subsequently reconveying the mineral interests it acquired.

[2] Section 6(b) of the Statehood Act provides that the State may select up to 102,550,000 acres from the public lands in Alaska which are vacant, unappropriated and unreserved at the time of their selection, provided the selection does not affect any valid existing claim, location or entry under the laws of the United States. The Act does not require that patents to the State include a proviso to that effect. Compliance with this provision is fulfilled by the Department excluding from selection all lands noted on its records as being appropriated and reserved, or subject to valid existing interests, and by requiring that

adequate notice be given to all other persons claiming an interest in the land. The Department can then receive objections to the issuance of a patent and can render a determination as to the availability of the selected lands. In the present case, following publication of the State's proposed selection, the BLM, in its decision tentatively approving the State's application, made a finding that, "The lands described * * * are not known to be occupied or appropriated under the public land laws, including the mining laws * * *." We conclude that this procedure adequately assured conformity with the requirements of the Statehood Act.

[3] We also reject appellants' argument that it was improper to issue a patent to the State without including a proviso prohibiting the State from reconveying acquired mineral interests. Section 6(i) of the Statehood Act provides that grants of mineral lands to the State are made upon the condition that all subsequent State conveyances of the mineral lands shall be subject to and contain a reservation to the State of all of the minerals in the lands so conveyed. All lands or minerals disposed of contrary to the provision are to be forfeited to the United States by appropriate proceedings instituted by the United States Attorney General. Again we note that the Act does not require that federal patents to the State include a proviso to the above effect. Rather, it is subsequent State conveyances which must contain a res-

ervation for minerals. Adherence to this requirement of the Act is adequately assured by the fact that the laws of the United States are the supreme law of the land, and state action in contravention can be set aside. *Lee v. Florida*, 392 U.S. 378, 385-86 (1968).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision below is affirmed.

MARCUS RAYO,
Administrative Judge.

WE CONCUR:

DOUGLAS E. HENRIQUES,
Administrative Judge.

EDWARD W. STEVENS,
Administrative Judge.

MAY 4 1981

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

April 29, 1981

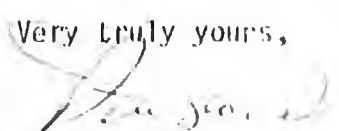
Honorable Fred Zharoff, Co-Chairman
House Resources Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Zharoff:

Re: HB 350 Relating to Mineral Leasing

The department supports HB 350 subject to an amendment which would replace the term "lease" with "development and production lease." This would be a pedantic change and would not alter, in any way, the intent of the bill (it would satisfy the legal connotation of "lease"). The suggested changes would, however, desensitize the concerns of the mineral industry with the imposition of a lease system for locatable minerals.

Very truly yours,


Charles R. Webber
Commissioner

CRW/shB/11

cc: Representative Richard Halford

BY HALFORD, ABOOD, ANDERSON, BARNES,
BEIRNE, BETTISWORTH, BROWN, BYLSMA,
CARNEY, COTTEN, FANNING, FREEMAN,
FULLER, GARDINER, GRUSSENDORF, HAUGEN,
HAYES, MALONE, MARTIN, MEEKINS,
MONTGOMERY, O'CONNELL, RANDOLPH AND
SMITH

1 IN THE HOUSE

2 CS HOUSE BILL NO. 350

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mineral leasing; and providing for
7 an effective date."

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

9 * Section 1. AS 38.05.205(a) is amended to read:

10 (a) Prior discovery, location and filing shall initiate prior
11 rights to mineral deposits subject to AS 38.05.185 - 38.05.280 in or on
12 state lands, other than submerged lands, which are open to mining
13 leasing. Locations shall be made and certificates of location recorded
14 in accordance with AS 38.05.195. If the located lands are available
15 only for leasing, the director shall publish in a paper of general
16 circulation in the area of the location, notice of the filing of the
17 location and notice that a mineral lease will be issued. The notice
18 may be combined with notices of locations either in the same general
19 area or statewide. At least two weeks after publication of the notice,
20 an application form for a mining lease shall be mailed to the locator
21 by the director [UPON REQUEST OR UPON RECEIPT OF NOTICE THAT THE LOCA-
22 TION HAS BEEN MADE ON LANDS OPEN ONLY FOR LEASING]. A lease applica-
23 tion shall be filed with the director by the locator within 90 days
24 after receipt of the form. If the located lands are not available for
25 leasing, notice shall be given the locator by the director and his
26 prior rights shall terminate. A mining lessee has the exclusive rights
27 of possession and extraction of all minerals subject to AS 38.05.185 -
28 38.05.280 lying within the boundaries of his lease ^{location}. Mining leases may
29 be issued for one location or for a group of contiguous locations held

1 in common. Minerals may not be mined and marketed or used until a
2 lease is issued, except for limited amounts necessary for sampling or
3 testing.

4 * Sec. 2. AS 38.05.305 is amended by adding a new subsection to read:

5 (e) The provisions of this section do not apply to a lease issued
6 under AS 38.05.205.

7 * Sec. 3. AS 38.05.345 is amended by adding a new subsection to read:

8 (h) The provisions of this section do not apply to a lease issued
9 under AS 38.05.205.

10 * Sec. 4. SPECIAL PROVISION FOR MINING LEASE LOCATIONS. Notwithstanding

11 AS 38.05.205(a), until ~~March 1, 1985~~ ^{July 1, 1984}, minerals may be mined, marketed, or
12 used on a location for mineral leasing under AS 38.05.205 on land tentatively
13 approved or patented to the state under section 6(a) or 6(b) of the Alaska
14 Statehood Act (P.L. 85-508, 72 Stat. 339, as amended) upon discovery,
15 location, and recording in accordance with AS 38.05.195. However, this
16 section does not apply to a locator who does not file an application for a
17 lease within 90 days after receipt of the application form as required by
18 AS 38.05.205.

19 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

May 22, 1981

The Honorable Terry Gardiner
House Resources Committee
House of Representatives
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Chairman Gardiner:

On April 30, 1981, during a hearing on HB 350, the House Resources Committee requested that, prior to the conclusion of this legislative session, this office issue its opinion on whether, and to what extent, leasing is required for mineral interests in lands granted to the state under section 6(a) and 6(b) of the Alaska Statehood Act. (The opinion is often referred to as the "6(i) opinion" because the leasing restriction is contained in section 6(i) of the Alaska Statehood Act.) The purpose of the request was to allow time for the legislature to act if the opinion concluded that a significant change was necessary in the manner that the state has dealt with minerals in 6(a) and (b) lands. This office has released drafts of a proposed opinion on this subject and is currently working on its final opinion.

Although it will not be possible to issue a final opinion on all matters prior to the end of this legislative session, this letter expresses our opinion on at least one of the issues: whether the past state interpretation of the mineral leasing restriction in section 6(i) of the Alaska Statehood Act was correct. Although the correct application of the 6(i) restriction is still being researched, our opinion is that past state practice was incorrect. A final opinion on the correct interpretation will be forthcoming sometime this summer. In that opinion the matters discussed in this letter will be set forth more thoroughly.

This opinion does not conclude which lands are covered by the leasing requirement. The draft opinions' tentative conclusion that the leasing restriction applies to all 6(a) and (b) lands is vigorously disputed. As expressed by the testimony of the Alaska Miners Association, by Mr. Phil Holdsworth, during the hearing on HB 350, the miners' position is that the mineral leasing restriction in section 6(i) applies only to those 6(a) and (b) lands that are "mineral" in character as determined by the Department of Natural Resources.

Although the miners' position may be correct, their view also represents a significant departure from past practice. The Department of Natural Resources has never made mineral character determinations. Requiring such determinations would possibly result in severe dislocations in present mining activities while miners await those determinations. Thus, some legislative relief this session would still be appropriate. A more detailed discussion of this remaining issue, and the attendant legal and practical problems, is contained later in this letter.

Section 6(i) provides:

"All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the expressed conditions that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease as the State Legislature may direct: Provided, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska."

The issue causing the greatest controversy is the application of the phrase "mineral deposits in such lands will be subject to lease" (emphasis added). The question is which lands are "such lands." The draft opinion concludes that, first, "such lands" means all mineral lands granted under section 6(a) and (b). Second, the draft opinion concludes that the term "mineral lands" as used in section 6(i) means all 6(a) and (b) lands that contain valuable mineral deposits no matter when those deposits become known.

The miners apparently agree that the restriction applies to "mineral lands," but contend that "mineral lands" means only those lands which are believed to be valuable at a certain point in time as determined by the Department of Natural Resources. Minerals discovered after the land has been determined to be "non-mineral" would not need to be leased. The draft opinion recognizes that the miners' position may be valid, and research is still being done on this point.

But the state's interpretation and practice to this time has taken still a third position--one which this office concludes is incorrect. The prior state interpretation, presently set forth in 11 AAC 86.135(b), only applied the mineral leasing restriction to those 6(a) and (b) lands which had previously been conveyed to third parties. If 6(a) and (b) lands remained in state ownership, then past state practice would allow miners to mine simply by location and discovery whether or not the land was mineral in character. Since until recently little 6(a) and 6(b) land was sold to third parties, the leasing restriction was practically nonexistent. As a result few, if any, hard rock mineral leases have been issued by the Department of Natural Resources.

Notwithstanding the department's interpretation and practice, it is our opinion that section 6(i) requires a different scheme. Whether or not the state sells the non-mineral interest, the state may only lease the minerals in the 6(a) and (b) mineral lands.

These restrictions, however, do not apply to all lands granted to the state. The first sentence of section 6(i) includes mineral rights in all state grants: "All grants made or confirmed under this Act shall include mineral deposits." The leasing restriction, however, applies only to lands granted under section 6(a) and 6(b), and then only those 6(a) and (b) lands which are "mineral" in nature.

As will be set forth more fully in the eventual final opinion, the reasons for the conclusion that the past state practice was incorrect are based on the legislative history, administrative interpretations, and judicial decisions surrounding the almost identical provisions of the 1927 School Lands Act, 43 U.S.C. 870, and the history of section 6(i) itself. The legislative history of the School Lands Act and section 6(i) are set forth in the draft of February 11, 1981, which is appended to this letter for your reference. See also, e.g., Shores v. Utah, 52 I.D. 503 (1928); Instructions, 52 I.D. 51 (1927), 52 I.D. 273 (1928), 53 I.D. 30 (1930).

Definition of "Mineral Lands".

Although the applicability of the 6(i) leasing restriction to all 6(a) and (b) mineral lands is relatively clear, a more difficult question is the meaning of the term "mineral lands." The February 11, 1981, draft's preliminary conclusion was that "mineral lands" meant all 6(a) and (b) lands that contain minerals no matter when the mineral character of the land became known. That conclusion would require leasing of minerals on all 6(a) and (b) lands, since there would be no point in time where anyone could conclusively say that a particular piece of land was not mineral in nature.

The reasons for this preliminary conclusion are set forth in the February 11, 1981, draft at pages 49-54, and will not be repeated here. It is to be emphasized that that conclusion was only preliminary, and, in fact, subsequent research has tended to weaken the rationale for that result.¹

The alternative interpretation was generally described in testimony by former natural resources commissioner Phil Holdsworth before your committee concerning HB 350. Basically, under this approach, the term "mineral lands" only applies to lands known or reasonably believed to contain valuable minerals at the time of equitable transfer from the federal government to the State of Alaska. Since the federal government has granted both the mineral and non-mineral land to the state, the federal government does not

^{1/} The conclusion in the February 11, 1981, opinion was based solely on the School Lands Act experience and comments during the admittedly confused legislative process surrounding section 6(i) of the Alaska Statehood Act. See, e.g., comments of Representative Pillion quoted in the February 11, 1981, draft at page 87. The term "mineral lands," however, has been applied in a wide range of federal land grants, and subsequent research has included research into those other types of grants and the decisions and practices of the Department of the Interior in those other applications. Subsequent research has tended to show that a more restrictive reading of the term "mineral lands" has had application in a wider range of instances than previously thought. Particularly telling has been the tendency of administrative bodies to automatically apply the more restrictive interpretation of the term "mineral lands" even when the purposes of the restriction were markedly different.

have the authority to make that initial determination and, instead, the state is responsible for setting up and implementing that administrative decision. See Instructions, 53 I.D. 30, 35 (1930).²

Under this approach, the mineral leasing restriction applies only to land the state determines is mineral in character. If the state determines that the land is not mineral in character, the leasing restriction does not apply even if there is a subsequent discovery of minerals in that land.

Even if the miners' position is correct, there are still a number of unresolved questions which require additional research. Briefly, the main areas of inquiry are:

- (1) What are the criteria for determining whether land is mineral in character?
- (2) What date is the relevant time for identifying the known conditions which form the basis for determining whether land is mineral?
- (3) What is the effect of the provision in section 6(g) of the Statehood Act which provides:

Following the selection of lands by the State and the tentative approval of such selection by Secretary of the Interior or his designee, but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands.

^{2/} This was the approach taken by the Department of the Interior in implementing the School Lands Act. E.g., Instruction, 52 I.D. 51, 54 (1927). On the other hand, the Department of the Interior took the position that it could review the mineral character of the land in order to determine whether the state has violated the leasing and mineral reservation restrictions, since the Department has taken the position that it must recommend to the U.S. Attorney General to institute forfeiture proceedings in appropriate instances. See, generally, 1 American Law of Mining, Section 3.16 at page 508; Shores v. Utah, 52 I.D. 503, 505 (1928); Instructions, 53 I.D. 30 (1930).

The most commonly cited expression of the "mineral lands" test is contained in the U. S. Supreme Court case of Diamond Coal & Coke Co. v. United States, 233 U. S. 236, 239-40 (1914):

It must appear that at the time [of determination] . . . the land was known to be valuable for minerals; that is to say, it must appear that the known conditions at the time . . . were plainly such as to engender the belief that the land contained mineral deposits of such quality and in such quantity as would render their extraction profitable and justify expenditures to that end.

There is some confusion, however, concerning what passes for evidence of profitability. On the one hand, there is some indication in the cases that profitability must be judged in terms of the then contemporaneous market conditions.³

On the other hand, it has been held that subsequent developments may be considered so as to allow a finding that lands are "mineral" even though the contemporary belief is that the minerals were unmarketable.⁴ Furthermore, there is even doubt that this test applies at all to hardrock minerals. See, e.g., Diamond Coal & Coke, supra, 233 U.S. at 249.

^{3/} See United States v. Southern Pacific Co., 251 U. S. 1, 13 (1919) which implies that an immediate willingness to risk money is the test:

That an ordinary and prudent man, understanding the hazards and awards of oil mining, would be justified in purchasing the lands for such mining and making the expenditures incident to their development, and in that a competent geologist or expert in oil mining, if employed to advise in the matter, would have ample warrant for advising the purchase and expenditure.

^{4/} In Standard Oil of California v. United States, 107 F. 2d 402, 415 (9th Cir. 1940), the court held land to be mineral and, after quoting the Diamond Coal & Coke test,

"In applying such a test, rather than that of actual discovery, it is obvious that a wide field of inquiry is opened up. It was not necessary to show that appellants themselves, in 1903, believed the land to be valuable for oil, or that there was unanimity of contemporary opinion to that effect. The erection of

Besides the criteria to be applied in deciding the physical attributes of mineral land, a second question is identifying the relevant point in time for applying the criteria. Are the conditions those which were known at the time of statehood? State selection? Tentative approval? Patent? Or subsequent transfer to a third party? Arguments can be made for all five dates. Generally, however, it appears that the key time is the point of equitable transfer from the federal government to the state. E.g., Wyoming v. United States, 255 U. S. 489 (1921). This narrows the inquiry to a choice between two dates: (1) when the state has done all that it must do to complete its selection for a piece of land; or (2) when the state's selection is tentatively approved by the Department of the Interior. The completion of all activities necessary for selection is the traditional time for determining mineral character for those types of grants where a state is able to select the land from the general public domain. One such example was the ability of states to make in-lieu selections for grants in aid of schools where the original in-place grants were determined to be mineral in character and not passed to the state under pre-1927 law. Id. On the other hand, 6(g) of the Statehood Act gives the state the authority to dispose of its interest in land upon the receipt of tentative approval. At least one court has stated that "section 6(g) provides that on tentative approval of the selected lands equitable title passes to the State," Schraier v. Hickel, 417 F.2d 663, 665 (D. C. Cir. 1969).

The language of section 6(g) raises an additional question. Again, 6(g) provides:

Following the selection of lands by the State in the tentative approval of such selection by the Secretary of the Interior or his designee, but prior to his issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands.

such standards would require, in the one case, proof of fraud, and, in the other, proof of conditions pointing so unerringly to the existence of valuable oil deposits as to be the equivalent of actual discovery. Nor, as we understand the rule laid down in the controlling decisions, need it be shown that contemporary belief was such as to prompt the willingness immediately to risk money in the exploitation of the land. On this point there is persuasive evidence that the then prevailing market for oil was unfavorable to new development and continued to be so for a number of years." (emphasis added)

Section 6(g) seems to state that the only way that the state can convey a third party interest in land prior to receipt of patent is by a conditional lease or conditional sale contract. Since section 6(i) prevents the sale of the mineral interest at all times, even if non-mineral land can be mined by location after the state receives patent, it may be that prior to patent the state may only authorize mineral entry by means of a conditional lease. Given the long period of time between tentative approval and receipt of patent in most instances, present mining activities may still be affected. Further research on this question is also being conducted.

Conclusion

Past state practice was based on an incorrect interpretation of section 6(i). Also, it is relatively clear that whatever the proper application of section 6(i) may be, there will be a significantly increased need for the issuance of leases for mining activities on 6(a) and (b) land. If no transitional legislation is enacted, disruption of mining activities could occur. This potential for disruptions exists even if the miners' interpretation of the 6(i) restriction is eventually adopted in our final opinion because of the need of the department to make mineral character determinations under the miners' analysis.

On the other hand, even though past state interpretation was incorrect, it should not be assumed that the state has violated the 6(i) restriction. First, the state has always retained the mineral interest when it has sold 6(a) and (b) land to third parties. AS 38.05.125. Second, the leasing requirement in 6(i) is probably satisfied as long as a lease eventually issues. Allowing interim mining solely by discovery and location prior to issuance of a lease would probably not be a violation of section 6(i). Cf. Idaho Code Annotated §47-703 et. seq. (where the statute allows mining by location only for two years before a lease must be secured). Thus, if a claim has been staked on 6(a) and (b) mineral land, the potential violation of 6(i) would probably be cured by issuing a lease for that claim. Third, given the poor market for hardrock minerals in Alaska until recent years, many lands that have been tentatively approved or patented may not be "mineral lands" under one of the likely tests for mineral character: i.e., that the land was reasonably believed to contain valuable minerals at the time the state completed its selection. Therefore, the lands already conveyed to the state by tentative approval or patent that would be "mineral" may be very few. Finally, if a court would rule that the state practice was incorrect, it is likely that the court would give the ruling prospective effect only. See, e.g., Chevron Oil Co. v. Huson, 404 U.S. 97, 106 (1971).

Terry Gardiner

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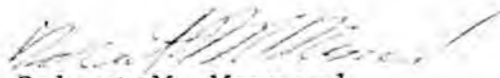
May 22, 1981

Again, a final opinion is expected to be issued sometime this summer. That opinion will expand upon the matters discussed herein, reach conclusions on the undecided issues outlined above, and answer a number of related questions addressed in prior drafts but not discussed in this letter.

If you have any questions please do not hesitate to call.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Robert M. Maynard
Assistant Attorney General

RMM:mr

AGO 886259