

ALASKA LEGISLATURE COMMITTEES 1902

1945 SRES SCR 48 - SJR 43 91

Figure 1

Comparison of Commercial Harvest Timing and Peak Catches for Selected Pink Salmon Fisheries in Alaska.

Prince William Sound

Wild pink salmon stocks

peak

San Juan Hatchery stocks:

in common property fishery

peak

in hatchery harvest area

peak

Kodiak Pink Salmon

peak

Bristol Bay Pink Salmon

(Nushagak District)

peak

Horton Sound Pink Salmon

peak



ALASKA BOARD OF FISHERIES
FOREIGN PROCESSING DURING THE 1982 SALMON FISHERIES

I. FINDINGS

Under 5 AAC 39.198, commercial fishing and related operations by aliens not lawfully admitted to the United States are prohibited. The regulation provides that the Board of Fisheries may grant limited exceptions to 5 AAC 39.198 with respect to particular fisheries and permit foreign vessels and aliens to process fish resources at or transport fish resources from an existing or constructive port when the conditions specified in 5 AAC 39.198(d) exist.

The Board has reviewed information and data regarding expected Alaskan salmon runs, anticipated processing capability of U.S. processors, the anticipated market situation, the likelihood of waste, and the possibility of clandestine operations. The Board has received processing capacity reports from the Department of Fish and Game, marketing analysis reports from the Department of Commerce and Economic Development, reports on anticipated foreign processing interest from the Office of the Governor, and considered comments made during public hearings in Anchorage on April 3, 1982.

The Board finds:

1. In the Norton Sound, Bristol Bay, Kodiak, Prince William Sound, and Southeastern Alaska salmon fisheries, pink salmon runs are expected to greatly exceed spawning escapement requirements in many of the contributing river systems and approximately 81 million pink salmon will be available for commercial harvest.
2. The volume of pink salmon available for harvest may exceed the processing capability of United States processors by approximately 12.5 million pink salmon.
3. The large volume of pink salmon in excess of the domestic processing capacity and anticipated marketing conditions are expected to cause suspensions of operations by domestic processors with a resultant loss of opportunities for the domestic fishermen to market their catches.
4. There is a likelihood of substantial wastage of pink salmon resources taken in the fisheries if foreign processing or transportation capacity is not utilized.
5. Allowing vessels from certain foreign nations to process salmon in selected internal waters of the State would most likely not result in a displacement of the commercial market away from domestic processors.
6. There is no significant likelihood of clandestine foreign fishing operations if a limited exception is granted.

II. EXCEPTIONS TO 5 AAC 39.198 GRANTED

Based on the above findings, the Board hereby tentatively grants limited exceptions to 5 AAC 39.198 allowing the use of foreign vessels to process salmon in the following locations during the specified times.

<u>Management Area</u> ¹	<u>Foreign Processing Season</u> ²	<u>Projected Processing Surplus</u> ³
Norton Sound district	July 1 - July 31	3,000,000 pink salmon
Nushagak district	July 20 - August 10	4,000,000 pink salmon
Kodiak	July 25 - August 15	1,500,000 pink salmon
Prince William Sound	July 20 - August 20	3,000,000 pink salmon
Southeastern Alaska	July 25 - August 25	1,000,000 pink salmon

¹ The Department will specify on the foreign processing permits locations within these management areas where processing operations can be conducted.

² The Department may adjust these dates dependent on timing of the various salmon runs and the degree of species overlap between runs.

³ The possible amount of harvestable pink salmon which may be in excess of domestic processing capability. These numbers will be adjusted by the Department as additional run size, harvesting, and processing data becomes available.

Foreign vessels processing or tendering unprocessed salmon must adhere to the following conditions:

1. Only salmon harvested in the Norton Sound district (5 AAC 04.200(b)), Nushagak district (5 AAC 06.200(a)), Kodiak Area (5 AAC 18.200), Prince William Sound Area (5 AAC 24.200) and Southeastern Alaska Area (5 AAC 33.200) may be delivered to a foreign vessel.
2. The operator of each vessel engaged in the processing or tendering of salmon under this limited exception must obtain a "foreign processing permit" from the Alaska Department of Fish and Game and keep it posted in a conspicuous place in the wheelhouse; requests for a "foreign processing permit" may be directed to the Commissioner of the Alaska Department of Fish and Game and shall specify:
 - a. dates of operations;
 - b. location of operations;
 - c. place of intended delivering and processing outside Alaska;
 - d. location of final market place;
 - e. room and board arrangements for a State observer; and
 - f. such other items as the Department may require.
3. Each holder of a "foreign processing permit" shall report to the local representative of the Department the number and pounds of each species of salmon received each day pursuant to processing

operations permitted under 5 AAC 39.198(d) and other information required by the Department to assure the orderly harvest and documentation of the 1982 pink salmon surplus.

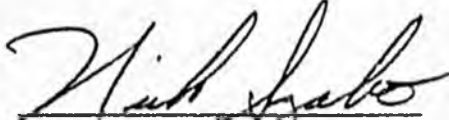
4. Each permittee shall abide by all applicable Federal, State, and local laws, regulations and ordinances and all other conditions required by the Commissioner to assure the orderly harvest of the 1982 pink salmon surplus.

III. GUIDELINES FOR THE COMMISSIONER

In accordance with 5 AAC 39.198(d), the Board directs the Commissioner of the Department of Fish and Game to adhere to the following guidelines when granting and terminating exceptions to 5 AAC 39.198:

1. Those general guidelines set forth in 5 AAC 39.198(d)(1) through (5).
2. Modify, pre-season and in-season, locations and times open to foreign processing based on changes in anticipated and demonstrated domestic processing capabilities.
3. Modify the number of salmon available for foreign processing based on demonstrated run strength and domestic processing capabilities.
4. Modify locations and times open to foreign processing based upon the timing and overlap of runs of non-target species.
5. Terminate foreign processing operations if it appears that the product of those operations may displace domestically processed Alaskan salmon from normal domestic and foreign markets.

DATED: April 7, 1982


Nick Szabo, Chairman
Alaska Board of Fisheries

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDING
JUNEAU, ALASKA 99801

PHONE:

May 3, 1982

Dear Sir:

Thank you for your interest in foreign processing and tendering of surplus salmon during 1982.

The Alaska Board of Fisheries has reviewed information and data regarding expected salmon runs, anticipated processing capability of U.S. processors, the anticipated market situation and other pertinent information provided during its meeting on April 3, 1982. The Board has tentatively granted limited permission for foreign vessels to process surplus pink salmon in five of the State's commercial fisheries. For each of these fisheries the Board has tentatively identified the periods open to foreign processing operations and the potential surplus which may be available.

Norton Sound: From July 1 through July 31, three million pink salmon may be available. The projection for this run may be less reliable than more formal pink salmon forecasts compiled for other fisheries. The magnitude of this surplus is greatly beyond the historical high harvest of 300,000 pink salmon for this region. A possible shortage of available harvesting capacity may also exist. Any foreign vessel seeking to process these fish must be prepared to operate in either Golovin Bay or Norton Bay as there are no other internal waters present in this region.

Nushagak Bay: From July 20 through August 10, four million pink salmon may be available. Foreign processing vessels must be located in Nushagak Bay.

Kodiak Island: From July 25 through August 15, 1.5 million pink salmon may be available.

Prince William Sound: From July 20 through August 20, three million pink salmon may be available. One million of these fish are expected to be taken in the terminal hatchery harvest area adjacent to the Port San Juan hatchery.

Southeastern: From July 25 to August 25, one million pink salmon may be available in southern Southeast districts 1, 2, and 3.

It is important to stress that in identifying these tentative surpluses, the Board makes no guarantee of the actual availability of these fish to foreign processing vessels. Catch projections are based on recent stock production trends and analysis of pre-season indicators. Actual run sizes may vary from those forecasted. Likewise, the timing of returning runs is variable and can only be estimated from historical data.

A Foreign Processing and Tendering Permit must be obtained from the Commissioner of Fish and Game before a foreign processing vessel can operate in State waters. The decision to issue a permit will be made by the Commissioner with concurrence of the Governor's Office on the basis of the determination that the requirements of the State foreign processing regulation and the Findings of the Alaska Board of Fisheries on Foreign Processing will be satisfied by this action. If a permit is issued to a foreign processing vessel, the actual processing operation cannot begin until the area in which the vessel is authorized to operate is opened to foreign processing by Commissioner's Announcement. Furthermore, the Commissioner may:

- (1) modify, pre-season and in-season, locations and times open to foreign processing based on changes in anticipated and demonstrated processing capabilities;
- (2) modify the number of salmon available for foreign processing based on demonstrated run strength and domestic processing capabilities;
- (3) modify locations and times open to foreign processing based upon the timing and overlap of runs of non-target species; and
- (4) terminate foreign processing operations if it appears that the product of those operations may displace domestically processed Alaskan salmon from normal domestic and foreign markets.

In order to promote the public safety and convenience to the fisherman and the Department, the Commissioner may designate within the State's internal waters those areas where a foreign processing vessel may operate. Foreign processing vessels are prohibited by State and Federal law from operating outside the State's internal waters.

Foreign processing vessels limited to receiving and processing pink salmon will be allowed to accept other species caught incidentally, in order to relieve the fisherman of the burden of sorting his catch. However, the Commissioner will monitor the magnitude of the catch of non-target species to determine whether the timing and location of foreign processing operations must be adjusted to protect domestic processors who may be processing non-target species.

Tentative surpluses have been identified only for pink salmon in the areas specified. At the present time surpluses are not anticipated for any species other than pink salmon. Permit applications will be finalized only for pink salmon in the areas indicated. However, permit applications to process other

May 3, 1982

species or in other areas will be accepted but will not be finalized unless new pre or in-season information indicates a change in the current assessment of capacity.

To apply for a Foreign Processing and Tendering Permit complete the enclosed permit application and return to Foreign Processing Coordinator, Division of Commercial Fisheries, Alaska Department of Fish and Game, P.O. Box 3-2000 Juneau, Alaska 99802.

Along with the permit application, a copy of the Findings of the Alaska Board of Fisheries on Foreign Processing, the foreign processing regulation and information on additional permit requirements are enclosed.

Sincerely,

George Utermohle
Foreign Processing Coordinator
Division of Commercial Fisheries
(907) 465-4215

Enclosures

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4100

May 7, 1982

SCR48

RECEIVED
MAY 10 1982

The Honorable Nels A. Anderson, Jr.
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Anderson:

Thank you for your letter of April 28, 1982, regarding foreign processing of pink salmon in the Naknek-Kvichak district of Bristol Bay. Mr. Dan O'Hara, Chairman of the Naknek-Kvichak Advisory Committee, had alerted us to the potential problem on April 23, 1982.

Both the Department and the Board of Fisheries are well aware of the potential for reduced domestic processing capability during the 1982 season, particularly for pink salmon. The Board has provided me authority to grant additional exceptions to 5 AAC 39.198 when I can determine, either preseason or inseason, that the domestic industry may not be able to process all the available harvest. Therefore, the Department is continually reassessing the capabilities of the domestic processing industry to determine if additional areas or fisheries should be opened for foreign processing. Any information that you, your constituents, Advisory Committees, and the public give the Department on this matter will assist me in making my determinations.

I do not at this time have enough facts before me to allow foreign processing of pink salmon in the Naknek-Kvichak. I am directing my Commercial Fisheries Division staff to investigate the situation and keep you posted on any new developments.

Sincerely,

Ronald O. Skoog

for
Ronald O. Skoog
Commissioner

cc: Governor Hammond
Representative Chuckwuk
Zahn, Collinsworth, Pennoyer, ADFG
Tillion w/copy Anderson letter



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

May 12, 1982
1:30 p.m.

Beltz Room
Capitol - Room 211

Hearing:

- CSHJR 78 Relating to commercial fishing by foreign fleets in the 200-mile fishery conservation zone along Alaska's coast.
SCR 48 Relating to joint ventures between Alaska commercial salmon fishermen and foreign processors.
HCR 51 Relating to the enhancement of wildlife populations through predator management.
HCR 52 Relating to habitat management.
HJR 75 Relating to habitat management.
CSHJR 76 Relating to the enhancement of wildlife populations through predator management.
-

CSHJR 78

Senator Mulcahy moved the adoption of SC3 CSHJR 78 (Res). He then moved that this language be placed on CSSJR 60 with a new title. There was no objection. He then moved CSSJR 60 with individual recommendations.

SCR 48

Steve Pennoyer, Director of Commercial Fish, Alaska Department of Fish and Game, explained that current State regulations require the Board of Fish to determine annually if there will be a surplus of salmon. The Board anticipates a surplus of pinks in several areas for the 1982 season, which means that the Department can issue permits to foreign processors for these areas. Although the Department has received several letters of interest from foreign processors, no applications have yet been processed. Pennoyer expressed concern over the second Resolve Clause, which speaks to sockeye salmon, as the Board has not identified a sockeye surplus this year.

Rick Lauber, Pacific Seafood Processors, expressed opposition to the resolution, stating that language regarding Bristol Bay processors placing limits on fishermen is not factual; monetary losses to fishermen in the past have been due to work stoppages and price disputes; the

resolution is not needed; the inviting in of foreign processors should be done in an orderly fashion and not create false hopes for the fishermen.

Norman Staton, Sealaska Corporation, representing Ocean Beauty Seafoods, stated that foreign processors should have to comply with the same laws domestic processors must comply with. He urged a careful analysis to determine if foreign processors' markets are conflicting with domestic markets, and inquired about expeditious processing of foreigners' permits.

Pennoyer agreed that time is of the essence, but stated that at least a month would probably be required for processing of a permit.

Senator Anderson explained that the resolution was drafted by the fishermen of Bristol Bay, who don't believe the processing needs can be met this year without the use of foreign processors. He urged that foreigners be allowed to process both pinks and sockeyes.

Senator Fahrenkamp stated that the bill would be held for further work.

Senator Fahrenkamp asked if there was anyone to testify on HCR 51, HCR 52, HJR 75, or CSHJR 76. She stated that since the bills have been scheduled for hearing several times before, and since no one has offered testimony, they would be held until further notice.

The meeting was adjourned at 2:30 p.m.



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
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JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: Committee Meeting, 5/12/82
DATE: May 11, 1982

Please find attached background information for Wednesday's hearing on the following bills:

- SCR 48 Relating to joint ventures between Alaska commercial salmon fishermen and foreign processors.
- CSHJR 78 Relating to commercial fishing by foreign fleets in the 200-mile fishery conservation zone along Alaska's coast.

Also scheduled are the following resolutions, which are continued from Monday's meeting:

- HCR 51 Relating to the enhancement of wildlife populations through predator management.
- HCR 52 Relating to habitat management.
- HJR 75 Relating to habitat management.
- CSHJR 76 Relating to the enhancement of wildlife populations through predator management.

The hearing is scheduled for 1:30 p.m. in the Beltz Room.

LEGISLATION SUMMARY

SCR 48: Relating to joint ventures between Alaska commercial fishermen and foreign processors.

WHEREAS the 1982 season run forecasts by the Department of Fish and Game for sockeye and pink salmon in the Bristol Bay fishery and for pink salmon in the southeastern fishery are the largest ever, with a potential harvest of 135 million; and that the harvest is likely to exceed in-state processor's capacity; and that Bristol Bay processors have imposed limits on the amount of salmon they accept daily, resulting in a loss of \$20,000 to \$40,000 per fisherman; and that Bristol Bay processors have been unable to handle the catches delivered, resulting in a waste of salmon; and that Bristol Bay fishermen often wait in line up to 36 hours to unload, resulting in a loss of fishing time and income; and that joint ventures with foreign processing vessels are the only feasible means of utilizing the entire allowable harvest of sockeye and pink salmon; and that state law charges the commissioner of fish and game to develop fisheries; and that joint ventures with foreign vessels provide the only opportunity to develop species of fish the Alaskan processing industry does not handle or intend to handle;

RESOLVED that the Legislature requests the Governor, the Board of Fisheries and the commissioner of fish and game to support and encourage 1982 joint ventures to handle the excess runs; requests the Governor to direct the commissioner to grant all permits and authorizations necessary for the operation of 1982 joint ventures for pink and sockeye salmon and to waive prohibitions on the operation of foreign vessels and aliens receiving and processing the salmon; request the Governor to direct the commissioner to encourage the development of and issue the necessary permits for joint ventures for fisheries not handled or intended to be handled by Alaskan processors.

TO: Billy Berrier
Director
Legal Services

DATE: 5/13/82

Attn: Ed Hein

FROM: Bettye Fahrenkamp
Chairman

RE: CS SCR 48 - Joint Ventures
between fishermen/foreign processors

--

Attached is language I would like incorporated into a FINGL
Committee Substitute for SCR 48.

If you have any questions please contact Resa King at 465-3834.
When the Bill is complete please return to Room 211 Capitol
Building.

Attachments - 3

SJR

10



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
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JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

MEMO

TO: Bonnie, House Resources Committee Staff
FROM: Tom Johnson, Senate Resources Committee Staff
DATE: May 4, 1982
RE: Background materials on SSSJR 10

Per your request this morning, attached please find background materials from our files on SSSJR 10, for your Committee hearing this afternoon.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
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POUCH V
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JUNEAU, ALASKA 99811
(907) 465-3034
(907) 465-3035

Senate

Committee on Resources

April 8, 1981
1:40 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Sturgulewski
Senator Mulcahy
Senator Gilman

Hearing:

- SSSJR 10 Proposing amendments to the Constitution of the State of Alaska relating to agricultural rights in state lands.
- SCR 17 Relating to the development of a wood products industry in the state.
- SB 245 An Act amending the agricultural loan program to authorize loans for the harvesting, storage, and delivery of peat.

Bob Palmer, Coordinator, Special Projects for the Governor, stated that, nationwide annually, 3-5 million acres of are taken out of agricultural production. A number of states have recognized the negative impact of this and have been purchasing agricultural rights from private land owners. He indicated that SSSJR 10 would alleviate several potential problems: first, the sale of only agriculture rights could be repealed by a future legislature. And, second, with the approval from the adjacent city and the Division of Lands, the owner of agricultural lands can obtain full title. He indicated that there has been an increase in the number of people speculating in agriculture lands in hopes they can someday sub-divide the land and sell it. SSSJR 10 will eliminate this speculation.

Senator Fischer put forth the motion to move SSSJR 10 with individual recommendations.

SUBJECT OF RESOLUTION Loss of agricultural lands to subdivisionsORIGIN OF RESOLUTION Kodiak Soil Conservation SubdistrictDATE OF ORIGIN November 15, 1980

It is sometimes necessary for ranchers and farmers to subdivide agricultural lands to pay off the mortgage on said lands. This is drastically depleting Alaska's agricultural land base and its subsequent ability to become self sufficient in food production.

RESOLVED, that the Alaska Association of Soil Conservation Subdistricts support the Kodiak Soil Conservation Subdistrict in recommending that the Alaska State Legislature pass legislation to purchase the development rights of private agricultural land parcels to eliminate the necessity of ranchers and farmers to subdivide.

ACTION TAKEN BY AASCSD STANDING COMMITTEE ApprovedACTION TAKEN BY AASCSD RESOLUTIONS COMMITTEE ApprovedACTION TAKEN BY AASCSD Passed by unanimous vote

SENATE RESOURCES COMMITTEE

April 8, 1981

Page: 2

Senator Colletta, stated that SCR 17 sets up a procedure to utilize one of the state resources. With the current emphasis on agricultural development, it is necessary to utilize the timber that is on the land. SCR 17 directs the various agencies to work together jointly to utilize all of the resources

Senator Sturgulewski offered language for amendments. The Chairman suggested since SCR 17 would be next in the Finance Committee that the amendments could take place there.

Bob Palmer, Coordinator, Special Projects for the Governor, stated that he supports the concept of SCR 17. He explained that the language "highest and best use" is not always the most obvious use of the resource.

Senator Mulcahy put forth the motion to move SCR 17 with individual recommendations.

Bob Palmer, Coordinator, Special Projects for the Governor, stated he supports SB 245. He indicated that during a recent market trip to Japan he found that they import large amounts of peat from West Germany which contains 60% moisture. The Japanese use peat for cattle feed, oil spill clean up and potting soil. Peat offers a prime opportunity for a new industry in Alaska. One of the difficulties with the development of a peat industry is a large portion of it is located in wet lands which fall under the jurisdiction of the Army Corps of Engineers. He suggested that due to the limited funds in the Agricultural Loan Program that AIDA or ARRC might be more appropriate bodies to handle loans for peat. .

The Committee was adjourned at 2:25 p.m.

Alaska State Legislature

DETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
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Senate

Committee on Resources

TO: SENATE RESOURCES COMMITTEE
FROM: SENATE RESOURCES COMMITTEE STAFF
DATE: April 7, 1981
RE: Hearing Wednesday, April 8th, 1:30 p.m., Beltz Room

Attached please find the following materials for Wednesday's hearing:

- SSSJR 10 Proposing amendments to the Constitution of the State of Alaska relating to agricultural rights in state lands.
Kodiak Soil Conservation Subdistrict, Resolution, regarding loss of agricultural lands to subdivisions.
- SCR 17 Relating to the development of a wood products industry in the state.
"Use of trees to be cleared from Alaska agricultural lands to develop a new wood fiber industry: a proposal for state policy." Mead Treadwell, December 20, 1980.
- SB 245 An Act amending the agricultural loan program to authorize loans for the harvesting, storage, and delivery of peat.

SJR

19

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
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(907) 465-3835

Senate

Committee on Resources

April 1, 1981
1:30 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Bradley
Senator Mulcahy
Senator Sturgulewski
Senator Eliason
Senator Gilman

HEARING: CSSJR 19 Relating to the proposed Stikine Dam project in Canada.

SB 84 An Act relating to the processing of permits by state agencies.

CSSJR 19

Mary Ellen Culbertson, Southeast Alaska Conservation Council, stated that she supports both CSSJR 19 and HJR 27. The two resolutions direct the Federal government to help us with an exchange of information (on the construction of the Stikine Dams) with Canada.

Steve J. Havig, Southeast Gillnet Association, stated that he supports the resolutions. There has been a history of fishing on the Stikine River for the past 90 years. Although the proposed five dam sites are above known salmon spawning sites, the regulation of the flow from the dams could affect the fishery.

Senator Eliason, stated that the resolution was drafted very carefully. The resolution asks only that the State be a part of the planning process with Canada.

Senator Mulcahy put forth the motion for an unanimous do pass committee recommendation of HJR 27.

SB 84

Wilson Condon, Attorney General, stated that he hopes that the Administration, through its regulatory reform program, can accomplish the goals of SB 84 without the necessity of the bill actually being passed in to law. He said he is not opposed to the bill, but, hopes the Legislature will let the Administration work out their own reform package. If the Administration's reform program does not work then the Legislature can pass SB 84 next session.

In response to the question, what is the status of the Administration's regulatory reform regulations? Mr. Condon stated that the regulations were out for public review and the Governor wants the new Commissioner of the Department of Natural Resources to have an opportunity to review the regulations.

Molly Dent, Attorney for the Sierra Club Legal Defense Fund, stated if SB 84 passed most groups that had participated in the drafting of the Administrations regulatory reform regulations would be disappointed. She said there are a few problems with SB 84. First, the appeal provision will lengthen and delay the issuance of permits; secondly, the provision for automatic approval would make the permits useless since they will be issued without findings from the issuing agency. She said there are also a few problems with the reform regulations: first, there is a lack of public notice on many natural resource actions, and, secondly there is a lack of coordination and inter-agency review. She urged the Committee to await the outcome of the administrations efforts at regulatory reform prior to enacting legislation.

Jamie Linksweller, Attorney Sohio, stated that SB 84 does not solve all of the problems of regulations but, it is better than the Administrations regulatory reform program. The conflicting inter-governmental authority is the biggest problem in permit reform. He stated that up until 1978 it was not that difficult to obtain a permit. It took approximately 30-40 days. Now, since the advent of CZM, it takes 125-200 days to obtain a permit in an usable form. The regulatory reform regulations are 15 pages of complicated new red-tape. He said that there are problems with the regulations: 1. there is no lead agency concept; 2. consistency review will remain as it is; 3. Section 570 gives local government veto power on certain resources matters and therefore, the state will loose control over the State's resources; 4. they create complication where there was none previously; and, 5. they are so complex that they create more possibilities for delay.

Roland Shanks, Alaska Environmental Lobby, stated that SB 84 is premature because the Administration has not had time to implement it's regulatory reform program. He said statements

have been made that DOT projects have been held up because of permits but, the real problems have been right of way acquisition, so many projects being funded by the legislature at one time and a lack of clear legislative intent.

In response to the question, if the Administration's regulatory reform program should fail would you support SB 84? Mr. Shanks stated that he would support some sort of regulatory reform.

Phil Holdsworth, Alaska Miners Association, stated that he supports SB 84. A good example of the Administration's permit reform is the proposed fish habitat regulations that involved the Department of Fish and Game in land and water areas that belong to other Departments. The reform should be directed by the legislature.

The Committee Adjourned at 2:55 p.m.

4/1/81
9:30 a.m.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
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(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: SENATE RESOURCES COMMITTEE
FROM: SENATE RESOURCES COMMITTEE STAFF
DATE: March 31, 1981
RE: CSSJR 19 - Proposed Stikine Dam project in Canada

Attached please find some background information on CSSJR 19.
It is scheduled for hearing Wednesday, April 1st, 1:30 p.m.
in the Beltz Room.

*Done. 14:25 PM
4/1/81*

STIKINE-ISKUT DAM PROPOSALS
FACT SHEET

LOCATION:

The Stikine watershed is mainly in northern British Columbia with the last 40 miles of the river in SE Alaska. From the headwaters in the Spatsizi Plateau, down the 50 mile-long "Grand Canyon" of the Stikine, past the town of Telegraph Creek and through the Coast Mountain Range, the 400 mile long Stikine flows to tidewater near Wrangell.

RESOURCES:

A large trans-border river, the Stikine is central to the histories of the Tahltan Indians, various B.C. settlements and the towns of Wrangell and Petersburg. The watershed is largely wilderness. Major salmon runs, wildlife populations and outstanding scenery support commercial fishing, guiding and recreation industries in both countries. The Stikine Flats are the largest in SE Alaska and a major waterfowl feeding and resting area.

DAM PLANS:

The British Columbia Power and Hydro Authority (B.C. Hydro) is studying a Stikine-Iskut hydroelectric project which would consist of:

- 2 dams in the Grand Canyon of the Stikine (one 800+ feet tall)
- 3 dams on the Iskut River (the largest tributary of the Stikine, joining the river near the U.S./B.C. border)
- access roads, and transmission lines to transport the power to Vancouver and other points south.

Estimated cost for the project is \$7.6 billion. Generating capacity would be 2800 megawatts. The cost, size, and power production capacities would place this among the largest hydro projects in the world.

CONFLICTS:

In Canada the project would

- flood most of the Grand Canyon
- bring adverse social impacts in the small, largely native communities in the area - Telegraph Creek, Iskut and Dease Lake
- irreversibly commit the area to energy development before land claims of the Tahltan people have been settled
- disrupt local economies which are dependent on the project area for guiding, trapping, hunting, fishing, boating
- impact wildlife, including the large goat population in the Grand Canyon, moose, and caribou which migrate across the proposed impoundment area
- possibly affect salmon spawning, rearing and migration

Possible impacts to the Stikine delta in Alaska include

- changes in water temperature, stream flow, sediment and nitrogen levels
- detrimental effect on commercial and sport fish industry
- loss of riparian habitat
- changes in waterfowl and wildlife habitat
- effect on hunting and other recreation

STATUS AND SCHEDULE:

B.C. Hydro started environmental and engineering studies in 1977, and plans to complete them by the end of 1981 at a cost of approximately 30 million dollars. The Corporation will decide at that time whether to seek B.C. government approval for the project. Several provincial and federal licenses and hearings - and American involvement - would be required. Current engineering work includes major tunnelling in the Grand Canyon and application for several access roads.

U.S. ACTIONS:

The U.S. is guaranteed some say in the project under international law; the terms of involvement have to be worked out by the state and federal governments. The towns of Petersburg and Wrangell have requested additional studies by Alaska and U.S. agencies on possible effects of the dams.

ALTERNATIVES:

International cooperative management proposals to protect the whole free-flowing river have been discussed for many years. The U.S. portion was designated Wilderness under the Alaska lands bill last year. The Stikine is among the top 10 B.C. rivers nominated for protection in a heritage river system being worked on in the province. B.C. power needs can be met through existing supplies, conservation and alternative sources. There is intense local opposition to the dam project in B.C.

FOR MORE INFORMATION:

- in B.C.: Residents for a Free-Flowing Stikine
Telegraph Creek, B.C. Canada VOJ 2W0
Friends of the Stikine, 4669 Drummond Drive
Vancouver, B.C. Canada V6R 1E8
- in SE: Stikine Action Committees
Box 1073, Petersburg, AK 99833 772-3976
Box 1612, Wrangell, AK 99929 874-3168
Box 1422, Juneau, AK 99802

TALKING POINTS - STIKINE RESOLUTION

NEED FOR ACTION

- background: Stikine River, 400 miles long, shared by British Columbia and Alaska. Hydro electric power project, one of the world's largest, under study by B.C. Hydro Authority. Includes 2 dams on the Stikine, 3 on the tributary Iskut River, 2800 megawatts, estimated cost of \$8 billion. Power for southern B.C., surplus to U.S. West coast.
- status: Feasibility studies by B.C. Hydro scheduled for completion the end of 1981. Decisions on applying for licensing in 1982. International treaties on U.S./Canadian waterways allow U.S. some role in decisions.
- Alaska concerns: lower end and delta of Stikine in SE Alaska. Fishery and recreation of great economic importance to Wrangell, Petersburg, SE in general. Stikine flats are largest in SE, major waterfowl area. Changes in water and sediment levels caused by dams could have many possible effects.

WHAT RESOLUTION DOES

- information: brings Alaskan concerns to attention of Federal government and asks help to assure exchange of adequate information on project from B.C. to Alaska.
- decision process: requests State Department to set up state and federal participation in the Canadian planning and decisions on the project.

SUPPORT

- in Alaska: Governor, towns of Wrangell and Petersburg, and organizations such as United Fishermen of Alaska, Ketchikan Indian Corporation, Southeast Alaska Conservation Council have all expressed serious concerns about the project and desire for state and federal actions.
- legislature: resolution sponsored in Senate by Sen. Eliason, in House by a number of SE representatives. (Haugon, Miller, Gardiner, Grussendorf, Duncan, and Fuller)



City of Petersburg
P. O. Box 329
Petersburg, Alaska 99833

November 5, 1980

Residents for a Free Flowing Stikine
Telegraph Creek, B.C.
Canada
VOJ2W0

Atten: Jim Bourquin

Dear Mr. Bourquin:

The community of Petersburg, situated on Mitkof Island in Southeast Alaska, is closely associated with the international Stikine River system. As a natural marine transportation route into the interior of Northern British Columbia, the Stikine River has a rich heritage of both access and as a major fisheries resource of traditional and present day economic concern. Presently the Stikine River and its major tributary, the Iskut River, are in the planning stage for massive hydroelectric power development.

During October 1980, at the request of the National Marine Fisheries Service, the British Columbia Hydropower and Authority (BC Hydro) outlined the Stikine/Iskut project proposal for representatives from a wide range of Alaska and U.S. resource agencies.

The City of Petersburg would like to add its voice of concern to the residents of isolated Telegraph Creek and Iskut B.C. who feel that further study beyond work conducted by BC Hydro be initiated.

State and Federal U.S. interests in the Stikine's resources must be maintained. American resource studies are needed. The critical decisions must be made on a wider than provincial basis. These decisions require an international written agreement. The written agreement would guarantee a cooperative joint study process. The City of Petersburg requests that these steps be taken.

The City of Petersburg would appreciate your keeping us informed of your progress in this matter.

Sincerely,

Richard Kito, Mayor
City of Petersburg, Alaska

Don Thorsteinson, President
Petersburg Chamber of Commerce



UNITED FISHERMEN OF ALASKA

MAILING ADDRESS & OFFICE:
197 SOUTH FRANKLIN ST.
JUNEAU, ALASKA 99801
907 586-2820

Rodger Painter
Executive Director

RESOLUTION 81-25
March 11, 1981

WHEREAS the Stikine River is one of the largest salmon producers in Southeast Alaska with a current run of approximately 400,000 fish and also supports groundfish, shrimp, crab and eulachon; and

WHEREAS the British Columbia Power and Hydro Authority is studying a hydroelectric power complex of 5 dams on the Stikine and Iskut Rivers which would be among the world's largest hydro projects; and

WHEREAS the changes in temperature flow, sediment and nitrogen levels of the river estuary caused by this project could have severe impact on the Stikine River fisheries; and

WHEREAS studies of the project by B.C. Hydro are nearing completion and applications to the Canadian government for licensing could be made in 1982; and

WHEREAS the Stikine is covered under international treaties (Boundary Waters Treaty of 1909 and the Navigable Waterways Treaty of 1871) which apply to actions taken on the waterway by one country that could affect the interest of the other; and

WHEREAS information on possible effects of the dam on U.S. fisheries is needed in order for Alaska and the U.S. to participate in the decision process on this project;

THEREFORE BE IT RESOLVED that the United Fishermen of Alaska:

- 1) opposes the construction of the Stikine-Iskut dam project unless it can be proven that the fishery will not be harmed;
- 2) requests the state and federal governments to fund and carry out studies by U.S. agencies of potential impacts of this project on the Stikine fisheries; and
- 3) urges the state and federal governments to research immediately any possible means of U.S. involvement - including the intervention of the International Joint Commission (empowered under the Boundary Waters Treaty) in the Canadian decision processes on the dams and to pursue such options before commitments are made to build the project.



UNITED FISHERMEN OF ALASKA

MAILING ADDRESS & OFFICE
197 SOUTH FRANKLIN ST.
JUNEAU, ALASKA 99801
907 586-2020

Rodger Painter
Executive Director

RESOLUTION 81-12
March 12, 1981

WHEREAS Alaska is blessed with abundant renewable resources, including hydroelectric potential and fisheries; and

WHEREAS Alaska is embarking on a comprehensive program to develop hydroelectric sites for the benefit of all Alaskans; and

WHEREAS Alaska has the technology and funds to develop hydroelectric power without harming the valuable fisheries resources; and

WHEREAS imprudent development of Alaska's hydroelectric potential could seriously damage Alaska's fishing industry and the lifestyle of Alaska's citizens,

THEREFORE BE IT RESOLVED that:

- 1) United Fishermen of Alaska supports a public policy that allows for development of hydroelectric potential on river systems that do not support major anadromous fish runs if such options are at all feasible and,
- 2) United Fishermen of Alaska urges the Governor and Legislature to proceed with the utmost caution on projects that involve river systems with significant anadromous fish runs to assure that fisheries values are not adversely affected, and that the mistakes made on the Columbia River are not repeated in Alaska.

Chamber, council suggest studies of B.C. Hydro plans

Both the Wrangell city council and chamber of commerce executive board last week agreed to recommend that state and federal agencies be included in studies of B.C. Hydro proposals for construction of hydroelectric dams on the Stikine and Iskut rivers.

Each stressed that it has yet to take a position pro or con on possible dam construction, but the groups did ask that officials on this side of the border study the proposals to determine their possible impact on Wrangell and on U.S. and Alaskan resources.

Separate letters from the city and chamber board were to be sent to state and federal officials.

Jim Bourquin, of Residents for a Free-Flowing Stikine, a Telegraph Creek, B.C., organization opposed to Stikine hydro development, approached the chamber board and council last week to ask that they consider such a proposal.

Speaking before the city council Tuesday, Nov. 25, Bourquin suggested the city adopt a stronger stance on the issue than that taken by the chamber board earlier in the week, but the position

agreed upon by the council is similar in intent to the chamber board's request.

In its letter to the governor, the city notes, "Construction of dams on the Stikine River could affect Wrangell. Although the council has not taken a position to favor or oppose the proposed project, we are concerned that the state of Alaska and federal government remain involved in the studies to the extent necessary to protect Alaska's interests."

The letter also asks, "We would like to know what the state's position will be."

The city of Petersburg and Petersburg chamber of commerce Nov. 5 jointly adopted a somewhat stronger position on the issue, seeking studies of American resources and adding, "These decisions require an international written agreement. The written agreement would guarantee a cooperative joint study process" between Alaskan, U.S. and Canadian interests.

In addition, the Petersburg request stated, "The city of Petersburg would like to add its voice of concern to the residents of isolated Telegraph Creek and Iskut who feel further study beyond work conducted by B.C. Hydro be initiated."

B.C. Hydro has been conducting field studies regarding possible Stikine-Iskut hydro development for the past three years.

Wrangell
Sentinel

12/3/80

Stikine dam plans spark warning call

By CRAIG MEDRED
Empire Assistant Editor

Only days after Alaska Gov. Jay Hammond emerged from meetings with British Columbia Premier William Bennett to proclaim many of his fears about a Stikine River dam had been allayed, a leader of the province's opposition party was in Juneau warning state officials to keep a close eye on the project.

B.C. Hydro, Canada's publicly owned dam building corporation, appears to be giving short shrift to environmental problems the dam could create, including possible decimation of Alaska salmon fisheries downstream, said Al Passarell, a member of British Columbia's New Democratic Party (N.D.P.) Caucus.

"It's very difficult to get information," he added, telling state officials they may have more luck than his party in discovering what B.C. Hydro has planned for the river which starts in northwest British Columbia and runs to the sea near Wrangell.

Canada lacks a freedom of information law, which makes it nearly impossible to get studies or reports B.C. Hydro does not want made public, said the legislator who represents the Atlin area in British Columbia's parliament.

He pleaded with state officials to pressure B.C. Hydro to release environmental information, and said he

would welcome any fisheries and streamflow data available from the state.

Passarell is opposed to the dam because of its multi-billion dollar cost, the planned export of all power to the Vancouver area, the government's refusal to deal with Native land claims and the possible environmental havoc the dam could wreak.

"It's nice to know both sides are trying to use us," a member of Hammond's staff said after meeting with Passarell.

Following discussions with Bennett in Whitehorse, Yukon, last week, Hammond said it appears possible to develop a Stikine River hydroelectric dam without decimating Canadian and Alaskan salmon fisheries.

Some people interpreted that as a Hammond endorsement of the project — something his staff was quick to deny Tuesday.

"He's never endorsed ... this project," said Commissioner of Resources Bob LeResche, who on Monday met with Passarell along with Commissioner of Fish and Game Ron Skoog, Commissioner of Environmental Conservation Ernest Mueller, Wrangell Mayor Don House, representatives of fishermen's groups and a number of state fisheries biologists.

"The governor did not endorse the project by any means," Hammond Press Secretary Chuck Kleeschulte said.

The governor's staff was at work late

Tuesday drafting a statement denying Hammond ever backed the planned, \$7.6-billion, 14-billion-kilowatt dam envisioned by B.C. Hydro. If built, it would be the largest dam in British Columbia, and Passarell expected a number of other Stikine River dams to follow. B.C. Hydro is now studying a total of five dams, two on the Stikine about 140 to 160 miles upstream from the border and three on the Iskut River, a major Stikine tributary, about 50

miles from the U.S.-Canada line. Feasibility studies are expected in 1982.

Passarell warned state officials not to be fooled into thinking they have time because of the planned 1982 release of feasibility studies.

"B.C. Hydro can go at any time for their permits," he said. "...They've never been denied." Some work already appears to be underway, he added.

A treaty between the U.S. and Canada, though, could cause problems for dam builders if Alaska, the U.S. government or British Columbia Indians decided to contest the construction. An 1871 treaty guarantees a navigable Stikine, something which could change if a dam alters stream flows.

Concerns have been raised by Alaska fishermen and residents of Wrangell about damage the dam could do to rich

Continued on Page 2

Stikine...

Continued from Page 1

downstream salmon runs. Historically, dams have largely destroyed salmon runs on rivers where they were built.

Even changes in stream flows from a dam far above the salmon's spawning beds could do significant damage, state fisheries officials say.

Considerable habitat would be lost as dam controlled flows changed the Stikine from a wandering, braided river to a channelized one, Alaska chinook salmon biologist Paul Kissner said.

"Tapering off of the peak floods in the spring and fall" because of a dam's control could seriously damage runs of coho salmon, said Regional Commercial Fisheries Supervisor Dave Cantillon, noting the silver salmon need fall floods to get into much of the river's spawning area and spring floods for smolts to get back to

sen.

Cantillon estimated the coho production of the river at 100,000-plus salmon. "That would probably be a minimal figure," he said. Chinook runs are probably in the neighborhood of 20,000 kings, but "very depressed," he said. "This stock must have been in the neighborhood of several times" larger historically. The chinook, or king salmon, and the coho, or silver salmon, are the most prized and thus most valuable of West Coast salmon.

In addition to the kings and cohos, Cantillon said Wrangell and Petersburg gillnet fisheries are in part dependent on a run of approximately 100,000 sockeye, or red salmon, to the Stikine. "Most of it (sockeye production) is from the Canadian side" of the international river, he added. There are also runs of Dolly Varden char, cutthroat trout and steelhead in the river.

Aside from salmon, changes in water flows, siltation or temperatures in the Stikine could extensively change the ecology of the river's rich delta, now home to thousands of waterfowl.

Canadian officials had at one time shown serious concern for the International treaty mandating navigability on the Stikine, but now "gloss over" any problems that might create, said John McInnis, research director for the N.D.P. Caucus in Victoria. "The tune has changed over the years."

"They (B.C. Hydro) haven't dammed an international river before outside of the Columbia River Treaty," McInnis added. "B.C. Hydro isn't used" to applying to the Canadian federal government for permits for such dams, and there is no "institutionalized system" for doing that.

British Columbia legislator says

Stikine hydro project could hurt Alaska fishing

By KARIN DAVIES
Associated Press Writer

JUNEAU (AP) — Alaska's fishery could be severely damaged by proposed hydroelectric projects on the Stikine River, a British Columbia lawmaker told state officials Tuesday.

Al Passarell, who represents the Atlin district in the British Columbia legislature, said the series of five dams that BC Hydro proposes to build on the Stikine and Iskut rivers would alter water flows and could hurt Alaska's waterfowl, shellfish and salmon stocks.

Passarell met with a host of top state officials, fishermen and the mayor of Wrangell to discuss the proposed dams.

State Commissioner of Fish and Game Ronald Skoog said damage to Alaska's fish and wildlife and to the river's navigability are the state's primary concern over the dams.

While information on the impact of the hydroelectric projects is scarce, state fisheries researcher Paul Kissner said if the dams reduce spring flood levels there could be a "severe" impact on Southeast coho salmon stocks.

Kissner estimated the Stikine River system contributes 300,000 fish to Southeast waters each year, including more than 100,000 cohos and 20,000 king salmon.

The Stikine is an international river. Its headwaters are in northwest British Columbia, and it flows into Southeast Alaska, emptying into a strait between Wrangell and Petersburg.

Passarell also warned state officials of a molybdenum mine planned by Amax Canada Ltd. at Kitsault, British Columbia, which he said would dump some 100 million tons of mostly toxic tailings into Alice Arm. Kissner said he was unsure what effect the tailings would have on Alaska's streams.

Passarell was in Juneau to rally support among Alaska officials to help extract information from BC Hydro. Passarell said Canadian officials have had difficulty getting information on the dams.

He also said Canada's media incorrectly reported that

Gov. Jay Hammond voiced support for the hydro projects following meetings last week with British Columbia leaders.

Hammond Press Secretary Chuck Kleeschulte said Hammond has no information on which to make a decision on the project until feasibility studies are completed in 1982. He said Hammond stated last week that some of his fears about the impact of the dams on steam flows were allayed by discussions with Canadian officials.

Passarell, whose district includes the proposed Stikine River hydroelectric sites, has been battling the project since 1978 when he was elected. However, he said he was not in Juneau to urge officials to oppose the project but to seek help in getting information on the projects from BC Hydro, a public-owned corporation.

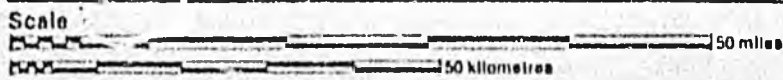
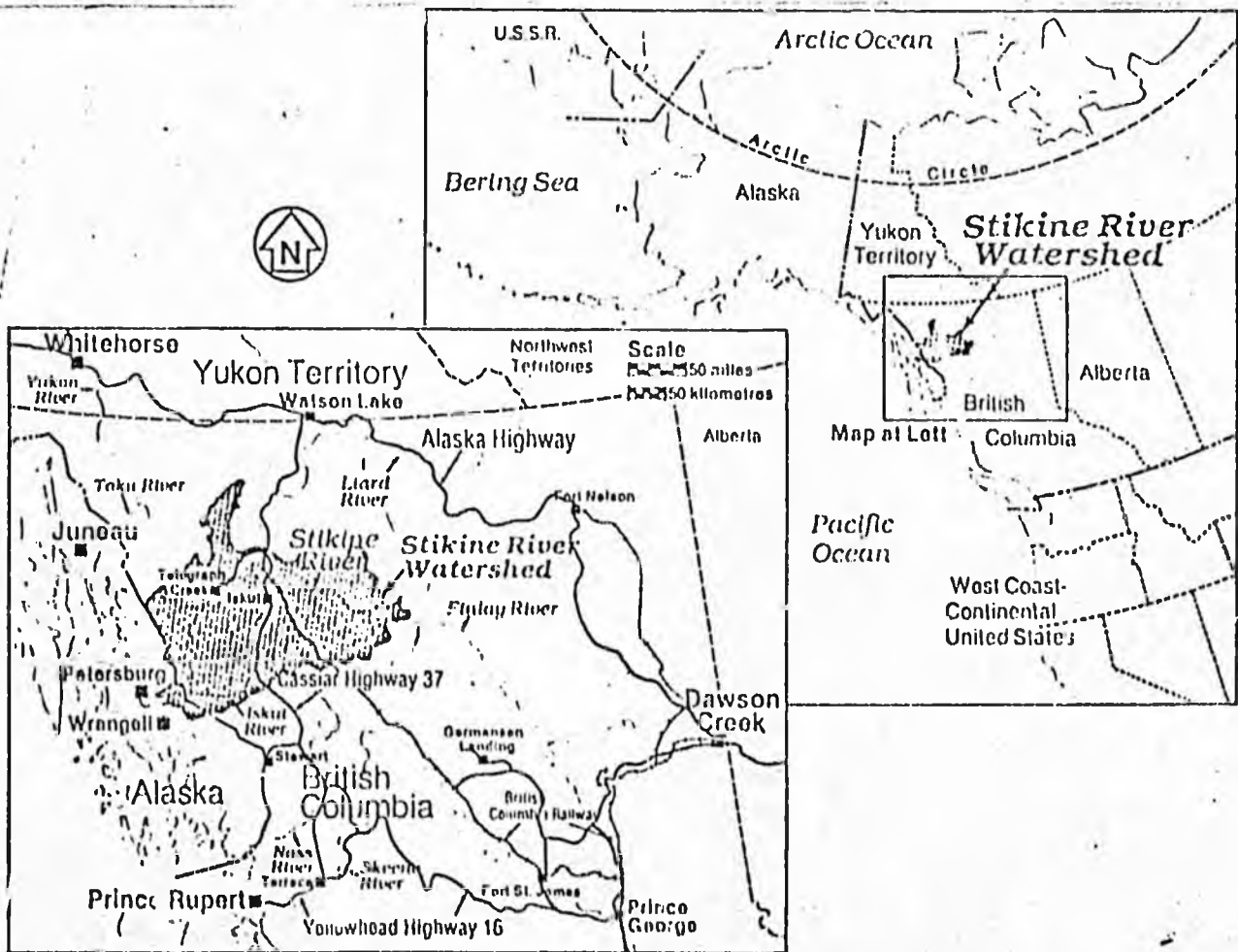
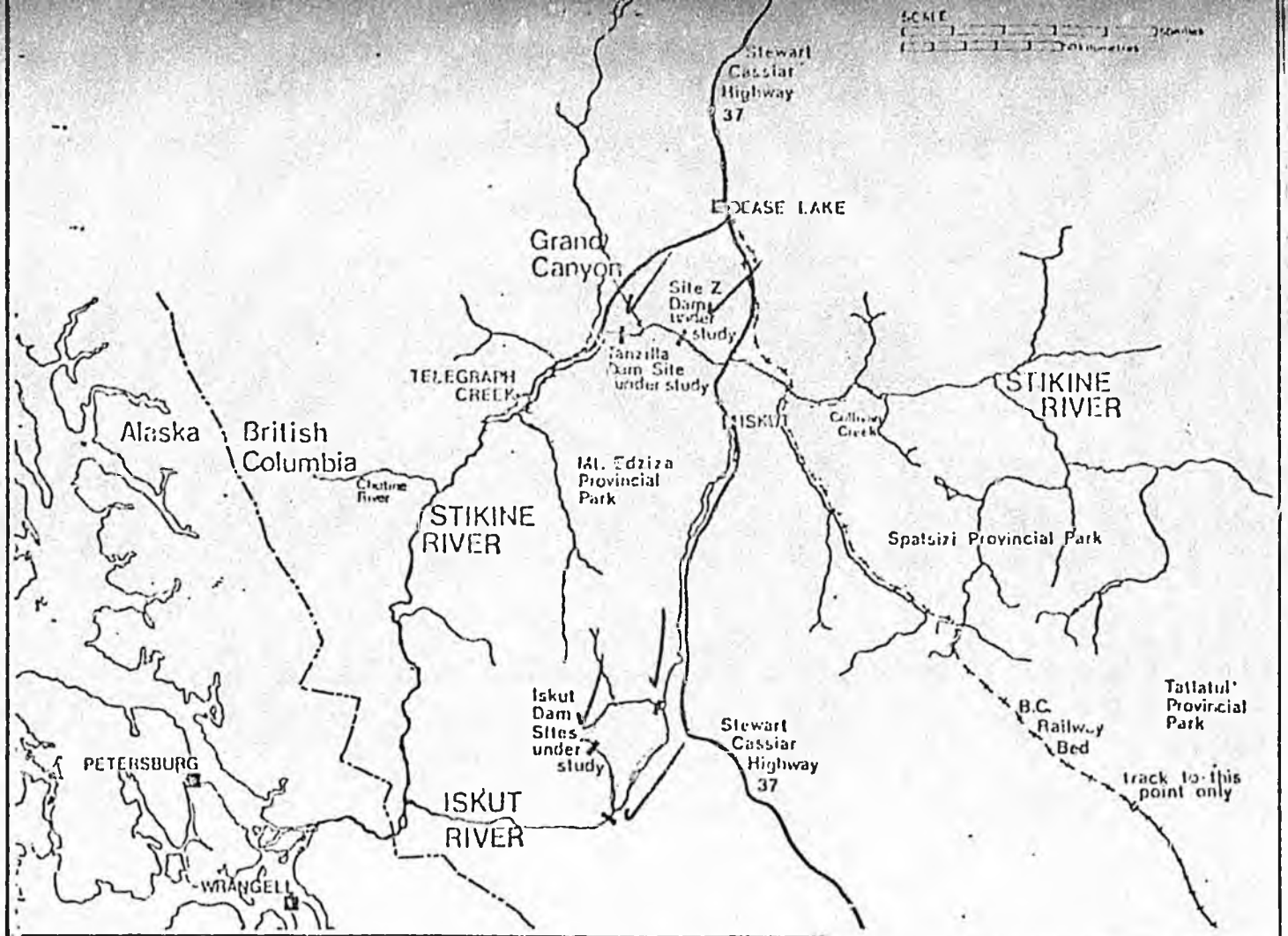
Ernst Mueller, commissioner of the state Department of Environmental Conservation, said BC Hydro has provided little information to the state. Natural Resources Commissioner Robert LeResche said "it will be our responsibility" to look at the dam project because the mouth of the Stikine is in Alaska.

Two U.S.-Canada treaties signed in the 1800s regarding access and navigability of the river could block construction of the dams, Passarell said. There are plans to use those treaties in a suit against BC Hydro when it files for permits next year, he said.

In addition to general environmental damage, Passarell said the hydro projects could damage the river guiding industry, lessen the scenic value of the river and threaten the mountain goat population.

Passarell also objects to the dam project because he said BC Hydro now operates at a deficit, and the \$7.6 billion Stikine project will add to it. He also complained that some of the power generated by the proposed dams would be sold to the U.S., and not benefit his constituents.

BC Hydro is studying the environmental impact and cost of building two dams on the Stikine — 140 and 160 miles upriver from the U.S.-Canada border — and three dams on the Iskut River, a tributary about 50 miles from the border.



SJR

21

SENATE AMENDMENT

By RESOURCES COMMITTEE

To: _____ SENATE BILL No. SJR 21

To: _____ HOUSE BILL No. _____

PAGE: 2 LINE: 17

On line 17 after the word "Congress" remove the period and add the following:

" , the Honorable Jay Hammond, Governor of the State of Alaska and the Governor's and Legislative Affairs' offices located in Washington, D.C."

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
DRA'D DRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3034
(907) 405-3835

Senate

Committee on Resources

March 4, 1981
1:30 p.m.

Beltz Room
211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Mulcahy
Senator Sturgulewski
Senator Eliason
Senator Gilman

Hearing: SJR 21 Relating to federal preemption of state oil pollution legislation.

Ernie Mueller, Commissioner, Department of Environmental Conservation stated that Congressman Biaggi has introduced H.R. 85. This bill is modeled after the Superfund legislation proposed in the previous session of Congress. This legislation would preempt states from establishing oil pollution laws relating to liability and financial responsibility. The bill would also prevent any action from being taken in the state courts for any damages that would be incurred by Alaskans as a result of an oil spill. State and local government officials are best able to address local environmental problems and should be allowed to conduct oil pollution cleanup and restoration. State courts and liability systems have been established in recognition of these special local concerns. He said the Department recommends that everything possible should be done to insure continuation of the State's authority to maintain a spill prevention and clean-up program.

Senator Sturgulewski put forth the motion to move SJR 12 as amended with individual recommendations.

Testimony of the ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
to the SENATE RESOURCES COMMITTEE,
ALASKA LEGISLATURE

on

H.R. 85 (97th Congress, 1st Session)
a bill to provide a comprehensive system of liability
and compensation for oil spill damage and removal costs

March 4, 1981

Superfund legislation, in the form of H.R. 85 has been recently introduced into the 97th Congress by Congressman Biaggi. This bill is modeled after Superfund legislation proposed by Mr. Biaggi in the previous session of Congress. This legislation would preempt states from establishing pollution laws relating to liability, financial responsibility, and cleanup funds. In addition, H.R. 85 also prevents any action from being taken in the state courts for any damages described in the bill that would be incurred by Alaskans as a result of an oil spill.

The Department cannot support the blanket preemption provisions contained in H.R. 85. State and local government officials are best able to address local environmental problems, and should be allowed to conduct oil pollution cleanup and restoration to the level they determine is appropriate, not be bound by a distant federal bureaucracy. State courts and liability systems have been established in recognition of these special local concerns, concerns based upon the value of natural resources and the benefits they provide to the State's residents.

The national pollution cleanup fund administered by the U.S. Coast Guard and the Environmental Protection Agency does not always have sufficient funds to cope with each and every spill that occurs in the fifty states;

The U.S. Coast Guard's priorities with regard to spill cleanup are not the same as the state's. Previous experience with the Coast Guard has shown that they may be required to discontinue cleanup operations at an earlier stage than would be chosen by the state or local residents.

This occurred in the recent oil spill from the Japanese ore carrier LEE WANG ZIN. Citing dwindling fund reserves the U.S. Coast Guard stopped cleanup operations and pulled out, leaving a substantial amount of oil still in the water and on the beach. The present cleanup fund that was created as a result of last year's legislation relating to the prevention and control of oil pollution (HB 205) could have immediately been used to provide adequate cleanup of the remaining oil from the LEE WANG ZIN.

The Department recommends that we do all we can to assure continuation of our ability to maintain a spill prevention and clean-up program.

1 FEDERAL OIL SPILL LEGISLATION (July 1979)

2 The federal government has for five years, attempted to establish a
3 federal scheme for the cleanup and compensation for damages of oil spills. During
4 this time many states have set up their own programs, funds, compensation and
5 liability schemes. Many of these programs have proven to be very effective in
6 responding to the problems of oil spills.

7 NCSL believes that if Congress does enact federal law for these same
8 purposes, the Act(s) should be based upon the following principles:

9 1) States should not be preempted from levying their own fees and
10 creating their own liability funds to cover the cost of cleanup and damages
11 from oil spills, nor should states or local governments be preempted from
12 filing suit against any oil spiller to recover for damages to publicly owned
13 resources or for loss of tax revenue due to injury to real or personal property.

14 2) Any oil spiller should be absolutely liable for all costs incurred
15 by federal, state or local government or any private party for the removal
16 of spilled oil discharges in harmful quantities or for any reasonable measures
17 to prevent or reduce damages to public health and welfare.

18 3) If it can be shown that the spill was the result of gross negligence
19 or willful misconduct, or violation of any applicable safety, construction or
20 operating standards, the oil spiller should be liable for the full amount of
21 damages.

22 4) Any federal fund covering damage and cleanup costs should extend to
23 all land-borne as well as water-borne oil discharges in quantities determined
24 to be harmful under the federal Clean Water Act (or determined to be harmful
25 under the federal Clean Water Act) or determined to cause damage to real or

FEDERAL OIL SPILL LEGISLATION

Page 2

26 personal property on land.

27 5) Any person claiming to have been damaged by an oil spiller is entitled
28 to file his claim directly to any federal domestic oil spill liability fund.

29

30 Senator Fahrenkamp:

31 This is the policy language that NCSL currently has on the
32 books. As I mentioned to you, they will testify on March 11
33 in opposition to the preemption portion of H.R. 85. Donna Wise
34 has also scheduled a briefing by the House majority and
35 minority staffs of the Merchant Marine & Fisheries Committee
36 and Coast Guard Subcommittee for legislative reps on March 3rd.
37 I will attend that and keep you up to date.

38 As soon as language is drafted, please have Juneau LIO tele-
39 copy it down.

40

41 Cynthia

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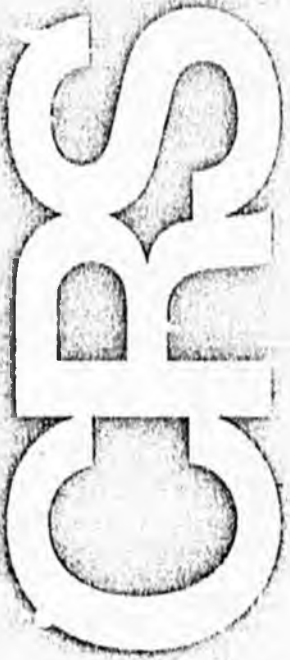
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OIL SPILL LIABILITY AND COMPENSATION

ISSUE BRIEF NUMBER IB79080

Issue Brief



OIL SPILL LIABILITY AND COMPENSATION

ISSUE BRIEF NUMBER IB78080

AUTHOR:

Lee, Martin K.

Environment and Natural Resources Policy Division

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ISSUE DEFINITION

Because a number of international, federal, and state oil spill liability and compensation mechanisms have been established in recent years, efforts have been undertaken to provide a single federal program that would comprehensively and equitably address the differing situations of all areas of the nation. At issue are the provisions a comprehensive liability and compensation program would include. (See also: IB77014, Oil Spills in the Marine Environment; IB77019, Toxic Substances Contamination: Compensation and Indemnities.)

BACKGROUND AND POLICY ANALYSIS

Settlement of liability and compensation for costs and damages resulting from oil spills has traditionally been left to the courts. However, this process often proved to be cumbersome, protracted, and inequitable. It also was unable to address instances where the spillers were unknown ("mystery spills").

To offer the injured parties better redress, the concept of setting specific comprehensive provisions for liability and compensation in the event of oil spills has been set forth. Among the basic ideas behind this concept are that liability is limited except in cases of negligence, costs and damages are clearly stated, and defenses from liability are enumerated. Compensation is handled through a "fund" maintained by appropriations or a fee on oil, with disbursements awarded expeditiously and without regard to fault to ensure prompt cleanup. A fund maintained by a fee on oil would internalize any future cleanup costs, rather than place these costs on the injured parties.

Domestically, provisions of the Federal Water Pollution Control Act (FWPCA), Section 311 (33 U.S.C. 1251), have embraced this liability and fund concept on the national level. The FWPCA, recently amended to cover the 200-mile fishery conservation zone (fcz) and outer continental shelf activities, established levels of liability for vessels and facilities, and provided an appropriation-maintained fund of \$35 million dollars to cover cleanup and restoration costs. Three other federal laws have also included similar provisions. These are the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651-1655), the Deepwater Port Act (DWPA) (33 U.S.C. 1501-1524), and the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1301), which establish liability and compensation programs in the event spills result from any activities related to TAPAA, DWPA, and OCSLA oil.

Similarly, a number of states have adopted liability and compensation provisions that address the concerns of those states over potential oil spills. Some states, notably New Jersey, Alaska, and Maine, have adopted provisions equal to or exceeding the provisions of the Federal Water Pollution Control Act. Some also have established their own funds, maintained by fees on oil handled within the states.

Internationally, two formal conventions have been drawn up covering oil spill liability and compensation, and two voluntary compensation programs have been established by the shipping industry. The two conventions are:

— International Convention on Civil Liability for Oil Pollution

Damage, 1969 (CLC). Done at London, Nov. 29, 1969. Entered into force: June 19, 1975.

— International Convention on the Establishment of an

International Fund for the Compensation for Oil Pollution Damage, 1971 (FUND). Done at Brussels, Dec. 18, 1971. Entered into force: Oct. 16, 1978.

The first convention -- CLC -- establishes liability provisions for vessels; and the second -- FUND -- would provide an international compensatory fund to award cleanup costs only. The United States has not yet ratified these conventions, though domestic implementing legislation was proposed in the 93d and 94th Congresses. Lack of treatment of offshore facilities, low liability limits, and the maintenance of dual funds have been cited as the reasons the United States is reluctant to ratify. Recently, however, members of the FUND Assembly have raised the limit of the FUND to \$56 million, and are further investigating the possibility of amending the convention to make it more interesting to U.S. interests.

In the absence of a comprehensive international liability and compensation mechanism, the shipping industry created the Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution (TAVALOP) and the Contract Regarding an Interim Supplement to Tanker Liability (CRISTAL). The former establishes liability provisions similar to the CLC; the latter establishes fund similar to the FUND. The fund awards cleanup costs to governments only and not to private parties.

While improved vessel design and operation standards have sought to lessen the risk of oil spills, the potential for significant spills appears to have remained. The amount of oil being shipped into U.S. ports has risen over 300% since 1960 (Source: Federal Energy Administration, Energy in Focus, May 1977). Offshore drilling for oil has been accelerated, and the shipment of oil-related products on the nation's waterways has shown marked increase. In December 1976, the relatively small 30,000-ton tanker the "Argo Merchant" sank off the Nantucket shoals, spilling some 7.5 million gallons of No. 6 crude oil into the marine environment. The General Accounting Office (GAO) estimated that total costs resulting from this spill were \$5.2 million. Another incident in February 1978 off the Brittany Coast involved the "Amoco Cadiz," a newly built Very Large Crude Carrier (VLCC) of the 230,000 PWT class, which grounded and released 1.5 million barrels of oil into the marine environment. Initial reports indicate that cleanup costs for this incident have already exceeded \$84 million. These traumatic spills and the many smaller spills occurring in near-shore and inland areas have resulted in a growing concern over the potential for cleanup costs and damages of significant proportion.

Because so many different and varying mechanisms exist to cover oil spill liability and compensation, the Congress is considering a number of legislative concepts aimed at comprehensively addressing oil spill liability. Among the issues associated with adoption of a single federal oil spill liability and compensation statute are:

(1) The relationship to existing state law. Should federal law preempt state oil spill liability and compensation law?

(2) Should substances other than oil be included under the provisions? Recent spills of substances other than oil have resulted in severe damage to the water environment.

(3) What levels of liability should be set for vessels and facilities? Would some levels of liability cause small owners and operators a hardship in obtaining insurance?

(4) Should the concept of damages be extended to include loss of natural resources, economic damages, and personal damages?

(5) Should defenses be broad or narrow, including third-party defense?

(6) What size fund and what method of maintenance should be adopted?

LEGISLATION

H.R. 85 (Biaggi)

Establishes a comprehensive oil pollution liability and compensation program. Introduced Jan. 15, 1979; referred to Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means. Reported from Merchant Marine and Fisheries May 15, 1979 (H.Rept. 96-172, Part I). Reported May 13, 1980, from Public Works and Transportation (H.Rept. 96-172, pt. II). Reported June 20, 1980, from Committee on Ways and Means (H.Rept. 96-172, pt. III). Passed House Sept. 19, 1980.

H.R. 5338 (Roberts)

Amends the Federal Water Pollution Control Act to provide damages due to the Ixtoc I oil spill. Introduced Sept. 19, 1979; referred to House Public Works and Transportation. Reported with amendment May 13, 1980 (H.Rept. 96-956). Passed House June 16, 1980.

H.R. 7765 (Giaino)

Sets forth reconciliation provisions from specified House committees. Introduced July 21, 1980; reported from Committee on the Budget (H.Rept. 96-1167) July 15, 1980. Passed House, amended, Sept. 4, 1980.

S. 684 (Magnuson)

Seeks to establish an oil pollution liability scheme for vessels. Introduced Mar. 15, 1979; referred to the Committee on Commerce, Science and Transportation.

S. 953 (Cannon)

Establishes a comprehensive oil pollution liability and compensation scheme. Introduced Apr. 10, 1979; referred to Senate Committees on Commerce, Science and Transportation, and Environment and Public Works.

S. 1341 (Culver)

Establishes a comprehensive oil, hazardous substances, and hazardous waste liability and compensation program. Introduced June 14, 1979; referred to

Committee on Environment and Public Works.

HEARINGS

U.S. Congress. House. Committee on Merchant Marine and Fisheries. Oil pollution liability and compensation. Hearings, 96th Congress, 1st session, on H.R. 29 and H.R. 85. Mar. 13, 14, 1979. U.S. Govt. Print. Off., 1980. 423 p.

----- Committee on Interstate and Foreign Commerce. Oil, Hazardous Substance and Hazardous Waste Liability and Compensation Act. Hearings, 96th Congress, 1st session. June 19, 1979.
(To be published)

U.S. Congress. Senate. Committee on Environment and Public Works. Hazardous and Toxic Waste Disposal. Hearings, 96th Congress, 1st session. June 20, 21, 1979. U.S. Govt. Print. Off., 1980. 854 p.

REPORTS AND CONGRESSIONAL DOCUMENTS

Floor Statement of Hon. Mario Biaggi upon introducing H.R. 85. Remarks in the House. Congressional record [daily ed.] Jan. 15, 1979: E43-E46.

Floor Statement of Hon. Howard W. Cannon upon introducing S. 953. Remarks in the Senate. Congressional record [daily ed.] Apr. 10, 1979: S4319.

Floor statement of Hon. John Culver upon introducing S. 1341. Remarks in the Senate. Congressional record [daily ed.] June 14, 1979: S7695-S7719.

U.S. Congress. House. Committee on Merchant Marine and Fisheries. Methods and procedures for implementing a uniform law providing liability for cleanup costs and damages caused by oil spills from ocean related sources: a study by the Department of Justice. Washington, U.S. Govt. Print. Off., 1975. 195 p.

----- Oil Pollution Liability and Compensation Act; report to accompany H.R. 85. Washington, U.S. Govt. Print. Off., 1979. 102 p. (96th Congress. House. Report no. 96-172, part 1)
102 p.

CHRONOLOGY OF EVENTS

09/19/80 -- House passed H.R. 85.

09/04/80 -- House passed H.R. 7765, Omnibus (Budget) Reconciliation Bill, striking H.R. 85's provisions.

08/21/80 -- House Committee on Ways and Means reported H.R. 85,

with amendment (H. Rept. 96-172, part III).

- 08/29/79 -- EPA issued final rules on reportable quantities of hazardous substances.
- 06/19/79 -- House Committee on Interstate and Foreign Commerce conducted hearings on Administration's Superfund proposal.
- 06/14/79 -- Proposed rules on Tank Barge Design promulgated by the Coast Guard (44 FR 3440).
- 05/13/79 -- President transmitted draft of proposed "Oil, Hazardous Substances and Hazardous Waste Response, Liability and Compensation Act of 1979" (B.Doc. 96-149).
- 06/03/79 -- A blowout occurred at Ixtoc I, an offshore well in the Bay of Campeche, Mexico.
- 05/31/79 -- DOT/Coast Guard proposed rule on lightering (44 FR 31486).
- 05/15/79 -- House Merchant Marine and Fisheries Committee reported H.R. 85 (H.Rept. 96-172, part II) on Oil Pollution Liability and Compensation.
- 04/17/79 -- IMCO FUND Assembly met in London, and raised the FUND limit to \$56 million.
- 04/10/79 -- House Committee on Merchant Marine and Fisheries, Subcommittee on Coast Guard and Navigation met and approved, for full committee, H.R. 89, Comprehensive Oil Pollution Liability and Compensation Act.
- 03/20/79 -- Federal Maritime Commission (FMC) promulgated final rule on financial responsibility for water pollution on the Outer Continental Shelf (44 FR 16918).
- 03/19/79 -- Department of Transportation Coast Guard issued final regulations on Offshore Oil Pollution Compensation Fund, Title III of OCS Land Act Amendments (44 FR 16860).
- 01/26/79 -- New Jersey announced it will use \$300,000 interest on its Oil Pollution Fund to finance basic and applied research on oil cleanup techniques.
- 01/22/79 -- President submitted budget to Congress, including \$25 million for pollution fund with "line of credit" to to \$200 million.
- 01/08/79 -- 121,430 DWT Supertanker Betelgeuse exploded in Bantry Bay, Ireland, killing 50 people and spilling 40,000 tons of crude oil.
- 01/03/79 -- Federal Maritime Commission proposed rules for OCS vessel financial responsibility requirements (44 FR 915).

- 12/04/78 — Department of Transportation (Coast Guard) issued final rules on offshore drilling rigs (43 FR 56768).
- Department of Transportation issued proposed rules on Offshore Oil Pollution Liability and Compensation according to recently enacted Outer Continental Shelf Lands Act Amendments (43 FR 56840).
- Department of Transportation (Coast Guard) issued notice of proposed rulemaking on transportation of hazardous materials by water (43 FR 56070).
- 12/00/78 — Coast Guard and Federal Maritime Commission developed guidelines for study on adequacy of oil pollution insurance. Study was required by recently enacted Outer Continental Shelf Lands Amendments.
- 11/22/78 — National Oceanic and Atmospheric Administration established an Office of Marine Pollution.
- 11/17/78 -- Lloyd's reported 17% drop in shipping casualties during 1967-77.
- 11/14/78 -- U.S. District Court Judge (N.D.N.Y.) dismissed three U.S. government claims, each based on a different law, seeking \$9.6 million in cleanup costs from the June 1976 NEPCO barge spill in the St. Lawrence River. The judge ruled that the FWPCA is the sole remedy for recovery.
- 11/00/78 — Lloyds Register and Coast Guard reached an agreement on exchange of information on over 60,000 merchant vessels.
- NOAA/EPA environment and industry group met to outline priorities in ocean pollution research, in response to newly enacted National Ocean Pollution Research and Monitoring and Planning Act.
- 09/18/78 — President signed S. 9, Amendments to the Outer Continental Shelf Lands Act (P.L. 95-372), containing oil pollution liability and compensation provisions.
- 08/11/78 — Federal Maritime Commission published final regulations (43 F.R. 35704) (46 CFR, p. 542) on financial responsibility for oil pollution.
- 12/17/77 -- Amendments to Section 311 of the Federal Water Pollution Control Act extend its provisions covering oil (and hazardous substances) liability to cover the 200-mile fishing zone and activities on the outer continental shelf.
- 06/19/75 — IMO International Convention on Civil Liability for Oil Pollution Damage entered into force without participation by the United States.

- 12/18/71 -- IMCO International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage drafted in Brussels to supplement the liability convention.
- 11/29/69 -- IMCO International Convention on Civil Liability for Oil Pollution Damage adopted in Brussels.

ADDITIONAL REFERENCE SOURCES

- Environmental Policy Institute. Oil: a study of pollution Insurance liability laws. A research paper prepared by Maxine Lipeles for the Environmental Policy Institute, Energy Information Project. Oct. 10, 1975. 58 p.
- Glaeser, Jess M. Federal common law and ocean pollution. A private remedy for oil pollution damage? Journal of Environmental Law. v. 8. 1977: 1-46.
- Goldie, L.F. E. Liability for oil pollution disasters: international law and delimitation of competence in a federal policy. Journal of Maritime Law and Commerce. v. 6, Apr. 1975: 303-329.
- Kelly, Ambrose B. Pollution and insurance. Best's review, v. 79, Dec. 1978: 20, 22, 90, 92-94.
- International Union of Marine Insurance. Pollution Risks Committee Report. 1978. n. [unpublished]
- Sisson, Frank. Oil pollution and the limitation of liability act: a murky sea for claimants against vessels. Journal of Maritime Law and Commerce. V. 9, no. 3. Apr. 1978: 285-341.
- U.S. General Accounting Office. Total costs resulting from two major oil spills. U.S. Coast Guard, Department of Transportation. Report of the Comptroller General of the United States. [Washington] 1977. 15p. June 1, 1977. (CED 77071)

SJR

22

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

March 20, 1981
1:30 p.m.

Beltz Room
211 - Capitol

MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR MULCAHY
SENATOR STURGULEWSKI
SENATOR GILMAN

HEARING:

- SJR 22 Relating to proposed regulations of the department of interior adopted under the Alaska national interest lands conservation act.
- SCR 14 Relating to Schnabel Lumber
- SB 298 An act changing the time in which the department of natural resources is required to make land available for disposal from the end of the current fiscal year to October 1, 1981.
- HB 136 An act making a supplemental appropriation to the department of natural resources for the Iditarod trail race.

HB 136

representative Jack Fuller, District 22, stated that recently there has been an increase in interest in dog racing. He would like to see the bill amended from \$50,000 to \$53,000. (Iditarod Trail Race \$25,000; Kuskokwim 300 Sled Dog Race \$10,000; Kotzebue-Noorvik Sled Dog Race \$5,000; Junior Iditarod \$8,000; and, Alaska Dog Mushers, \$5,000)

Chairman Fahrenkamp, stated that the Committee would pass it on to the Finance Committee with the recommendation that the funding be increased by \$3,000.

SENATE RESOURCES COMMITTEE

March 18, 1981

Page: 2

SCR 14

John Schnabel, Schnabel Lumber Company, Haines, stated that he is infavor of the passage of SCR 14. ARRC can not make a decision on the power plant because litigation is going on. The reason the funding is being held up is because of a provision in the Statute which states: "the current litigation is resolved in a manner that does not endanger the investment". There is an Attorney General's opinion that states in part that the appeal poses no danger to the State's investment.

Jon Halliwell, stated that SCR 14 was drafted as the result of the Haines City Council request to Senator Ray. The funding from ARRC will be used to provide steam generated power for the municipal utility.

Jim Stratton, Executive Director, SEACC, stated that he is neither for or against SCR 14 because he supports alternative energy for the City of Haines. He suggested lines 16-18 be changed to: "Whereas the Southeast Alaska Conservation Council, Inc. sought by litigation to adjust the allowable cut in the companies contract to reflect the actual level of sustained yield timber harvest;"

Senator Sturgulewski was appointed as a Committee of one to look into a couple of the issue areas.

SB 298

Bob LeResche, Commissioner, Department of Natural Resources, stated that SB 298 would help solve some conflict problems the Department is having with the North Star Borough and the Mat-Su Borough. The bill extends the fiscal year an extra 3 months to allow them time to work out some of the problems.

In response to the question, does the Department favor or oppose a modification or repeal of the 100,000 annual land disposal mandate? Mr. LeResche, stated that the Department's position has been they would like to see it removed from the law.

Senator Gilman, suggested that the word "after" be deleted from line 15.

SJR 22

There was no one to testify on SJR 22 and no action was taken on the Resolution.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
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JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Staff

RE: SJR 22, "Relating to proposed regulations of the Department of Interior adopted under the Alaska National Interest Lands Conservation Act"

DATE: March 20, 1981

BACKGROUND

The regulations in question are included in your packets.

The regulations were published in the Federal Register on January 19, 1981, one day prior to the change in federal administration. Many of the regulations are based on information gathered at the time d-2 hearings were held in the state. Since that time, the public had not had the opportunity to review or comment on the proposed regulations.

There are sections of the regulations which will protect Alaskans in the interim prior to the time final regulations are adopted for Alaskan lands. However, the impact of other sections is not perceived as protective, but rather, could be termed abusive. (See 36 CFR 13, section .10, .11, which allows access if permitted by Superintendent; or section 13.45, prohibiting use of aircraft)

In light of the Secretary of Interior's intention to be "good neighbors" with Alaska, it is timely that we request full public hearings prior to the time regulations become effective.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

April 6, 1981
2:25 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Bradley
Senator Sturgulewski
Senator Mulcahy
Senator Eliason
Senator Gilman

HEARING:

- SB 298 An Act changing the time in which the Department of Natural Resources is required to make land available for disposal from the end of the current fiscal year to October 1, 1981.
- SJR 22 Relating to proposed regulations of the Department of Interior adopted under the Alaska National Interest Lands Conservation Act.
- HB 130 An Act making a supplemental appropriation to the Department of Natural Resources for the Iditarod Trail Race.
- SB 154 An Act providing for the taking of game for the use of incapacitated persons.

SB 298 Senator Gilman moved for the adoption of the amendment on page 1, line 15, deleting the word "after". Senator Gilman put forth the motion to move SB 298 with individual recommendations.

Senator Sturgulewski put forth the motion to move SJR 22 with individual recommendations.

SENATE RESOURCES COMMITTEE

APRIL 6, 1981

Page: 2

Senator Gilman moved for the adoption of the amendment changing \$50,000 to \$53,000 in HB 136. Senator Mulcahy put forth the motion to move HB 136 with individual recommendations.

Kathryn McCormick, Nutritionist, Department of Health and Social Services, stated that the Department supports SB 154 with some amendments. The bill will provide cultural and ethnic food for the elderly and disabled.

Greg Bos, Division of Game, Department of Fish and Game, stated that the Department supports the bill with amendments. He expressed concern about the possibility of abuse of the system if additional clarifying language is not added.

In response to the question, would you be willing to participate in a meeting with the sponsor of the bill, Department of Revenue and the Department of Health and Social Services to work out clarifying amendments to the bill? Mr. Bos, said yes.

The Committee adjourned at 3:52 p.m.

4/6/81
9:20 p.m.

SJR

25

57K25

Alaska State Legislature

DETTVE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
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DOB MULCAHY
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JUNEAU, ALASKA 99811
(907) 405-3034
(907) 405-3033

Senate

Committee on Resources

February 16, 1981
2:30 p.m.

Senate Finance
5th Floor - Capitol

SENATE MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR FISCHER
SENATOR STURGULEWSKI
SENATOR GILMAN
SENATOR MULCAHY
SENATOR ELIASON

HOUSE MEMBERS PRESENT

REPRESENTATIVE ZHAROFF
REPRESENTATIVE GARDINER
REPRESENTATIVE SMITH
REPRESENTATIVE CHUCKWUK
REPRESENTATIVE GRUSSENDORF
REPRESENTATIVE BETTISWORTH
REPRESENTATIVE HALFORD
REPRESENTATIVE SUTCLIFF
REPRESENTATIVE VASKA
REPRESENTATIVE BARNES
REPRESENTATIVE MOSS
REPRESENTATIVE FANNING
REPRESENTATIVE MARTIN

The Joint Senate and House Resources Committee hearing on SB 36 and SB 162 was teleconferenced to all sites.

SB 36 An Act establishing the Citizens Advisory Commission on federal management areas in Alaska.

Ric Davidge, National Inholders Association, stated that the Alaska Lands Legislation contains some general guidelines for management of lands in Alaska. He indicated that the civil and constitutional rights, and also the lifestyles of the citizens need to be protected since federal managers of the lands are trained only in resource management. He said he supports SB 36 because it establishes an independent state commission to help insure that citizen's rights are protected.

Don Parmeter, Executive Director Citizen's Advisory Commission Voyagers National Park, Minnesota, stated that the Voyagers National Park was established in 1971. When the Park Service started implementing the management plan, it became apparent that tension, hatred and mistrust would be the result of this implementation. In 1975 the Minnesota Legislature established and funded an Independent Advisory Commission to investigate all aspects of management in the Park. The Advisory Commission has been able to first, hold the Park Service accountable for their activities, and second, insure effective participation

In the management of the Park by those whose day-to-day lives are effected. He indicated that the Advisory Commission has been able to turn around a bad situation in Voyager National Park. If it had been established when the Park was created they could have avoided the extreme tensions that developed between the citizens and the Park Service.

Paul Barelka, Fairbanks, stated that he supported SB 36 except he did not like the number or people the Governor could appoint to the Commission.

Donald Stein, Fairbanks, Alaska Miners Association, stated that his only problem with SB 36 is the number of appointments by the Governor. He suggested that the Committee find a way to balance the Commission so that industry and environmentalists have an equal voice.

Ray Craig, Anchorage, stated that he was in favor of the concept of SB 36 because it would hold the Park Service accountable and it is an effective way to help the individual inholder.

Skip Elliott, Skagway, City Manager, stated that in 1977 the Klondike National Park was created with the City's full support. As soon as the Park was established communications between the citizens and the Park Service virtually stopped. He indicated there is fear and anger toward the Park Service by the citizens. He stated that the Park Service has used its funding to build employee housing which they rent for \$20.00 per month. He indicated that they are still willing to cooperate with the Park Service but they want it to be on a mutual basis.

Ric Davidge suggested that the Advisory Commission should not be limited to the 31 areas established in the Alaska Lands Bill, but should have authority to help in other areas like Skagway.

Russell Bartoo, Juneau, stated that since there already exists the fish and game advisory committee, the Citizens Advisory Commission could be a duplication.

Donald Logan, Fairbanks Alaskan Alpine Club, stated that he supports SB 36 but the Governor should not be able to appoint eight members to the Commission because it would give him too much power to set policy.

Doug Buchanan, Fairbanks, Alaskan Alpine Club, stated that he supports SB 36 but thought the Governor should not be able to appoint so many people to the Commission. He also said he would forward to the Committee detailed testimony (see attached).

Phil Holdsworth, Juneau, stated that when he served on the Land Use Planning Commission they encountered the similar problem of Federal agencies going beyond the law. He suggested that the Commission could be strengthened by having the authority to have the Attorney General file suit on their behalf.

Roger Allington, Juneau, stated that the Advisory Commission is needed because the Alaska Land Policy Council established by the Alaska Lands legislation is bureaucratically controlled. He further stated that there should be some sort of qualifications placed upon the eight appointees by the Governor to insure that they are representative of the state.

Alaska State Legislature

5JR20

BETTYE FAHRENKAMP, CHAIRMAN
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DRAID BRADLEY
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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3034
(907) 465-3035

Senate

Committee on Resources

February 11, 1981
1:30 p.m.

House Finance Room
5th Floor - Capitol

SENATE MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR FISCHER
SENATOR BRADLEY
SENATOR MULCAHY
SENATOR GILMAN
SENATOR STURGULEWSKI

HOUSE MEMBERS PRESENT

REPRESENTATIVE ZHAROFF
REPRESENTATIVE GARDINER
REPRESENTATIVE CHUCKWUK
REPRESENTATIVE GRUSSENDORF
REPRESENTATIVE BARNES
REPRESENTATIVE BETTISWORTH
REPRESENTATIVE HALFORD
REPRESENTATIVE SUTCLIFFE
REPRESENTATIVE FANNING

The Committees were briefed by Chuck Cushman and Ric Davidge of the National Inholders Association on some of the problems encountered by people who own property within or adjacent to the boundaries of federally managed areas.

Chuck Cushman stated that the federal interpretation, of the word "compatible" as used in Alaska Lands Legislation could cause some problems. He stated that Federally managed areas are in essence federal colonies "governed" by the federal managers.

Mr. Cushman and Mr. Davidge showed a film on what has happened to residents inside Cuyahoga Valley National Park and a short film taken from the Tom Snyder Show.

Mr. Cushman stated that he is often asked, how can we protect the citizens of the State? He said that since the Park Service personnel are trained to manage resources and not deal with people, it is necessary to establish a citizen's oversight committee.

Ric Davidge, stated that they showed the Committee how areas have been managed in the Lower 48 to give the Committee an idea of what to expect in Alaska. They have estimated that 30-35,000 people will be affected in Alaska by federal land management.

In response to the question, how long will it take the Park Service to start implementing the legislation? Mr. Davidge stated that personnel has been selected, they are now going through orientation, and interim regulations have been drafted by the Interior Department.

Mr. Davidge stated that he has received a number of complaints from the people in Skagway that the Park Service has basically taken over the town. Mr. Cushman stated that he would be meeting with the City Manager of Skagway and would report, on Monday, to the Committee on what the situation is.

Mr. Davidge stated that the Park Service has concluded that any activity that effects the Class I and II air should not be allowed to occur. This will have a great effect on property owners adjacent to the boundaries.

Mr. Davidge stated that it is written in the Constitution that no property in a state can be acquired by the federal government without the state's consent. Most states have given a blanket authority to the Federal government on acquiring property.

Mr. Davidge stated, that another thing the state can do is to fund a citizen's committee to act as an ombudsman between citizens and the federal government. He also stated that, he understood that a bill, SB 36, has been introduced in the State Senate to create a Citizens Committee. He will be testifying in favor of that bill. He stated that SB 36 should be enacted in order to avoid the difficulties like those encountered in Voyagers National Park. A Citizens Committee was established five years after the enactment of federal law creating that park. This commission has worked well in Minnesota in relieving the tensions and problems between the Park Service and residents of the Park.

The Joint Committee meeting adjourned at 3:05 p.m.

Alaska State Legislature

DETTYE FAHRENKAMP, CHAIRMAN
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STATE CAPITOL
JUNEAU, ALASKA 99911
(907) 465-3034
(907) 465-5035

Senate

Committee on Resources

March 13, 1981
1:30 p.m.

Beltz Room
211 Capitol

MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR FISCHER
SENATOR ELIASON
SENATOR GILMAN
SENATOR MULCAHY
SENATOR STURGULEWSKI

Hearing: SJR 25 "Relating to the Klondike Gold Rush
National Historical Park"
SCR 12 "Relating to hand trolling"
SB 140 "An Act creating a fishery product
revolving loan fund"
SB 141 "An Act making a special appropriation
to the fishery product revolving loan
fund"

SJR 25

John McDermott, Skagway City Council, stated there had been a considerable breakdown in communication with the National Park Service. Their major problem's with the Park Service's land acquisition policy. The policy is in draft form and there has never been a public meeting on it. He stated that SJR 25 will certainly help their situation and the City Council supports it.

Skip Elliott, Skagway City Manager, stated that he had previously outlined the City's problems when he testified on

SB 36. He said that the Park Service is more receptive since the introduction of SB 36 and SJR 25.

Senator Mulcahy put forth the motion to move SJR 25 with individual recommendations.

SCR 12

Senator Eliason stated that the Board of Fisheries made a mistake at their last meeting in limiting hand trollers to one line. SJR 12 addresses some of the options to the problems the Board created.

Senator Mulcahy put forth the motion to move SCR 12 with individual recommendations.

SB 140 and SB 141

Senator Mulcahy stated that the Senate Resources Subcommittee on Fisheries held hearings on SB 140 February 11th, February 18th, and March 4th. He stated that SB 141, which is an appropriations bill of \$100 million, was not addressed in Subcommittee because it is basically a Finance Committee issue. He requested that the Committee adopt the Subcommittee's CSSB140 with one amendment:

Page 1, Line 15-16, delete the words "processing of" and replace with "such processors' inventories of canned, frozen or processed"

Senator Mulcahy put forth the motion to move CSSB 140 as amended with individual recommendations.

Senator Mulcahy put forth the motion to move SB 141 with individual recommendations.

The Chairman adjourned the hearing at 2:45 p.m.

SJR

35

COMMITTEE REPORT

SENATE

4/22/81

FURTHER: None

Date: _____

Mr. President:

The Committee on RESOURCES has had SSJR 35

exemption of Alaska hydroelectric projects from the licensing authority of the Federal Energy Regulatory Commission

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Sen. Salmon

Sen. ...

Butterfield

CHAIRMAN

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
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POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

May 15, 1981
1:30 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Mulcahy
Senator Gilman
Senator Sturgulewski
Senator Eliason

Hearing:

- SB 304 An Act making a supplemental appropriation to the Department of Natural Resources for planning for the Tokositna Park.
- SB 305 An Act making a special appropriation to the Department of Natural Resources for planning for the Tokositna Park.
- SCR 21 Relating to research relating to proposed state and federal oil and gas lease sales.
- SJR 35 Relating to the exemption of Alaska hydroelectric projects from the licensing authority of the Federal Energy Regulatory Commission.
- SB 291 An Act making a special appropriation to the Department of Fish and Game for shooting and firearm safety programs.

Senator Redey stated that SB 304 and SB 305 appropriate funds to continue the planning efforts on the Tokositna Park. He requested that the Committee consider passage of the suggested Committee Substitute and the letter of intent.

Senator Fischer put forth the motion to move CSSB 304 and CSSB 305 with individual recommendations. He also, asked for unanimous consent on the letter of intent.

SENATE RESOURCES COMMITTEE

Page: 2

May 15, 1981

Senator Parr stated that SCR 21 asks the Governor to submit a proposal in the next budget for an applied research program for proposed state and federal oil and gas lease sales.

Senator Sturgulewski put forth the motion to move SCR 21 with individual recommendations.

Dave Hutchens, Executive Director, Alaska Rural Electric Cooperatives, stated that SSSJR 35, would help shorten the time frame in which the Federal Energy Regulatory Commission issues licenses. All of FERC's personnel is located in Washington, D. C., and when they receive an application they are very ponderous in their deliberations.

Senator Gilman put forth the motion to move SSSJR 35 with individual recommendations.

Robert Hinman, Deputy Director, Division of Game, Department of Fish and Game, stated that the \$5 million appropriation in SB 291 is the recommendation of the State Range Planning Committee.

Randy Smith stated that he supports SB 291. The appropriation in SB 291 is for capital projects and for the Department of Fish and Game to provide some expertise to help the local organizations to institute the programs.

Senator Gilman put forth two amendments to SB 291. Senator Gilman put forth the motion to move SB 291 with individual recommendations as amended.

The Committee adjourned at 2:45 p.m.

ALASKA HYDROPOWER AUTHORITY

MEMO TO: The Honorable M. E. Dankworth
Senator, Alaska State Legislature

DATE: May 7, 1981

FROM: Eric P. Yould ²²⁴
Executive Director
Alaska Power Authority

SUBJECT: FERC Licensing
Procedures

You have requested that I provide you with information on the Federal Energy Regulatory Commission Hydropower license process. Additional information is being sent under separate cover.

Early in the infancy of water resources development, Congress realized that it could not continue to authorize each project through special legislation. Therefore, Congress divided its authority, retaining the direct authority over federal development, and delegating to the Federal Energy Regulatory Commission through the Federal Water Power Act (Act) of 1920, the authority to license non-Federal hydroelectric developments. The Act was later substantially amended to its present form in 1935. The Commission is authorized to license non-Federal developments that: (1) occupy in whole, or in part, lands of the United States; (2) are located on navigable waters of the United States; (3) utilize surplus water or water power from a government dam; and (4) affect the interests of interstate commerce. Court interpretations of the Commission's jurisdiction have defined this authority so that it covers virtually all projects.

The purpose of the license process is to ensure compliance with federal laws including the following more important Acts:

- National Environmental Policy Act (P. L. 91-190)
- Fish and Wildlife Coordination Act (P. L. 85-624)
- Endangered Species Act (P. L. 93-205)
- Historic Preservation Act (P. L. 89-665)
- Water Pollution Control Act (P. L. 92-500)
- Water Quality Improvement Act (P. L. 91-241)
- Wilderness Act (P. L. 88-577)
- Wild and Scenic Rivers Act (P. L. 90-542)
- Coastal Zone Management Act (P. L. 93-612)
- Federal Land Policy and Management Act of 1976 (P. L. 94-579)

In addition to compliance with the above Acts, FERC reviews the license application for the following:

- (1) adequacy of design;
- (2) economic feasibility;
- (3) environmental impacts;
- (4) financial capability of applicants;
- (5) availability of power market;
- (6) dam safety;
- (7) projects' adaptability to comprehensive development of the river basin;
- (8) potential for federal development;
- (9) water rights; and
- (10) other pertinent matters.

When an application is filed, the first step is a staff review to assure compliance with the FERC regulations. If there are deficiencies, a deficiency letter is sent to the applicant requesting a revised application. After the application is complete, or if not found deficient under the initial review, the applicant is requested to provide additional copies (usually 50 to 75) for circulation to Federal, State, and local agencies. It requires 60 to 160 days to reach this point, dependent on the extent of deficiencies in the application. Agency comments are usually requested within a 60 to 90 day period. Delays are normally encountered at this point because of late agency response. After all agency comments are received, the applicant is given an opportunity to comment on the agency responses. This usually requires 30 to 50 days. At this point, the FERC Staff will make a final determination on whether or not an environmental impact statement (EIS) is required. If an EIS is not required, Staff would complete its technical analysis and prepare recommendations to the Commission. This usually requires three to four months.

If an EIS is required, a draft EIS is prepared, usually four to five months after receipt of final agency comments. Federal Guidelines and FERC regulations require a 45-day comment period on a draft EIS, but experience indicates that this period could be as much as 75 days. After comments on the draft EIS, Staff prepares and circulates the final EIS. This usually requires about three months. At this point, the technical Staff is ready to prepare recommendations to the Commission. This step in the licensing process varies with the complexity of the proposed project. The legal Staff would then prepare an order for final Commission consideration. The usual time required for issuance of a license for a small-scale development is about 12 to 15 months, assuming no EIS is required. If an EIS is required, it would require an additional ten months. During this process intervenors can file suit against the applicant for virtually any reason. If there are grounds for intervention, FERC can significantly delay the process pending adjudication. In many instances, intervention is brought on grounds of inadequate assessment of technical or environmental issues in which case FERC may require additional field studies thus delaying the license even more. For this reason, it is extremely important to spend adequate funds during the feasibility stage to insure that FERC has adequate information to respond to intervenors.

FERC is not part of the executive branch but instead is an element of Congress under the administration of the Department of Energy. There is presently no entity in state government that could fulfill FERC's mandate. Thus a new state entity would have to be established with expertise in hydropower design, seismic analysis, environmental review, economic assessment, etc., in the event the state desired to assume the FERC responsibilities. It is unlikely that this jurisdiction would be relinquished without Congressional action.

Perhaps a more appropriate approach would be to work with Senator Murkowski, (who presently has Committee responsibility to oversee the FERC program), to streamline the process. It is my understanding that this is already one of his priorities.

cc: The Honorable Frank Murkowski
U. S. Senator

SJR

37

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
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Senate

Committee on Resources

May 8, 1981
1:30 p.m.

Beltz Room
Room 211 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Sturgulewski
Senator Mulcahy
Senator Eliason
Senator Gilman
Senator Bradley

HEARING:

SSSB 189 An Act relating to outdoor recreational facilities; providing for state historical, recreational, and wilderness trails, waterways, and campsite system.

SJR 37 Relating to the construction of the Bradley Lake hydroelectric project.

Governor's appointments: King Crab Marketing and Quality Control Board; Guide Licensing and Control Board, and Board of Veterinary Examiners.

Special briefing by Hudson Glimp, James Conner, and Tom Wamon of the Win-Rock International Foundation.

Hudson Glimp, stated that the purpose of their trip to Alaska was to obtain an overview of Alaska agriculture. Since Alaska is 95% dependent upon imported food goods, it needs to become self-sufficient. Alaska can become self-sufficient through research and building the necessary infrastructure. He indicated that there are deficiencies in the state's agriculture research programs.

Tom Wamon, stated Win-Rock can assist Alaska in areas such as developing seed varieties for this climate.

Jim Conner, stated that in order to support a feed grain industry

a market and a port are needed. He indicated that the seed being used at the Delta project is a 40 year old Canadian variety. Through the research of Win-Rock, Universities and Corporations, a better variety should be able to be developed.

Senator Gilman, stated that research is needed, but today the Senate Finance Committee deleted from the budget the funds for the Homer Research Center. He suggested that the Resources Committee send a letter to the Finance Committee asking them to reconsider their action.

The Chairman directed staff to draft such a letter for the Committee members signature. (attached)

Senator Fischer stated the the original bill, SB 189, related only to trails, but after hearings by the Subcommittee on Parks and Trails, the Sponsor Substitute was introduced. SSSB 189 addressed a grants program for the development of local recreation facilities. Senator Fischer recommended that the Committee adopt CSSSB 189, which deletes the grants program.

Senator Fischer put forth the motion to move CSSSB 189, with individual recommendations.

Senator Gilman discussed CSSJR 37. He stated that the Bradley Lake hydroelectric project was the only hydroelectric project that the Corp of Engineers had completed significant work on. To expedite the project, the proposal has been made to have the state take over funding the Corp of Engineers work on the project. The Corps has completed the necessary work which the Federal Energy Regulatory Commission requires for permitting. Senator Stevens discovered that specific legislation would probably be needed to set up this permitting system.

Senator Gilman stated that the Bradley Lake project was a high priority for Alaska's Congressional delegation. Senator Stevens suggested most of the language.

Senator Gilman put forth the motion to move SCSJR 37, with a "do pass" recommendation.

Senator Fahrenkamp put forth the motion to move the following appointments, with individual recommendations: Ms. Valerie J. Shepard, Board of Veterinary Examiners; Royal J. DeVaney, King Crab Marketing and Quality Control Board; Marcus Jensen, Guide Licensing and Control Board.

The Committee adjourned at 3:04 p.m.

Alaska State Legislature

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Senate

Committee on Resources

May 8, 1981

Senate Finance Committee
Juneau, Alaska 99811

Dear Senators:

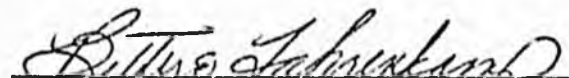
The Senate Resource Committee would like to request your reconsideration of the budget for the University of Alaska for inclusion of the operating funds for the Homer Research Center at Homer, Alaska.

The University of Alaska is considering closing the Center December 1981 due to a lack of operating funds. This would result in the loss of vital agricultural research and data necessary for the maintenance and expansion of agricultural projects in the state.


The operating budget is broken down into:

Salaries-----	\$155,011.58
Travel-----	3,368.39
Contractual services-----	29,404.20
Supplies-----	30,274.00
Total operating budget-----	\$218,058.17

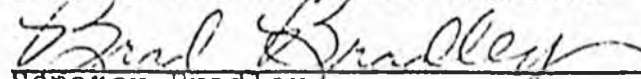
Your reconsideration on this matter is greatly appreciated.



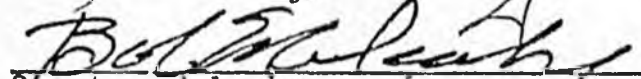
Senator Fahrenkamp, Chairman




Senator Fischer, Vice Chairman



Senator Bradley



Senator Mulcahy



Senator Gilman

ALASKA ENERGY AUTHORITY

MEMORANDUM

MEMO TO: Honorable Donald Gilman
Senator, State of Alaska

DATE: April 27, 1981

FROM: Eric P. Yould
Executive Director

SUBJECT: Bradley Lake Resolution

You requested information on the sequence of events that would lead to state development of Bradley Lake Hydropower. As you know, the project was authorized for construction in 1961 by the U. S. Congress and is now reaching completion of final engineering and design through the U. S. Army Corps of Engineers. The Corps most recent estimate of the cost of construction is \$215,000,000 (1981 dollars).

While I personally believe that the project would eventually be constructed by the federal government, the time frame and terms for repayment, at least in light of emerging state policy, appear less than ideal. In the event the feds did proceed forward with project construction, it would first have to be funded as a "new start" by Congressional appropriations committees. While there were virtually no new starts during the Carter Administration, there are indications that even under President Reagan's budgetary cutbacks, there will be room for some new water resource development. It is my understanding, however, that appropriations for those projects that are funded will be stretched over a much longer time frame than is needed for optimum development.

It would be advantageous to open up two other options for Bradley's development: (1) Corps of Engineers construction using state funds, and: (2) private sector development using state funding. Under the above two options, the state would eventually own the project rather than the federal government.

In order for the Corps of Engineers to accept state funds, they must first be given authorization by the Appropriations Committee. The Corps has authority to accept such funds under authority contained in Section 5 of the Flood Control Act of June 22, 1936, as amended (50 Stat. 518 33USC701h). Furthermore, since the Corps, by this summer, will have fulfilled all of the normal requirements that the Federal Energy Regulatory Commission (FERC) would have normally accomplished if we had proceeded forward with this project as a private sector (state) project, then it would also be desirable to have congress dictate that work accomplished by the Corps shall fulfill all the FERC licensing requirements. This latter authorization was suggested by Committee staff for Senate Public Works Subcommittee on Environment and Energy. While I have submitted testimony to Congress to request the above authorizations, a resolution from the Legislature would be most helpful.

I have had the opportunity to discuss this procedure with Governor Hammond's staff as well as staff of our three Congressional delegates. We have also briefed the State's Washington lobbyists of our intentions. It is their feeling that we can be successful. If we are successful, it appears that construction could begin this year.

5/8/81 S.R.C.

To: Bob Herry, Senator Don Gilman's office
From: Joe Darnell, Senator Ted Stevens' Office 202/224-1033

Suggested Language for Resolution on Bradley Lake Hydroelectric project:

- * WHEREAS the U.S. Army Corps of Engineers is completing the design and specifications on the Bradley Lake hydroelectric project; and
 - * WHEREAS the Congress of the United States has authorized construction of the Bradley Lake hydroelectric project; and
 - WHEREAS the the Alaska Power Authority would like work to begin on the Bradley Lake hydroelectric project as early as possible; and
 - WHEREAS the Bradley Lake hydroelectric project is an economically, environmentally, and technically feasible renewable energy project which should be constructed as early as possible;
 - * BE IT RESOLVED that the Alaska State Legislature respectfully requests that the Congress of the United States provide for a system to permit the State of Alaska to contribute up to one hundred percent of the funding necessary for construction of the project.
- COPIES etc

* Places where changes were made. The project is authorized, the problem has been that Congress for the last several years has refused to appropriate money for new construction starts on previously authorized projects.

The RESOLVED part of the resolution is left vague so that Congress can come up with a system to permit funding on the project. It is probably going to take a change in the substantive law to provide for construction of a project this size with State money

SJR

43

COMMITTEE REPORT
SENATE

5/6/81

FURTHER: None

Date: 5/6/81

Mr. President:

The Committee on RESOURCES has had SJR 43

Requesting U.S. Senate to support continuation of the present fur seal harvest quota

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SJR 43 same title new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

promise. But they must be real block grants, not the same tired categorical programs in a new disguise.

Having a block grant for every categorical program, for instance, as it appears to be happening now is a mockery of the block grant idea. I understand there is a single block grant for the Community Services Administration. If there ever was a program that ought to be folded into a block and left to local government to administer, Mr. President, Community Services is one. I am sure the distinguished Presiding Officer agrees with me on that. It makes no sense at all to consider a separate Community Services block grant.

There are also rumors that the block grant bills being worked out in committee will require the States and cities to file detailed action plans with the Federal Government. If they have to file detailed action plans, Mr. President, that is not a block grant. That is the same tired, uniform, inflexible program we have all campaigned against.

I do not think we were sent here to reenact the same tired old programs that have not worked in the past and have cost the taxpayers billions upon billions of dollars to very little effect in the delivery of the services.

There are similar rumors about requirements that States and local governments maintain their current level of effort. I understand that no one wants the levels of service cut drastically, but that is not going to happen anyway. The States are very different than they were years ago when these programs were first introduced.

Their own social service agencies are in place, they are ready to pick up the slack, they can manage these programs more flexibly, more cheaply, and more responsibly than Washington can, and I think we should not tie their hands in efforts to provide cost-effective service. That is not a block grant.

Mr. President, I understand that it is a messy way to write legislation to write it on the floor of the Senate. I personally would prefer to have the committees do it. But, at the same time, I believe if bills come out of the committees that are unacceptable to the membership of the Senate we should make every effort to rewrite them on the floor. There is no way that many of us are going to be able to acquiesce in a total sellout of the President's program.

I have heard some of my colleagues saying in the cloakrooms and around the Congress in different meetings that these programs are being worked out and compromises are being worked out with the President's people; that the President favors this kind of a categorical program.

Well, Mr. President, I for one do not believe it. I know Ronald Reagan fairly well. I campaigned for him through the 1976 campaign and again this last year, and I have been with him, and I do not believe he has changed his mind.

I have watched him campaign, and he has not told me and he has not told the American people yet that he has changed his mind about block grants. Until he does tell the American people that, I have to believe he is holding firm. If

some of his aides are not holding so firm, that is their problem. It may be his problem, too, but I am not going to get into that.

The point is, Mr. President, if unacceptable bills are written, the President is going to need to veto them, and we all know that, and we all know that Ronald Reagan is a President who understands the power of the veto, and he understands that there are enough of us here in the Senate to vote to sustain a veto of the so-called block grants.

I think first and foremost he is a President who understands who elected him and what he was sent here to do. He was not sent here to act as a caretaker President between Democratic Presidents. He was sent here to turn this country around and to institute a system of real block grants as part of that effort; in other words, to make a systematic change in what people expect out of the Federal Government and all the regulations and rules that go with it.

I suggest, Mr. President, that we were sent here for the same purpose and we have to be willing to stand up and to be counted, and if that means writing bills on the floor, then let us do it.

But if it means voting to sustain vetoes, then let us do it, and I am ready to do this, and I know my colleagues, many of them, enough of them, are ready to do it also, and I would encourage the proper committees to see that we do not compromise this very essential pillar of the Reagan program.

I yield back the remainder of my time, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION

1980 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the purpose of calling up the 1980 protocol amending the Interim Convention on Conservation of North Pacific Fur Seals, Executive S. 98-2.

The Senate, as in committee of the whole, proceeded to consider Executive S. 98th Congress, second session, the 1980 protocol amending the Interim Convention on Conservation of North Pacific Fur Seals, which was read the second time, as follows:

1980 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended, hereinafter referred to as the Convention,

Desiring to amend the Convention, Have agreed as follows:

ARTICLE I

The Convention shall be applied as amended by this Protocol as from the date of its entry into force.

ARTICLE II

In Article V, paragraph 2(e) of the Convention, "twenty-first" shall be replaced by "twenty-fifth".

ARTICLE III

In Article VI, paragraph 1 of the Convention, "except within the territorial waters of another State" shall be replaced by "except within the territorial waters in which another State exercises fisheries jurisdiction".

ARTICLE IV

In Article XI of the Convention, "twenty-second" shall be replaced by "twenty-sixth".

ARTICLE V

In Article XIII, paragraph 4 of the Convention, "twenty-two" shall be replaced by "twenty-six".

ARTICLE VI

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as possible.

2. A signatory Government which intends to ratify or accept this Protocol, may notify the Government of the United States of America that it will apply this Protocol provisionally in accordance with its laws and regulations pending fulfillment of domestic constitutional requirements for ratification or acceptance.

3. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited and of notifications of provisional application made.

4. This Protocol shall enter into force provisionally on the date on which instruments of ratification or acceptance have been deposited or the notifications of provisional application as referred to in paragraph 2 above have been made by all the signatory Governments. It shall continue in force provisionally until the date on which it enters into force definitively in accordance with the provisions of paragraph 5.

5. This Protocol shall enter into force definitively on the date on which instruments of ratification or acceptance have been deposited by all the signatory Governments.

6. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Washington, this fourteenth day of October, nineteen hundred and eighty, in the English, French, Japanese, and Russian languages, each text equally authentic.

The PRESIDING OFFICER. Without objection, the protocol will be considered to have passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved two-thirds of the Senators present concurring therein. That the Senate advise and consent to the ratification of the Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, between the United States, Canada, Japan, and the Soviet Union, signed at Washington on October 14, 1980. (Executive S. 98th Congress, second session)

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Alaska suggest the absence of a quorum?

Mr. STEVENS. I do.

The PRESIDING OFFICER. On whose time?

Mr. STEVENS. Equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

RECESS UNTIL 11 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 11 a.m. today.

There being no objection, the Senate, at 10:34 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ARMSTRONG).

Mr. PERCY. Mr. President, today the Senate will consider the protocol amending the Interim Convention on the Conservation of North Pacific Fur Seals. The Interim Convention was signed in 1957 by the United States, Japan, Canada, and the Soviet Union. It replaced an earlier treaty dating back to 1911. The 1980 protocol would extend the Interim Convention by an additional 4 years.

The dual purpose of the protocol, as of the Interim Convention, is to continue the prohibition now being observed by the four governments party to the convention with respect to pelagic or high seas sealing, and to provide a joint research program designed to furnish, as appropriate, sufficient factual data to conserve the fur seal herds of the North Pacific Ocean at a level of maximum sustainable productivity.

The series of North Pacific fur seal treaties are heralded as the first conservation agreements entered into by the United States. There is widespread agreement that these treaties were responsible for saving the North Pacific seal from near extinction.

In 1910, the Pribilof herds numbered only 200,000 animals. Since the original treaty came into force in 1912, the fur seal population has increased to at least 1.7 million. The major reason for this increase was the agreement among the present nations of Canada, Japan, the Union of Soviet Socialist Republics, and the United States to stop harvesting the seals at sea, and to limit land harvest to levels consistent with wildlife management principles.

Pelagic sealing was a wasteful practice in that it had a high struck and lost ratio. Many more seals were lost from the population than were actually retrieved in the harvest at sea. Pelagic sealing also took an inordinately high percentage of female seals, thus further reducing the breeding potential of this population.

The Interim Convention provides for land harvests on the breeding islands of the northern fur seal by the United States and the Union of Soviet Socialist Republics, Canada, and Japan. Each receive 15 percent of the sealskins taken in both harvests. The United States and the Union of Soviet Socialist Republics each

retain 70 percent of their respective harvest.

As we all know, there has been a great deal of public outcry concerning the government's Pribilof program. Despite the protection that the Interim Convention provides the seal herds, many people believe that the U.S. Government should not be in the business of killing marine mammals.

During the consideration of the Protocol, a reservation was offered by Senator DODD which would have directed the administration to reduce the fur seal harvest by 70 percent. This reservation was rejected by a vote of 6 to 9 on the grounds that:

The seal herds are not endangered;

The reservation would have an uncertain biological effect on the seal herds; and

The reservation would have an adverse effect on the Aleut communities in Alaska.

It is my understanding that Senator LEVIN was prepared to offer a similar reservation today—a reservation which would have been strongly opposed by Senators STEVENS and MURKOWSKI of Alaska, along with the majority of the Foreign Relations Committee.

Therefore, I wish to complement Senators LEVIN, STEVENS, and MURKOWSKI for their spirit of reasonableness and accommodation in reaching a compromise agreement. The compromise understanding will lay the groundwork for eventual adjustments in the commercial harvest of North Pacific fur seals based on sound scientific judgment.

It will also provide a foundation for the eventual development of alternative sources of employment for the residents of the Pribilof Islands.

I appreciate the efforts that were made in reaching this compromise and urge the Senate to grant its advice and consent to the ratification of the protocol, subject to the understanding proposed by Senators STEVENS, MURKOWSKI, and LEVIN.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 150

Mr. LEVIN. Mr. President I ask that the clerk read an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 150 to the text of the resolution of ratification:

That the Senate advise and consent to the ratification of the Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, Between the United States, Canada, Japan, and the Soviet Union,

signed at Washington, on October 14, 1980 (Executive S. 96th Congress, 2nd Session), subject to the following—UNDERSTANDING:

It is the understanding of the Senate that appropriate studies shall be undertaken to (1) determine the fur seal feeding habits and food requirements and the at-sea migration and distribution patterns of various age/sex classes of fur seals; (2) determine the impact of any possible adjustments in the size of the harvest on the Pribilof Island residents, the fur seal herd, and the Bering Sea ecosystem; (3) in Constitution with the Aleuts, determine, the impact of various mutually acceptable alternative sources of employment for Pribilof Island residents on those residents, the fur seal herd, and the Bering Sea ecosystem and possible means of promoting said sources of employment. The results of these studies shall be reported to the Congress by the Administration for referral to the appropriate committees no later than March 1, 1984.

Any alterations in the level of the annual commercial harvest of North Pacific fur seals should be consistent with the development of a stable, diversified and enduring economy for the Aleut residents of the Pribilof Islands. Accordingly, the Senate declares its interest in exploring the appropriateness of, among other possibilities, increasing Aleut control over operation of the harvest consistent with the terms of the Interim Convention.

Furthermore, the Senate declares that: (1) the Secretary of State should continue to strive to conform the Interim Convention with the purposes and policies of the Marine Mammal Protection Act of 1972, as amended, and; (2) the United States may initiate adjustments in the harvest level or the U.S. share thereof providing any adjustments are in conformity with the terms of the Interim Convention, the health of the fur seal herd, and the rights of the Aleut people.

The PRESIDING OFFICER. Under the previous order of the Senate, the Senator from Michigan had been granted permission to offer two reservations. This is in the form of an understanding and would require unanimous consent.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order for the Senate to consider such understanding.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. STEVENS. I make such request. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS addressed the Chair. The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am grateful to the Senator from Michigan for the time he and his staff have spent working with me and Senator MURKOWSKI and our staffs to reach an accord on an understanding concerning the ratification of this convention.

The Interim Convention on Conservation of North Pacific Fur Seals has protected the fur seal herd in the North Pacific for the past 24 years. It replaced an earlier convention which dates back to 1911. Under these two conventions, the North Pacific fur seal herd has grown in population over five-fold.

Without this treaty, two of the four member nations of this convention have vowed to return to their pelagic sealing practices of the past.

Rather than a well managed harvest