

2756

HRES

HB

393

-

HB

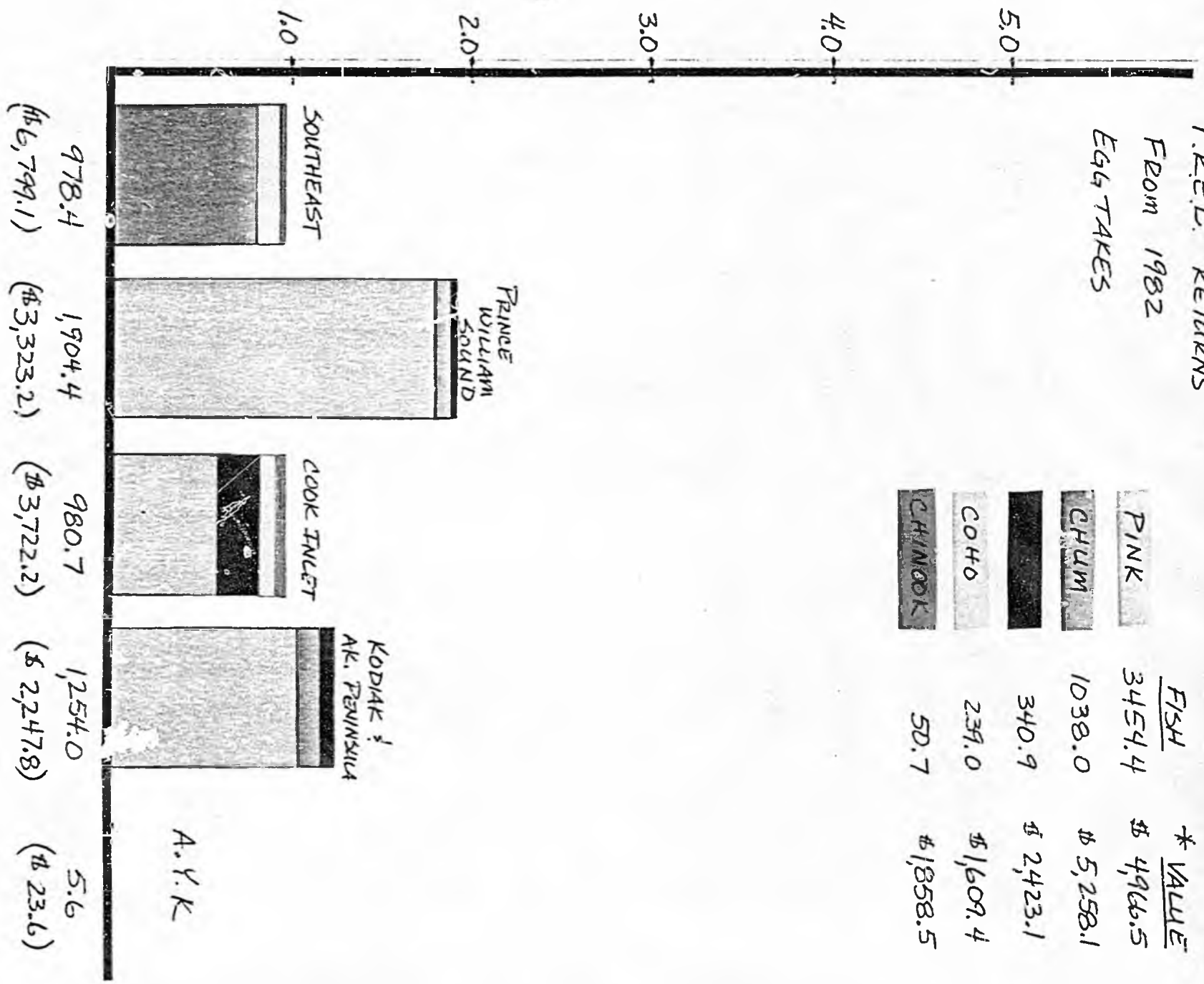
404

275

FRED. RETURNS
FROM 1982
EGG TAKES

	<u>FISH</u>	<u>* VALUE</u>
PINK	3454.4	\$ 4,966.5
CHUM	1038.0	\$ 5,258.1
	340.9	\$ 2,423.1
COHO	239.0	\$ 1,609.4
CHINOOK	50.7	\$ 1,858.5

MILLIONS OF ADULTS



TOTAL 5,123.1

* VALUE \$16,115.8

* USING 1981 EX-VESSEL PRICES (ALL FIGURES IN THOUSANDS)

Table 20. FRED's operational budgets, capital spending, and egg capacities of hatcheries, FY 1971-1983.

Fiscal Year	Cumulative Egg Capacity (Millions)		Capital Funding for Hatcheries (Thousands \$)			Annual Operational Budget (Thousands \$)	
	Actual	Design	CIP	BOND	Cumulative Capital Funds	Actual Dollars	Adjusted to 1976 Dollars ^{3/}
1971	8.6 ^{1/}	8.6 ^{1/}	0	-	0	-	-
1972	12.1	14.4	70.0	-	70.0	464.6	666.1
1973	22.1	24.4	349.8	-	419.8	749.8	1,015.1
1974	22.1	24.4	1,645.1	-	2,064.9	941.4	1,127.0
1975	22.1	24.4	1,763.5	6,099.4	9,927.8	1,407.9	1,499.1
1976	32.1	34.4	249.0	-	10,176.8	3,482.8	3,482.8
1977	107.6	109.9	2,575.1	28,040.0	40,791.9	3,217.3	3,041.3
1978	109.6	111.9	1,688.8	-	42,480.7	6,975.1	6,001.2
1979	139.6	141.9	1,712.5	25,743.0	69,936.2	9,267.8	7,333.7
1980	209.6	346.9	-	-	69,936.2	7,978.8	5,764.0
1981	347.1	550.1	3,075.0	3,500.0	76,511.2	9,673.4	6,503.5
1982	351.5	550.1	3,180.0	-	79,691.2	12,926.9	8,516.3
1983	458.5	672.1 ^{2/}	0	-	79,691.2	12,196.9	7,579.5
			16,308.8	63,382.4	79,691.2		

^{1/} Eggs in existing hatcheries prior to FRED legislation.

^{2/} Additional funding is required to enable several existing facilities to reach their design capacities.

^{3/} Adjusted using the Anchorage Consumer Price Index. The 1983 amount was adjusted assuming an annual CPI increase of 0.06.

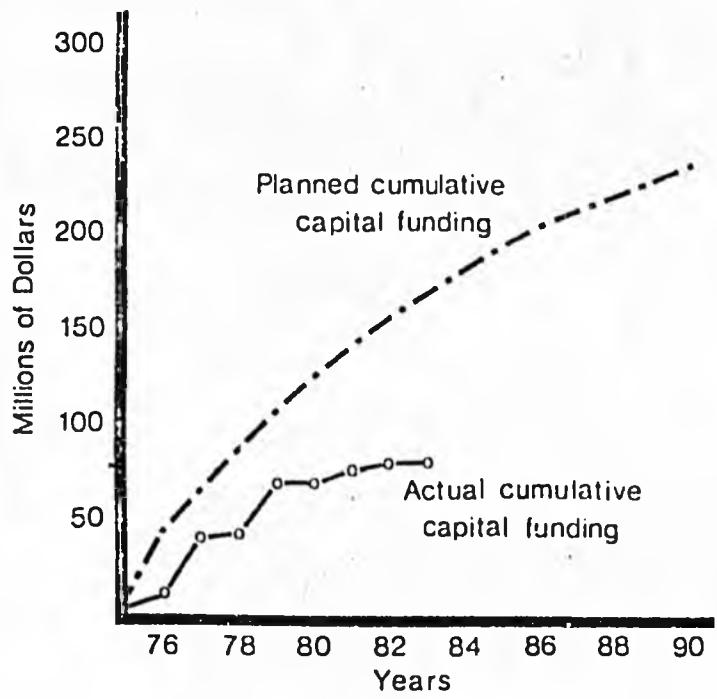


Figure 3. Planned versus actual cumulative capital funding for salmon rehabilitation and enhancement programs (Planned figures are derived from the Alaska Fisheries Plan, 1976).

STATUS OF STATE HATCHERIES 5/27/83

FACILITY	YEAR ON LINE	OPERATIONAL BUDGET		PRIMARY SPECIES	*EGG CAPACITY (millions)			STATUS AND COMMENTS
		FY 83	GOV. FY84		1982	PRESENT	DESIGN	

SOUTHEAST								

1 BEAVER FALLS	FY 76	193.7	249.0	Chum	7.9	20.0	20.0	Has greater potential - Funds limiting factor
2 CRYSTAL LAKE	FY 72	445.4	464.4	King/Coho	4.4	3.5	5.8	Equip. replacement & upgrade desired
3 DEER MOUNTAIN	FY 77	124.6	151.9	King/Coho	0.4	0.5	1.0	Could expand
4 HIDDEN FALLS	FY 80	498.1	537.5	Chum/King	23.3	30.0	65.0	Has greater potential - Funds limiting factor
5 KLAUOCK	FY 80	353.2	425.7	Chum/Coho	15.0	15.0	78.0	Has greater potential - Funds limiting factor
6 SHETTISHAM	FY 81	420.8	424.3	Chum/King	11.6	15.0	75.8	Has greater potential - Funds limiting factor
FRINCE WM. SOUND								

7 CANNERY CREEK	FY 81	393.0	420.3	Pink/Chum	23.9	54.0	60.0	Has greater potential - Funds limiting factor
8 GULKANA	FY 73	146.7	160.0	Sockeye	10.9	10.0	10.0	Could be expanded to 20 million - Funds limiting factor
9 MAIN BAY	FY 83	285.7	341.6	Chum/Pink	9.9	80.0	80.0	Complete - in broodstock development phase
COOK INLET								

10 BIG LAKE	FY 77	249.4	236.0	Sockeye/Coho	15.1	20.0	20.0	Could be expanded to 30 million - Funds limiting factor
11 CROOKED CREEK	FY 77	360.4	316.9	Sockeye	20.5	23.0	20.0	Fully operational
12 ELMENDORF	FY 78	551.6	450.0	RBT/King	6.8	2.5	2.5	Fully operational
13 FT. RICHARDSON	FY 83	281.5	450.0	RBT/Coho	0.0	7.5	7.5	Reconstructed-to be operational in 1983
14 TRAIL LAKES	FY 83	410.5	359.0	Sockeye/King	6.2	40.0	40.0	Complete - in broodstock development phase
15 TUTKA	FY 77	389.8	391.5	Pink/Chum	20.3	22.0	20.0	Has greater potential - Funds limiting factor
KODIAK & AK. PENINSULA								

16 KARLUK	FY 81	232.9	176.4	Sockeye	13.0	15.0	25.0	Operational - future based on results
17 KITOI BAY	FY 77	369.4	376.2	Pink/Chum	86.2	81.0	50.0	Has greater potential - Funds limiting factor
18 RUSSELL CREEK	FY 80	462.2	153.0	Chum	8.8	14.0	52.0	Holding - litigation under appeal, reconstruction design being completed
ARCTIC-YUKON-KUSKOKWIM								

19 CLEAR	FY 81	299.7	292.1	Salmon/Graylg	0.4	2.5	2.5	Experimental - has expansion potential
20 EAST CREEK	FY 79	140.0	0.0	Sockeye	0.0	0.0	15.0	Facility closed FY 83 - Budget reductions
21 SIKUSJILAQ	FY 83	270.1	302.1	Chum	0.7	2.0	2.0	Experimental - brood development phase
		=====	=====		=====	=====	=====	
		6900.6	6677.9		285.3	459.5	572.1	

* Assumes operational funds not a limiting factor and broodstock development complete. Actual eggs taken in FY83 are listed in column 1982.

ATTACHMENT



Page 1

Line 15 - Delete sentence, insert:

Therefore, it is in the public interest to provide for the transfer of operation of certain hatcheries by lease to qualified private nonprofit corporations.

Sec. 2. AS 16.10 is amended by adding new sections to read:

Sec. 16.10.435. OPERATION OF STATE HATCHERIES. (a) The commissioner shall by lease transfer the operation of state-owned salmon hatcheries listed in AS 16.10.436 to qualified private nonprofit corporations that

(1) comply with the requirements for a permit under AS 16.10.400 - 16.10.470, and

(2) apply for a transfer under (c) of this section.

(c) Application for the transfer of the operation of a state owned salmon hatchery shall be made on a form provided by the department. The application shall include a financial plan approved by the Dept. of Commerce and Economic Development, Division of Fisheries Enhancement

~~loans - bus. loans~~

Sec. 16.10.436.

(6) Russell Creek

shall

Sec. 3. AS 16.10.400(a) The department must provide supportive information to the legislature on all permit requests denied under AS 16.10.400-470. This information shall be presented to the Legislature, in layman's terms, no later than the 15th day of each session.

Page 1, line 18
Delete material
on lines 18-25,
insert new material

Pg 2, line 5
delete material
on lines 5-7,
insert new material

Pg 2, line 16
add new material

Pg 2, line 17
add new
section

Proposed amendment to CSHB 393 (Fisheries)

On page 2, line 7, following the period, add a new sentence:

An application shall include a financial plan approved by the Department of Commerce and Economic Development, Division of Business Loans and Veteran's Affairs.

On page 2, line 8: Insert a new subsection to read:

(d) Not later than the 15th day of each regular session of the legislature the department shall submit to the legislature a written statement of findings that support each denial of an application for transfer under this section.

On page 2, line 15: Insert a period following the words "Klawock hatchery" and add a sixth hatchery to read:

On page 2, line 15, following the words "East Creek Hatchery", delete the period (.) and insert the following:

; and

(6) Russell Creek hatchery.

Alaska State Legislature



POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

May 24, 1983

M E M O R A N D U M

To: Representatives Ringstad and Schultz, Co-Chairman, House Resources Committee and committee members.

From: Representative Bob Bettisworth *RB*

Subject: CS For HB 393 (Fisheries), "An Act relating to the operation of state-owned salmon hatcheries."

I want to take this opportunity to strongly endorse the House Special Committee on Fisheries' version of HB393 which I originally sponsored. This legislation is especially important in light of our continued revenue problems and the critical nature of Alaska hatchery operations and their continued viability both in the domestic and international sense.

We have already seen several instances of proposed state hatchery closures for reasons of economic viability, siting problems, improper planning and design, and other reasons. It seems abundantly clear that in order to keep the maximum number of hatcheries operating, some F.R.E.D. facilities should be turned over to private non-profit operators where such a transfer meets certain established public policy criteria and the applicant can demonstrate the necessary expertise.

In general, this bill seeks to provide a mechanism for transfer of existing F.R.E.D. hatcheries to private non-profits with the following stipulations:

- 1.) potential lessees must be qualified regional associations as set out in AS 16.10.380,
- 2.) lessees must comply with existing permit requirements contained in AS 16.10.400-470,
- 3.) lessees shall be required in the lease to:
 - a. operate within the stipulations contained in AS 16.10.420. dealing with egg takes, egg and fry placement, destruction of diseased stocks, sale of eggs and fry, segregation of natural stocks from hatchery stocks, etc.,
 - b. be solely responsible for operation and maintenance of leased facilities,
 - c. indemnify the state from harm or loss,
 - d. apply on a form provided by ADF&G.

Section 2 of the bill states that the Dept. of Fish & Game "shall by lease transfer" the facilities listed in the proposed new section on page 2, lines 11 through 15. The required transfer is only triggered by successful application,

Proposed CS
from Bettisworth_

- ① Adds new ss (d) on
pg 2 line 10 requiring
explanation of denials.
- ② And adds Russell Creek
~~Can~~ Hatchery as transferable
on pg 2, line 22 *sm*
- ③ Also amends sec. C on
Pg 2, line 7 to require
a financial plan of
applicants

Original sponsor: Bettisworth

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 393 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of state-owned
7 salmon hatcheries."

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

9 * Section 1. FINDINGS. The legislature finds that declining state
10 revenues and the newly imposed constitutional spending limit require a
11 reduction in expenditures. This reduction may result in the closure of
12 state hatcheries. State hatcheries play an important role in the conserva-
13 tion and management of the state's fisheries resources and benefit all
14 fishermen - commercial, subsistence, and sport - who depend on salmon
15 stocks. Therefore, it is in the public interest to provide for the trans-
16 fer of operation of certain hatcheries by lease to regional aquaculture
17 associations.

18 * Sec. 2. AS 16.10 is amended by adding new sections to read:

19 Sec. 16.10.435. OPERATION OF STATE HATCHERIES. (a) The commis-
20 sioner shall by lease transfer the operation of state-owned salmon
21 hatcheries listed in AS 16.10.436 to regional associations that

22 (1) are qualified under AS 16.10.380;

23 (2) apply for a transfer under (c) of this section; and

24 (3) comply with the requirements for a permit under AS 16.-

25 10.400 - 16.10.470.

26 (b) A lease to operate a state-owned salmon hatchery shall
27 provide that the lessee shall

28 (1) operate the hatchery in compliance with AS 16.10.420;

29 (2) be responsible for the maintenance and upkeep of the

1 hatchery; and

2 (3) indemnify the state against liability for harm or loss
3 arising from the operation of the hatchery during the period of the
4 lease.

5 (c) Application for the transfer of the operation of a state-
6 owned salmon hatchery shall be made on a form provided by the depart-
7 ment. An application shall include a financial plan approved by the
8 Department of Commerce and Economic Development, Division of Business
9 Loans and Veterans' Affairs.

10 (d) Not later than the 15th day of each regular session the
11 department shall submit to the legislature a written statement of
12 findings that support each denial of an application for transfer under
13 this section.

14 Sec. 16.10.436. TRANSFER OF HATCHERY OPERATIONS. Operation of
15 the following state-owned salmon hatcheries shall be transferred in
16 accordance with AS 16.10.435:

- 17 (1) Beaver Falls hatchery;
18 (2) Cannery Creek hatchery;
19 (3) Main Bay hatchery;
20 (4) Klawock hatchery;
21 (5) East Creek hatchery; and
22 (6) Russell Creek hatchery.

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

FRED
1982 Annual Report
to the
Alaska State Legislature
FRED Report Series No. 2

Compiled and Edited

by

John C. McMullen
Jeffrey A. Hansen
Mark W. Kissel

Stanley A. Moberly
Director
Division of Fisheries Rehabilitation,
Enhancement and Development

Don W. Collinsworth
Acting Commissioner
Alaska Department of Fish and Game

February 1983

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4160

DIVISION OF FISHERIES REHABILITATION, ENHANCEMENT & DEVELOPMENT (FRED)

June 1, 1983

The Honorable John Ringstad
The Honorable Richard Shultz
Co-Chairmen
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representatives Ringstad and Shultz:

In response to the Committee's request for additional detail, please find following this letter the FRED Division 1982 annual report. Representative Liska specifically requested more detail on the cost of operating the State's 20 hatcheries and the benefit (return) derived from this investment.

On page 20 (Table 5) the status of the hatcheries is summarized. I have expanded and provided further detail for this table. This additional detail is provided at the end of this letter (Attachment A). There are a few points that need emphasis to make the table easier to understand. Hatchery development schedules may take several years. If a hatchery is established on a site that is "ready to go" and only raise pink salmon (simple life cycle and the most available for brood), then this schedule may only take two to four years.

On the other hand, a new facility that is constructed on a remote site (Hidden Falls) and raises chum salmon (complicated life cycle and brood stock in short supply), then the production schedule could take six to eight years. Therefore, one should consider the site location, the species being cultured, and the year the facility was brought on line, i.e., the time the State took possession from the contractor when comparing one hatchery's performance to another.

The species chosen for culture in the State hatcheries are (almost without exception) those species that are in high demand, have high value, and are in short supply. The natural environment and the present management scheme does quite nicely raising pink salmon in Southeast Alaska. Therefore, it would not make much sense to raise that species in the State's hatcheries. The cost (overhead) to raise pink salmon is identical to that of raising chum salmon. Chum salmon are in high demand, short supply, and have a much higher value. Therefore, chum is the target species of four of the six hatcheries in the Southeast Region, while chinook is the main species at the other two facilities.

In selecting a site for a hatchery, one of the most important considerations is future potential for expanded production. All things being equal, a site with high potential is selected, even though it may be several years before this potential is fully realized. Also, the state of the art is constantly improving, so we raise more fish with the same amount of water than we did even five years ago.

In 1976, when we extensively reviewed the Japanese chum salmon hatchery system, we were amazed that they were handling chum salmon in lots of 500,000 eggs each. We now handle lots of chum salmon eggs of 900,000 each at the Hidden Falls Hatchery on Baranof Island in the large, round incubators (R-48). This year this hatchery incubated 23 million eggs in 27 incubators with 97% survival from eyed egg to the emergent fry stage, and 99% survival to release.

When we are making decisions on millions of fish we are handling, tenths of percents of improvement mean a lot more fish returning for harvest. The Hidden Falls Hatchery has sufficient water to raise 65-70 million chum salmon. We expect that by the time this hatchery fully utilizes the potential of the site, and the state of the art continues to improve, and we gain precision at this specific location on release timing, etc., that we could produce over a 100 million eggs at this facility.

This hatchery has only been completed three years, and 86,000 chum salmon are expected to return this year. At full production, that harvest will be nearly 1 million chum salmon annually. This hatchery also raises chinook salmon.

I have provided two histograms to give the Committee some feel for the type of investments the State has in its 20 facilities. At present, as mentioned in our recent testimony, the capital investment is just under \$80 million. This information is detailed on page 55 (Table 20). I would also like to call your attention to Table 3 on page 54. Funding provided for the fisheries rehabilitation and enhancement program to date is far short of the amount anticipated to be spent in 1976, as illustrated by this line graph.

The first histogram (Attachment B) illustrates the number of adults by species by major geographical area that we expect to be produced from the eggs that we took this past year. Roughly, this will be 5 million salmon, worth \$16 million (1981 dollars). The second histogram (Attachment C) assumes that we will continue to develop brood stocks to capacity and operating funds will not be a limiting factor. When the present capacity of the 20 facilities is reached, we expect to be producing 7.5 million fish for harvest annually, and for comparison purposes, these would be worth approximately \$25 million annually (1981 ex-vessel value). If all the present facilities were completed to their design potential, we would have the ability to produce nearly 15 million adult salmon annually. Of course, this would take several years and millions of capital dollars, which in light of the present economic condition and high natural salmon returns, seems to be a low priority. However, any amount of CIP funds would start to close the gap between the present and

The Honorable John Ringstad
The Honorable Richard Shultz

-3-

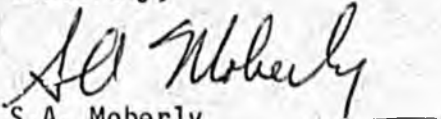
June 1, 1983

potential production which in turn increases the benefit/cost ratio of the program.

Alaska has the greatest and most productive aquatic resource in the world. It may be several years or even several decades before Alaskans chose to fully develop and reach full potential in farming and ranching this resource. Likewise, it may take several years before the present 20 State hatcheries reach their full potential. Also, Alaska is blessed with many more good hatchery sites, and I expect that these will be developed in the future as we move to more fully develop our fisheries resources. We expect that as we move into the future that technology (state of the art) will not be the deterrent, but rather how the FRED program competes (financially) with other programs that Alaskans want.

I hope this additional information proves helpful to the Committee in their deliberations on Committee Substitute for House Bill 393. If the FRED Division or the Department can be of further help, we stand ready to assist you.

Sincerely,


S.A. Moberly
Director

Enclosures

cc: The Honorable Charlie Buswell
The Honorable John Cowdery
The Honorable Peter Goll
The Honorable Ron Larson
The Honorable John Liska
The Honorable Rick Uehling, Vice Chairman
The Honorable Tony Vaska

STATUS OF STATE HATCHERIES 5/27/83

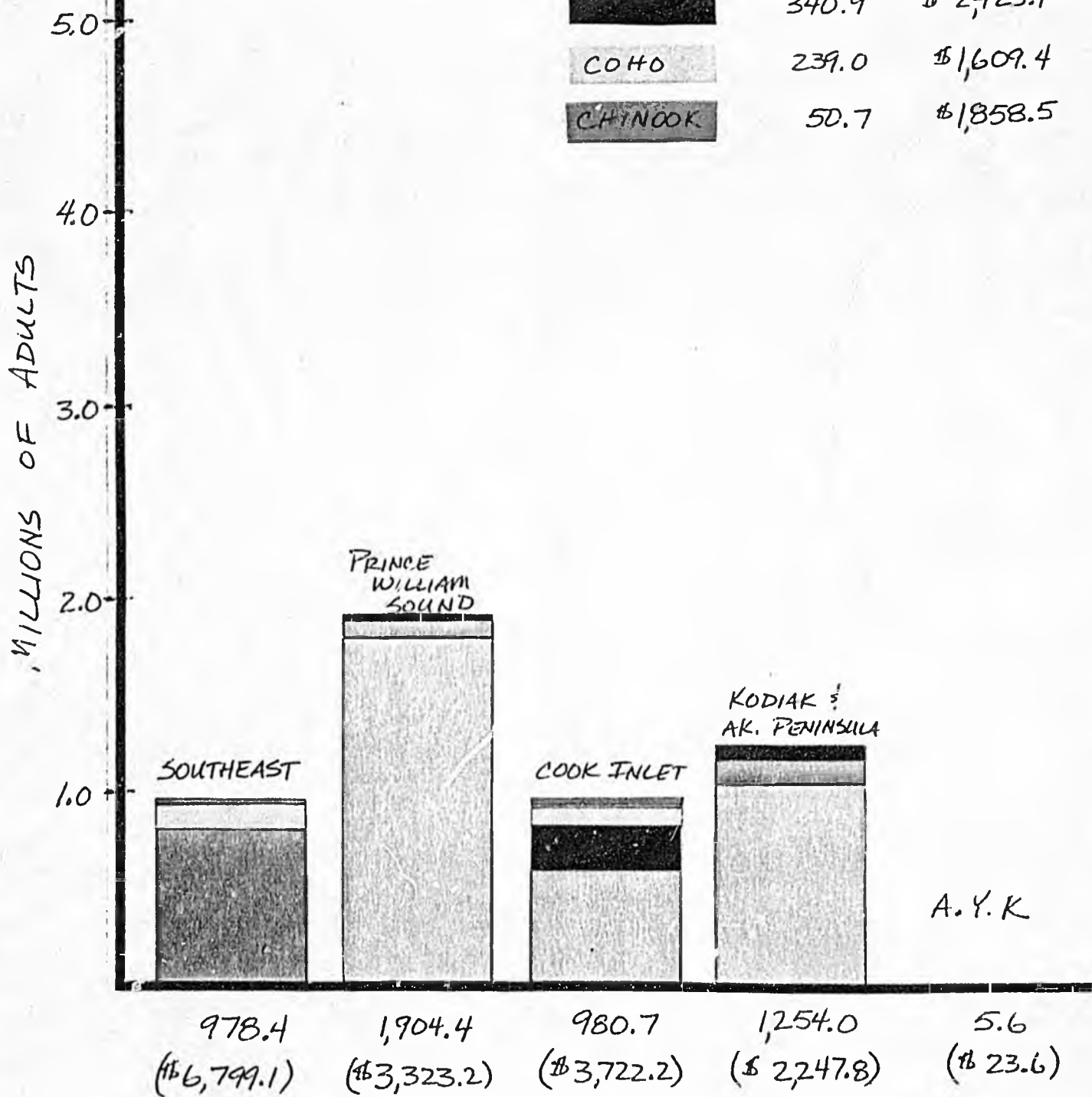
FACILITY	YEAR ON LINE	OPERATIONAL BUDGET		PRIMARY SPECIES	*EGG CAPACITY (millions)			STATUS AND COMMENTS
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		6900.6	6677.9		285.3	458.5	672.1	

* Assumes operational funds not a limiting factor and broodstock development complete. Actual eggs taken in FY83 are listed in column 1982.

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED, IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES

F.R.E.D. RETURNS
FROM 1982
EGG TAKES

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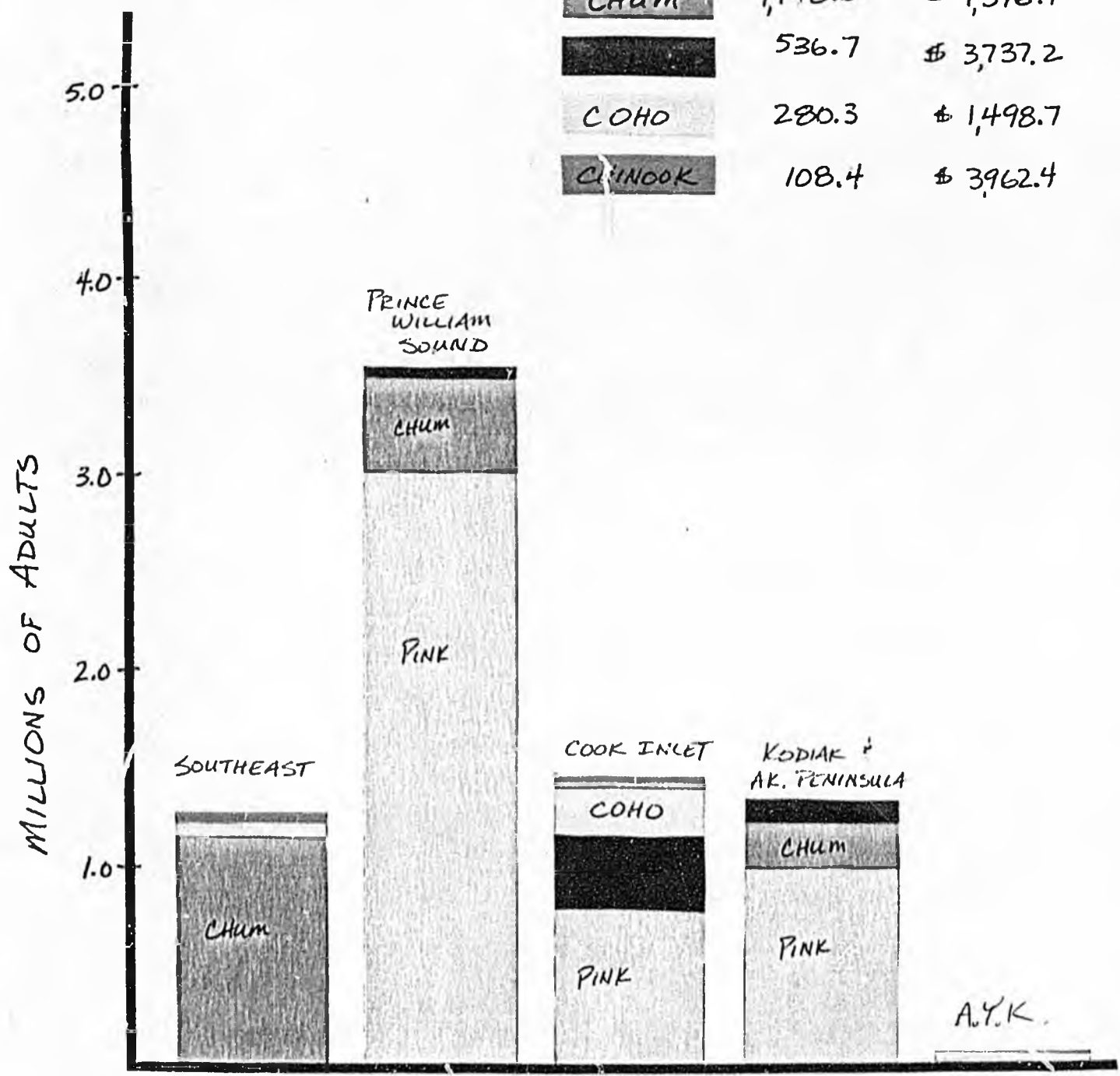
TOTAL 5,123.1
* VALUE \$ 16,115.8

* USING 1981 EX-VESSEL PRICES (ALL FIGURES IN THOUSANDS)

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
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CURRENT CAPACITY

	<u>FISH</u>	<u>* VALUE</u>
PINK	4,720.4	\$ 6,805.0
CHUM	1,943.6	\$ 9,376.9
	536.7	\$ 3,737.2
COHO	280.3	\$ 1,498.7
CLINOOK	108.4	\$ 3962.4



1,249.1	3526.2	1446.7	1332.5	39.9
(\$ 9,264.5)	(\$ 6,823.1)	(\$ 6,327.5)	(\$ 2,752.7)	(\$ 212.4)

TOTAL 7,594.4
 * VALUE \$ 25,380.2

* USING 1981 EX-VESSEL PRICES (ALL FIGURES IN THOUSANDS)

I. REQUEST (Page 1 of 2)
 Bill/Resolution No.: CSHB 393 (Fish)
 Title: state-owned hatcheries
 Sponsor: House Fisheries Committee
 Requestor: House Fisheries Committee

II. FISCAL DETAIL
 Agency Affected: Fish and Game
 Program Category Affected: FRED
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		138.6	145.5			
200 TRAVEL		42.1	44.2			
300 CONTRACTUAL		17.5	1.6			
400 COMMODITIES		.7	.9			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		198.9	192.2			

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		198.9	192.2			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not Identified

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Doreen Reaume Phone: 465-4120
 Division: Administration Date: _____
 Approved by Commissioner: James D. Kelly for Dir. Date: 5/17/83
 Department: Fish and Game

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

Analysis of CSHB 393 (Fisheries)

(Page 2 of 2)

This analysis assumes that all six hatcheries in the Committee Substitute are transferred to Regional Aquaculture Associations. Since current law requires a Private Non-Profit (PNP) Hatchery permit to operate a hatchery, the fiscal requirements are based on a transfer through the presently established PNP salmon hatchery permitting process.

This process includes a series of technical reviews of the applications by Department of Fish and Game staff and the Regional Planning Teams: development and finalization of Basic Management Plans; public hearings; coordination of technical assistance meetings; and a review, analysis, and summation of all information resulting in a recommendation to the Commissioner of the Department of Fish and Game on the application.

The services of a fisheries biologist, professional planner, program coordinator, and associated clerical staff are included in the projected fiscal requirements.

Additionally, 15.0 has been included in contractual for FY 84 to finance an independent appraisal of the hatcheries.

COMMITTEE REPORT

HOUSE

RESOURCES

FINANCE

FURTHER:

((7))

5/2/83

Date: May 13, 1983

Mr. Speaker:
HOUSE SPECIAL COMMITTEE ON FISHERIES

The Committee on _____ has had HB 393

"An Act relating to the operation of state-owned salmon hatcheries."

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[✓] replace with CS for HB 393 (same) [✓] same title [] new title

and recommends DO PASS

[] AND attaches a "Letter of Intent" [] ~~Has~~ Fiscal Note

[] reports it back without recommendation [] Zero Fiscal Note Attached

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Adelheid Herrmann

Paul Busse

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Jim McBride - Do not Pass

Pete Jace - Do not PASS unless AMENDED

Rep. Adelheid Herrmann
CHAIRMAN

10 Earnest Greek
Contracts & Facilities Officer
Division of Administration
Department of Fish & Game

DATE September 9, 1982

FILE NO. 366-086-83

TELEPHONE NO. 465-3600

FROM WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT Authority to Transfer Hatcheries

By:

John B. Gaguine
Assistant Attorney General
Department of Law

RECEIVED
SEP 14 1982

You have asked several questions regarding Fish and Game's proposed transfer of three state hatcheries to non-profit regional aquaculture associations. Specifically, you wish to know whether there is any bar to a negotiated transfer to a selected transferee, and what types of transfer are permissible. We conclude that Fish and Game currently may not undertake any type of transfer, since no statutory authority for a transfer now exists. If the legislature does grant the necessary power to Fish and Game, it will be able to do a negotiated transfer, but will not be able to give up ownership without receiving fair value for the facilities. *

Lack of statutory authority. Fish and Game has no specific authority to dispose of property. AS 16.05.050(3) authorizes the commissioner to "design and construct" hatcheries, but not to lease or sell them. Similarly, both AS 16.05.020, the statute listing the commissioner's broad functions, and AS 16.05.092, the statute broadly defining the powers of the FRED division (which runs the hatcheries), are silent as to Fish and Game's and/or FRED's power to dispose of them. There is no Alaska constitutional provision or judicial decision expressly requiring that an executive department have explicit statutory authority before it may dispose of state property. But this is the general rule of law followed elsewhere, and one must presume that the rule applies in Alaska, too.

This general rule is reflected in the myriad of cases concerning disposition of state property (generally land) by sale or lease, virtually all of which discuss the statutory basis for the transfer. Many of these cases can be found under West's Key Number States 89. "It is a well settled principle of law that title to government property may pass only in the manner prescribed by the duly constituted legislative body and that title to any such property may not be forfeited through the oversight, carelessness, negligence or even intentional conduct of any of the agents of the government." State v. West, 229 S.E.2d 826, 831-32 (N.C. App. 1976), aff'd, 235 S.E.2d 150 (N.C. 1977). See also Finch v. State, 124 So.2d 825, 827 (Ala. 1960) (within

Earnest Greek
Contracts & Facilities Officer
Department of Fish & Game
366-086-83

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Page 2

constitutional limitations, legislature has power to provide for leasing of state property, and may set limits on length of leases and determine general policy concerning them); State Land Board v. Heuber, 548 P.2d 1323, 1328 (Or. App. 1976) (conveyance by state is valid only if done with proper statutory authority); 5B G. Thompson, Real Property § 2720 (1978 repl. ed.) (state may dispose of lands through the legislature; state officers may act only in accordance with constitution and statutes); 72 Am. Jur.2d States §§ 66, 67 (1974).

The necessary statutory authority to sell or lease cannot be found in general grants of power made by the legislature to state officials. Samsell v State Line Development Co., Inc., 174 S.E.2d 318 (W.Va. 1970), invalidated a mineral lease made in 1962 by the state director of natural resources. The legislature had in 1961 vested title to state land in the Public Land Corporation, of which the natural resources director was secretary, and the corporation had not ratified the lease. The court declined an invitation to uphold the lease on the basis of a general statute allowing the director to execute contracts and agreements in the name of the state.

Another instructive case is Central Advertising Co. v. Michigan State Highway Commission, 172 N.W.2d 432 (Mich. 1969). There the highway commission attempted to place a restrictive covenant banning roadside advertising on some excess land it was selling. In the absence of any statutory authority for this covenant, the court found, its inclusion was beyond the commission's power. Again the court declined to find the requisite authority for the covenant in the statute conferring general powers on the commission.

We would conclude, then, that before Fish and Game can transfer operation of its hatcheries to an aquaculture association, either by sale or lease, the legislature must specifically authorize Fish and Game to make such a transfer. Perhaps an amendment could be proposed to AS 16.05.050(3), which would allow the commissioner to lease or sell the "hatcheries, pipe lines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state" that the subsection now empowers him to construct.

Incidentally, if the hatcheries could be regarded as surplus property, then the Department of Administration currently has the power to dispose of them, by sale or lease, under AS 44.71.010. If, say, the FRED division were unable to operate them because of manpower shortages caused by budget constraints, the hatcheries might be properly regarded as surplus property,

Earnest Greek
Contracts & Facilities Officer
Department of Fish & Game
366-086-83

September 9, 1982
Page 3

and disposition under AS 44.71.010 might be appropriate. When, however, the decision to transfer operations to the aquaculture associations reflects a department policy determination, invocation of AS 44.71.010 would not in our opinion be proper.

Negotiated transfer. On this question, we refer you to a May 28, 1980 informal opinion of this office, which is attached to this memorandum. While that opinion is directly concerned with disposal of surplus property under AS 44.71.010 (discussed above), the principle is the same. Competitive bidding is required only when specified by statute. Since there is no statute here mandating such bidding, negotiated transfer is permissible. We would repeat the observation contained in the 1980 informal opinion, though: any transfer agreement (assuming that the requisite statutory authority is obtained) should state why Fish and Game believes the transfer to be in the state's best interest.

Permissible types of transfer. On this question, too, we refer you to another recent informal opinion, this one dated March 30, 1982, and dealing with the very issue of hatchery transfers. That opinion is also attached to this memorandum, and we believe answers the question you pose. In addition, we note that any transfer without compensation of the hatcheries, either as an outright grant or under a "performance purchase" agreement (automatic transfer after a number of years of successful operation by the aquaculture association), would seem to be inconsistent with AS 16.10.500-.620, the fisheries enhancement loan program. AS 16.10.510 authorizes loans (not grants) to certified aquaculture associations to construct hatcheries (under AS 16.10.375-.475). It would be difficult to square this legislative directive with a Fish and Game decision to turn over gratis to the associations hatcheries that Fish and Game built with its own funds. While the legislature has made direct appropriations to aquaculture associations (e.g., § 3, ch. 42, SLA 1982), these grants have not been specifically for the purpose of constructing hatcheries. Of course, the legislature (subject only to constitutional public interest requirements) could authorize a transfer at less than fair market value.

To sum up, then, we believe that the three hatcheries cannot at present be either sold or leased by Fish and Game, because of the lack of statutory authority for hatchery transfer. If the legislature sees fit to confer such authority, then Fish and Game will be able to lease the hatcheries or sell them for fair value to an aquaculture association with which Fish and Game

Earnest Greek
Contracts & Facilities Officer
Department of Fish & Game
366-086-83

September 9, 1982
Page 4

has negotiated an agreement. However, the department will not be able to transfer the hatcheries at less than fair market value in the absence of specific legislative authority to do so.

Please feel free to contact us if you have additional questions.

JBG:dlm

Attachments

Frederick Muller
Deputy Commissioner
Personnel Management
Department of Administration

DATE: January 28, 1982

FILE NO:

Appendix #VI

TELEPHONE NO: 465-2250

SUBJECT: Fish and Game

FROM: *W*
George Elgee
Director
Division of General Services & Supply
Department of Administration

Relating to the Fish and Game budget problem, you have asked if it is possible to sell or lease, to a non-profit organization, the State of Alaska's fish hatcheries and if so what problems could follow and is it possible to have hatcheries constructed, operated and maintained by persons or firms other than state employees?

Alaska statutes 16.05.050 Powers and Duties of Commissioner. The Commissioner has, but not by way of limitation, the following powers and duties:

(2) through the appropriate state agency, acquire by gift, purchase or lease, or other lawful means; land, building, water, right of way, or other necessary or proper real or personal property when the acquisition is in the interest of furthering an objective or purpose of the department and the state;

(3) design and construct hatcheries, pipe lines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state;

(4) accept money from any person under conditions requiring the use of money for specific purposes in the furtherance of the protection, rehabilitation, propagation, preservation, or investigation of the fish and game resources of the state or in settlement of claims for damages to fish and game resources;

In general, AS 16 gives broad powers to the Commissioner of Fish and Game to manage the state's fish and game resources. It allows both public and private hatcheries, regional corporations to construct and own hatcheries and even states that Fish and Game must cooperate in the design, construction and operation of hatcheries. AS 16.10.500 even allows grants to non-profit organizations for the construction and operation of hatcheries.

You can see from the above, we can do almost anything we want to do with a hatchery.

I would suggest that we do not want the Department of Natural Resources, by statute, sells all state lands. We do not want to get them involved. Department of Transportation and Public Facilities normally sells all state buildings, we don't want to get them involved either. That leaves us with lease and/or operational agreements.

Operational agreements are not new. We currently have such an agreement in Anchorage at the Pioneers' Home where the kitchens are operated by others, yet we retain full ownership. In effect, we could contract with outside groups (profit or non-profit) to allow them to use our facilities and charge them a fee and also have management oversight. We could cancel this contract if we thought they were not doing a good job, etc.

One major problem will have to be faced if we are talking about current facilities and that is the union problem of displacing APEA employees with the contractor's employees. I also believe we may have the same problem with any new hatcheries that are not staffed by APEA types. You should check this with Sandra Withers.

Another concern of mine is our Housing Program. At this time I have several million dollars of replacement houses on the drawing boards, in construction or in planning stages. If we are not to retain ownership of these units, I certainly do not want to expend the funds.

All hatcheries have living space that is substandard and needs to be replaced yet I have other pressing needs for that money.

Fred, I guess the bottom line is we can do what every it is we want to do. Keep me advised.

GE/AMS/mm
3/GSSB/A

The Honorable William R. Hudson DATE May 28, 1980
Commissioner
Department of Administration FILE NO J-66-737-80

TELEPHONE NO

FROM AVRUM M. GROSS SUBJECT Negotiated sale of excess
 ATTORNEY GENERAL or surplus housing

By:

 Rodger W. Pagues
 Assistant Attorney General

 You have asked whether you may dispose of surplus housing to employee-residents by negotiation.

 No statute requires disposal by bid, and the applicable statute, AS 44.71.010, expressly allows for disposition "on the terms [you] consider for the best interests of the state." Some record of how the chosen terms serve the best interests of the state should be a part of the file. Otherwise, there are no other requirements.

 The applicable regulations, 2 AAC 20.010(a)(1), allows either a negotiated or competitive sale.

 There is no constitutional requirement for a competitive sale. Such requirements as exist are to be found in the statute. Libby v. City of Dillingham, P.2d _____ (Alaska Sup. Ct. Op. No. 2097, May 23, 1980). Here, it is the best interests of the state which must be served.

RWP:cb

April 15, 1982

Alaska State Legislature



POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

F.R.E.D. Position Paper

About 10 years ago, Alaskans mandated the state to use oil revenues for the purpose of rehabilitating and enhancing the fisheries of Alaska, concentrating on the salmon fisheries. This was to encompass the construction and operation of hatcheries around the state, and the initiation and growth of aquaculture research. Now a decade later, it's past time we assessed the progress made by F.R.E.D. (Fisheries Rehabilitation and Enhancement Division).

In the past, prevailing philosophies such as "turf protection" and the use of political patronage have deterred the true rehabilitation and enhancement of Alaskan fisheries. Turf protection being an inordinate concern for the environment, and political patronage resulting in several unsatisfactory hatchery locations. These tactics were allowed due to the lack of monitoring on the part of the previous House majority leadership. I believe they abdicated their responsibility to the public by not following through and seeing that the public was getting their money's worth.

Now, with a new direction set by this Legislature, as to the goals and functions of F.R.E.D. the fisheries will truly be enhanced and rehabilitated. There are no doubts that fisheries enhancement is a viable program. As a matter of fact, it's the only way we can insure Alaska's maintenance and growth in the world market for salmon. There are several policy changes that must be made regarding hatcheries. The State of Alaska needs four strong components to attain its fisheries enhancement goals.

- 1) F.R.E.D. as the research component.
- 2) PNP's (Private Nonprofit Hatcheries) as the production component.
 - a) PNP regional aquaculture associations, which are quite large, will have

the largest production operations.

- b) PNP mom and pops, small independents, will fill in the gaps. This will afford those Alaskans with an independent lifestyle, an opportunity to live this way, and at the same time make a contribution to one of Alaska's greatest renewable resources.
- 3) A strong stream rehabilitation and restocking program for wild stocks.
- 4) A legislature that understands the issue, and is willing to support it for all of Alaska.

To fully implement these new policies, statute and regulation changes must be made. Currently the laws and regulations governing fishery enhancement discriminate against the small independents. The small operators not only answer to F.R.E.D., but also to the regional aquaculture associations. Thereby subjecting small independents to more of a managerial hierarchy, than the regional associations and F.R.E.D. These policies, which again actually discriminate against the small independent, are contrary to what I've always believed Alaska and Alaskans stood for.

When the F.R.E.D. Division began, a goal was set to have a 2.5 billion egg capacity by the year 1990. Therefore, one might presume by 1980 we would be halfway to this goal. However, we're just over one-fifth of the way there, or close to 700 million. Not only are we running short of the 2.5 billion goal, but we're only operating at 40% of current capacity, or 280 million. Regardless of the operating level, the expenses remain the same; on the average \$370,000 annually per hatchery. Though Alaska does enjoy the distinction of being the forerunner in aquaculture research, Japan is leading in production with Russia not far behind.

What's truly distressing are the projections made by both the Japanese and Russians. Japan plans to dump 2 billion fry into the ocean by 1990, and Russia 1 billion by that time. F.R.E.D's original goal of 2.5 billion must be adhered to in order to compete with these countries. However, if major philosophy and management changes are not made immediately, Alaska will not be able to reach this goal and compete in the long-term world market for salmon production.

Experts state that by no later than the year 2000, we will have an international harvest agreement--similar to the 200 mile limit--which will allocate salmon harvests. The allocation basis will be determined by the percentage of fry a given country dumps into the ocean. The problem is that the ocean's threshold can only tolerate a certain number of salmon while sustaining an environment suitable for rearing salmon. Alaska is fortunate, in that salmon originating in Alaskan fresh waters travel much greater distances, and therefore have a greater food supply. This is not so in Washington and Oregon, where salmon are now returning undersized because of over pasturing, or over grazing, their rearing area. If it seems we are in a race against time, we are.

The State of Alaska, through the F.R.E.D. Division, has spent a great deal of money--\$200 million to date, with \$73 million in general obligation bonds, which we are still paying for. The concern is not so much the amount of money spent, but that the return on this money has been minimal, at best.

I contend that Alaskans are not getting the maximum return on their investment. By what comparison? PNP's, those hatcheries run by private associations and individuals. PNP's were initiated about five years ago, versus F.R.E.D.'s 10; to date they've borrowed \$21 million from the state versus F.R.E.D.'s expenditure of \$200 million, with another \$50 million anticipated to bring existing F.R.E.D. facilities to full operating capacity. PNP's egg take in '81 was 223.6 million; versus F.R.E.D.'s 225 million. Returns to PNP's in '81 were 2.2 million; versus F.R.E.D.'s 2.0 million. From these returns, 1.3 million were to a single PNP hatchery, the Prince Williams Sound Regional Aquaculture Association, which is the most productive hatchery in the Western hemisphere. So after 10 years and \$200 million, we see F.R.E.D.'s returns as only 2% of the total salmon harvest in 1981.

These figures prove PNP's are more capable of mass producing fish than F.R.E.D. However,

PNP's capacity is only half that of F.R.E.D. If we are to utilize the superior management capabilities of the PNP's, and do so in an expedient manner, we must transfer those viable state hatcheries to the PNP's. Not all F.R.E.D. facilities can be transferred. For instance, those hatcheries used to enhance the sportfishing industry would not be attractive to PNP's. Basically, those with the potential to increase commercial fishing harvests are the most attractive. Four hatcheries, Beaver Falls in Ketchikan, Cannery Creek and Main Bay located in Prince Williams Sound, and Tutka in Kachemak Bay are being considered for transfer to the regional aquaculture associations in those areas. These hatcheries have good potential to enhance the salmon fisheries. Tutka is an exceptional hatchery; operating above capacity. The other three are currently operating at less than 50% of capacity.

Other hatcheries we are optimistic of transferring are Klawock, East Creek in Dillingham, Russell Creek in Cold Bay, Sikusuilaq near Noatak, and Deer Mountain in Ketchikan. These hatcheries, due to the fact that returns have been minimal, and the Deer Mountain hatchery being tourism oriented, do not warrant state operation. The economic impact from these hatcheries is also minimal, at least on a statewide basis. It's my belief that if the local economic or social impact is great enough, a community will takeover operations.

These policies will take some time to fully implement. We should start this year by transferring several hatcheries, and continue this transfer process over the next year or two. It is essential to follow through on this plan if Alaska is to maintain and expand its worldwide salmon market.

Intent language in the FY'83 F.R.E.D. budget

DEPARTMENT OF FISH & GAME

FISHERIES REHABILITATION ENHANCEMENT DEVELOPMENT

ADMINISTRATION & SUPPORT

INTENT LANGUAGE: The legislature finds that substantial merit exists for the orderly transfer of state-operated fish hatcheries to statutorily qualified private non-profit regional associations. The legislature supports and would encourage the transfer of three (3) facilities during FY 83: the Main Bay, Cannery Creek and Beaver Falls hatcheries. It is the intent of the legislature that the Administration do everything possible to work out the intricacies of such transfers. Furthermore, the legislature finds that an overall re-evaluation of the relationship of state-operated hatcheries and private non-profit hatcheries is in order. It is the intent of the legislature that the Administration coordinate such a review and propose an overall state policy to the 1983 legislative session.

FRED Annual Reports--'81 and '82

		F.R.E.D.	P.N.P.'s
RETURNS:	'81	2.1 million	2.2 million
	'82	1.6 million	5.2 million
EGG TAKE:	'81	225 million	223.0 million
	'82	288 million	235.0 million
RELEASES:	'81	130 million	101.6 million
	'82	196 million	125.7 million

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
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ORIGINAL.

4792

Inarpiik Regional Aquaculture Corporation

"Big Boy Aquaculture Corporation"

P.O. Box 10122, Anchorage, Alaska 99576 (907) 842-5253

March 22, 1983

Mr. Frederick R. Smith Belmont
Pouch F
Juneau, Alaska 99801

Dear Edith,

Inarpiik Regional Aquaculture Corp. would like to formally propose to take over the East Creek Batcherie at Snake Lake. We would accept from the State on a grant basis all buildings and machinery to be used as a research facility at present. It might be in the future that it would be used as a full batcherie. We hate to see the facilities dismantled and hauled off. Also in the transaction we are requesting operating funds as outlined in our proposed budget. (enclosed). We feel this has great potential for the future. After all the State has spent over 3 million dollars on this facility and it would seem a great waste to let it go. Also enclosed is a resolution from our Board supporting our efforts.

Regards,

Freeman Roberts
Freeman Roberts

cc. Senator Bob Malcomby 3716
Senator Bob Battisworth 4967
Senator Arliss Sturgulewski 3818
Rep. Jack McBride 4919
Rep. Ben Grossendorf 3824

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 289

WILLIAMS, ALASKA 99576
by Executive Committee

East Creek Fish Hatchery

Resolution No. 33 - 70

WHEREAS, the Inupik Regional Aquaculture Corporation (IRAC) is actively seeking funding to keep the East Creek Fish Hatchery as an ACTIVE fish hatchery; and

WHEREAS, the Inupik Regional Aquaculture Corporation is actively seeking a Science/Educational Permit to study King and Coho Salmon.

NOW THEREFORE BE IT RESOLVED by the Bristol Bay Native Association, that BBNAA supports such efforts by Inupik Regional Aquaculture Corporation.

SIGNED: William P. Johnson

PRESIDENT

CERTIFICATION:

I, the undersigned secretary of said Association, do hereby certify that the Executive Committee is composed of ten (10) members, of whom 6 were present at a meeting this 1st day of March, 1985, and that the foregoing resolution was adopted by the affirmative vote of 4 members.

SIGNED: John Campbell

SECRETARY

575

Proposed Budget
East Creek Hatchery

Aquaculturists (2) -----	\$70,000.00
Fringe \$104 -----	\$7,000.00
Marxix Manager 8 1/3 -----	\$8250.00
Secretary \$1/3 -----	\$6000.00
Fringe for above -----	\$1425.00
Travel and per diem -----	\$6000.00
Lease fees -----	\$2772.00
Telephone and Postage -----	\$1200.00
Office supplies -----	\$1200.00
General expense* -----	\$52,000.00
Total -----	-----
To include;	\$155,047.00

Diesel fuel
Spare parts
Mechanic (part time as needed)
Freight
Miscel.

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ORIGINAL.

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99633
(907) 246-4495

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature



House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIK
TWIN HILLS
UGASHIK
UNALASKA

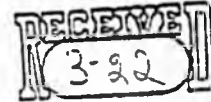
MEMORANDUM

DATE: March 20, 1983

TO: Rep. Bob Bettisworth

FROM: Rep. Adelheid Herrmann

SUBJECT: Snake Lake (East Creek) Hatchery



I have recently been informed that the F.R.E.D. Division of ADF&G is dismantling the Snake Lake Hatchery. Apparently, this includes everything except one small generator. They plan to have the building empty by April 12, 1983.

The regional aquaculture association, Imarpik, and the local school district have expressed interest in using the hatchery for education and research. If we allow F.R.E.D. to completely strip the facility, this will not be possible.

If we collectively apply our efforts perhaps we can be successful in maintaining an operational facility even if only at reduced levels. I would appreciate all the help you can give me with regard to keeping the facility open and operating even at reduced capacity.

Also, any information you can provide me regarding the bill you plan on introducing about hatcheries would be welcome.

cc: Rep. Jack McBride
Rep. Ben Grussendorf
Rep. Fred Zharoff
Sen. Bob Mulcahy

Alaska State Legislature

REPRESENTATIVE
JACK MCBRIDE



BOX 7563
KETCHIKAN, ALASKA 99901

COMMITTEES
COMMUNITY & REGIONAL AFFAIRS
TRANSPORTATION
SPECIAL COMMITTEE ON FISHERIES

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
9071465-4919

House of Representatives

MEMORANDUM

TO: Representative Bob Bettisworth

Date: March 31, 1983

FROM: Representative Jack McBride *Jack*

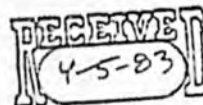
Re: Snake Creek Hatchery

I am writing in support of using the Snake Creek Hatchery in conjunction with the Imapik Regional Aquaculture Corporation as a facility for education and research.

I spent two years in Bristol Bay as the Manager of the Imapik Regional Aquaculture Corporation and can assure you of the need for this facility, if even at reduced levels. It would be a shame to dismantle a facility that is now worth close to \$10 million dollars and that may be utilized in a different manner.

If you would like to discuss this in any detail, please don't hesitate to call and I would appreciate any comments you may have.

JM/rb





REPRESENTATIVE

POUCH Y
JUNEAU, ALASKA 99811

ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

Mr. Freeman Roberts
Imarpik Regional Aquaculture Corporation
P.O. Box 189
Dillingham, AK 99576

March 28, 1983

Dear Mr. Roberts,

Thank you for your letter of intent to operate the East Creek hatchery facility in Dillingham.

I'm afraid, however, that we have a misunderstanding. I believe that legally, the state cannot "grant" a public facility to an individual, or company. My intent is that the state make the hatchery available to you in a lease agreement, at a nominal fee.

Your letter included a proposed budget for the hatchery. First off let me say, that it is a realistic operating budget. However, your letter seemed to imply that Imarpik was also seeking grant funding for operation of the hatchery. This too, is not my intent. If Imarpik needs operating funds, the Fisheries Enhancement Loan Fund is available for this purpose.

I realize your intent in operating the facility is in an educational and research capacity, and therefore your request for a grant, but I do not believe a grant is in the best interest of the state. In essence, we've been giving the F.R.E.D. Division grants for the last 10 years, with very little return on the state's investment. The main purpose of getting the hatcheries into private management is to finally see a return.

I do support the Imarpik Regional Aquaculture Corporation operating the Dillingham hatchery, but I do not support any hatchery transfer with a blanket check from the state. I stand ready and willing to assist you in this matter. Please contact me if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Bob Bettisworth".

Rep. Bob Bettisworth
RHB/mjk

**SOUTHERN SOUTHEAST REGIONAL
AQUACULTURE ASSOCIATION, INC.**

P.O. Box 6916

(907)225-9605

Ketchikan, Alaska 99901

April 3, 1982

Representative Bob Bettisworth
House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bettisworth:

The concerns I expressed during our conversations earlier in the session have been discussed at length by the Board of Directors of Southern Southeast Regional Aquaculture. Within our region and statewide, SSRAA has generally been supportive of the productive programs of the Fisheries Rehabilitation Enhancement and Development Division and we have worked cooperatively to urge improvements in their program and assisted them in doing so. To date, the dual efforts of FRED and SSRAA have been directed toward achieving the objectives set out in the regional comprehensive plan that targets the very depressed species in southeast.

In the long run, the private non-profit corporations can provide significant relief in the operational costs of the FRED Division if selected facilities are transferred into the private sector. However, this must be done based upon a review of the operational, management, and economic characteristics of each individual facility on a case by case basis. Within the southern southeast region, there are four hatcheries operated by the FRED Division, and SSRAA is initiating just such a full review of each of these facilities. This will take a period of time to complete, however, these points can be made about each facility:

Deer Mountain Hatchery is located in Ketchikan. This is a small, essentially demonstration hatchery which is a significant tourist attraction in Ketchikan, but to date has not contributed much to the fishery. This facility does not have a guaranteed water supply due to priority allocation to the city's domestic water system and has a record of major mortalities due to water problems. The FRED Division operates this facility on contract with the City of Ketchikan which owns the facility. Any involvement by SSRAA would have to be negotiated with the City of Ketchikan should the FRED Division withdraw.

Crystal Lake Hatchery is located just outside Petersburg. This facility concentrates on chinook and coho salmon and is a well developed program supplying brood stock to other facilities as well as resupplying its own program. Although it has had operational and pathological problems in the past it has a documented record of contributions to the commercial and sport fisheries. Significant problems may exist in operating a terminal harvest under their existing operation plan but alternatives may be possible to conform with private non-profit operation of this hatchery. SSPAA would need to review this situation in the interim and would not be in a position to operate Crystal Lake in FY83.

PRIVATE NON PROFIT HATCHERIES

Klawock Hatchery is located in Klawock on Prince of Wales Island. This facility is designed as a large capacity chum and coho hatchery. Although operating for a few years, this hatchery has not had any significant production to date. It is our understanding that to operate at capacity, additional improvements would be needed, brood stock development has been very disappointing, adult mortalities on coho have been significant, water supply problems may exist, and terminal harvest problems may exist. [The hatchery has recently taken pink eggs against the recommendations of the Regional Planning Team and the Comprehensive Plan primarily for political reasons.] SSRAA would not be in a position to operate Klawock by FY83 and would need the interim to study the operations of Klawock to respond next session.

Beaver Falls Hatchery is located just south of Ketchikan near the SSRAA Whitman Lake Hatchery. It is an expanding chum program for which SSRAA has conducted wild eggtakes for two years to compliment the returns back to the facility. Additional improvements are essential to properly operate this facility by providing for short term rearing and release of fed fry similar to the SSRAA Whitman Lake chum program. Faced with closure of this production facility, SSRAA would be able and willing to operate this facility in FY83 should the facility be transferred with the operating funds provided by contract and with the transfer of already appropriated capital funds including \$400,000 approved in FY82. It would be our intent to make the necessary improvements, bring this facility up to full capacity, and be self supporting by FY85 with no further state funding after that.

As stated in our earlier conversations, many details will need to be worked out for the transfer of any FRED facility into the private sector. We recommend that the legislature identify a few facilities and target them for transfer in FY83 as "pilot projects". Further, we recommend that an appropriation of \$50,000 be made to ADF&G for the Regional Planning Team similar to the FY82 appropriation for that purpose but specifically intended for use to prepare recommendations on the applicability of FRED facilities being transferred into the private sector.

This does not detract from or replace SSRAA's stated intentions to develop an extremely valuable new project planned for co-development with the Tye Power Project near Wrangell. We strongly urge this session to provide the needed additional loan fund to develop this hatchery due to the benefits to be derived from it and the time schedule of construction in conjunction with the power project.

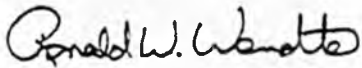
As you are aware, SSRAA has conducted a demonstration lake fertilization project jointly with the FRED Division for three years. This project is an extremely well supported program in and out of the legislature to develop natural enhancement techniques for our valuable sockeye stocks. The continuation of lake fertilization projects around the state depends on documenting the lake fertilization technique by completing this southeast project. I respectfully request that an appropriation at last years level of \$229,000 be appropriated for SSRAA's portion of this project with specifically stated intent that ADF&G contract with SSRAA to continue this project.

Representative Bob Bettisworth
April 3, 1982
Page 3

S.S.R.A.A.

I am pleased to respond to your request for this information and state our willingness to provide any additional information or position that would be of assistance to you in your deliberations.

Sincerely,



Ronald W. Wendte
Executive Director

cc: Representative Ernie Haugen

02021 TDA CORDOVA ALASKA 681 04-05 1115A AST

PMS REP ROBERT BETTISWORTH (PHONE AND DELIVER)

JUNEAU AK

0525

DEAR REPRESENTATIVE BETTISWORTH

SATURDAY, APRIL 3RD, THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS OF THE PRINCE WILLIAM SOUND AQUACULTURE CORPORATION PASSED THE FOLLOWING MOTION. PWSAC BOARD IS WILLING TO TAKE OVER THE OPERATIONS AND MAINTENANCE OF CANNERY CREEK AND MAIN BAY HATCHERY FACILITIES PROVIDED THAT PWSAC HAS FULL AUTHORITY AND RESPONSIBILITY TO OPERATE AND MAINTAIN THEM AND THAT FUNDS BE PROVIDED IN THE ENHANCEMENT LOAN FUND FOR OPERATION AND MAINTENANCE FOR FY-83 AND FY-84 AT DLRS400,000 PER YEAR PER FACILITY AND THAT CAPITAL FUNDS FOR CONSTRUCTION COMPLETION OF BOTH FACILITIES OF A MINIMUM OF DLRS5 MILLION BE PROVIDED THROUGH THE ENHANCEMENT LOAN FUND. IN CONJUNCTION WITH THE ABOVE MOTION THE FOLLOWING WAS DISCUSSED.

A. OPERATION FUND. PWSAC WOULD STOCK BOTH HATCHERIES IN 1982 TO MAXIMUM POSSIBLE CAPACITY IN ANTICIPATION OF SUBSEQUENT HIGH ADULT RETURN TO ACHIEVE FINANCIAL SELF-SUFFICIENCY FOR BOTH FACILITIES AS SOON AS POSSIBLE WHICH WOULD BE IN FY-85 OR FALL OF 1984.

PRESENTLY A HIGH INSECURITY PREVAILS IN THE SALMON FISHERY AS TO LEVEL OF SALES AND PRICE FOR 1982 ADULT SALMON RETURN TO PRINCE WILLIAM SOUND CAUSED BY PROCESSOR AND MARKET INSTABILITY DUE TO CURRENT ADVERSE MARKET CONDITIONS AND FDA RECALL OF CANNED SALMON WHICH MAY REFLECT ON FY-83 INCOME TO PWSAC FROM SAN JUAN FISH SALES AND ASSESSMENTS. TO PROVIDE OPERATIONAL SECURITY PWSAC WOULD REQUIRE TO BORROW FUNDS FROM THE ENHANCEMENT LOAN FUND TO OPERATE MAIN BAY AND CANNERY CREEK FOR FY-83 AND FY-84 IN THE AMOUNT OF UP TO DLRS400,000 FOR EACH FACILITY.

B. CAPITAL FUNDS. CANNERY CREEK. THIS FACILITY ALTHOUGH BASICALLY COMPLETE LACKS COMPONENT VITAL TO ADDITION AND FULL CAPACITY OPERATION. FOR EXAMPLE: ADULT MATURING, EGG TAKE, FRY-OUT MIGRATION AND SALT WATER REARING FACILITIES. AN ESTIMATED TOTAL OF DLRS2 MILLION IN CAPITAL INVESTMENT WOULD BE NEEDED. PWSAC WOULD BORROW THESE FUNDS FROM THE ENHANCEMENT LOAN FUND.

MAIN BAY. THIS FACILITY IS CURRENTLY UNDER CONSTRUCTION AND SCHEDULED TO BE TURNED OVER TO THE STATE BY THE CONTRACTOR IN MAY 1982. ADF AND G ENGINEERS ESTIMATE THAT ABOUT DLRS3 MILLION ARE NEEDED IN CAPITAL CONSTRUCTION TO COMPLETE THIS SITE TO DESIGN SPECIFICATIONS. THIS AMOUNT WOULD BE BORROWED BY PWSAC FROM THE ENHANCEMENT LOAN FUND.

C. A CONTRACTUAL AGREEMENT BETWEEN THE STATE AND PWSAC WHICH WOULD TRANSFER AUTHORITY AND RESPONSIBILITY FOR OPERATIONS AND MAINTENANCE FOR BOTH STATE-OWNED FACILITIES TO PWSAC AT A NOMINAL LEASE FEE WOULD BE ACCEPTABLE. POSSIBLE FUTURE TRANSFER OF TITLE TO PWSAC IS DESIREABLE PENDING ON FUTURE DETERMINATION OF LEGALITIES AND RESOLUTIONS OF THESE FINANCIAL OBLIGATIONS OF THE STATE TO PAY BACK G.O. BONDS.

IN GENERAL PWSAC(S) INTENT AND GOAL IS TO PURSUE ALL AVENUES ACCEPTABLE TO MEMBERS OF THE FISHING INDUSTRY AND THE GENERAL PUBLIC OF THE STATE WHICH WILL LEAD TO CONSISTENT AND HIGH PRODUCTION OF SALMON IN OUR REGION FOR THE BENEFIT OF ALL USER GROUPS, MAINTAINING A HIGH LEVEL OF COOPERATION BETWEEN THE SALMON INDUSTRY, FISHERMEN, ADF AND G AND OTHER STATE AGENCIES.

TAKING CARE OF OPERATIONAL AND MAINTENANCE COSTS FOR HATCHERIES THAT CAN BE OPERATED BY THE PRIVATE SECTOR ON A COST-RECOVERY SYSTEM BASED ON FISH SALES AND FUTURE CAPITAL COSTS VIA THE LOAN FUND MAY HELP TO INCREASE THE FRED DIVISION ACTIVITY IN NEEDED RESEARCH, PLANNING, SUPERVISION AND EXECUTING OF SALMON

ENHANCEMENT PROJECTS WHICH DO NOT LEND THEMSELVES FOR COST RECOVERY VIA FISH SALES. FOR EXAMPLE, INLAND AND SPORT FISH HATCHERIES, LAKE AND STREAM STOCKING, ETC.

PWSAC(S) OFFER TO OPERATE THESE BASE FACILITIES IS BASED ON RECOGNITION OF FUNDING LIMITATIONS OF THE STATE, A DESIRE TO PURSUE EXPANSION OF THE PRINCE WILLIAM SOUND ENHANCEMENT SYSTEM AND THE COMMITMENT OF THE FISHING INDUSTRY TO CARRY ITS SHARE IN ACHIEVEING CONSISTENT HIGH LEVEL OF SALMON RUNS TO PROVIDE ECONOMIC STABILITY TO OUR REGION IN HIGH COMPETITIVE FUTURE MARKET AND FOR A GROWING DEMAND AND THE BENEFIT OF PERSONAL-USE FISHERMEN.

THE DIRECTORS OF THE PRINCE WILLIAM SOUND AQUACULTURE CORPORATION BOARD EXPRESS THEIR APPRECIATION FOR THE CONSIDERATION AND RECOGNITION BY THE ALASKAN STATE LEGISLATURE OF OUR EFFORTS AND NEEDS, AND THANK YOU FOR THE OPPORTUNITY TO PROVIDE THIS INPUT TO YOU. SINCERELY,

ARMIN F KOERNIG, PRESIDENT

PRINCE WILLIAM SOUND AQUACULTURE CORPORATION

NANA REGIONAL CORPORATION, INC.

POST OFFICE BOX 49 / KOTZEBUE, ALASKA 99752 / TELEPHONE (907) 442-3301



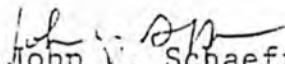
March 30, 1982

Representative Bob Bettisworth
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Bob:

We are interested in acquiring the Sikusuilaq Hatchery. I hope that we can prepare a proposal in the short time that you have requested. Your assessment of the State hatchery program corresponds with our own exactly and we will do our best to assist in the proper development of this hatchery because of its importance to the people of our region.

Sincerely Yours,


John V. Schaeffer
President

pa

cc: John Shively, V.P. Operations, Anchorage
Herman Reich, General Manager, Kotzebue
Calvin Moto, Manager, NANA Seafoods
NANA Board

Encl. Bob Bettisworth Letter





STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

To: Members
Hatchery Funding Steering Committee
Office of the Governor

From: W.I. "Bob" Palmer *WB*
Special Projects Coordinator
Office of the Governor

Date: April 1, 1982

Re: Workgroup Interim Report

1.0 INTRODUCTION

1.1 MEMBERSHIP

W.I. "Bob" Palmer, Chairman
Fred Muller, Department of Administration
Tom Chester, Budget and Management
Eric Laschever, Budget and Management
Mark Siegars, Budget and Management
John McMullen, FRED Division, ADF&G
Pete Froehlich, Department of Law

Resource Persons:

Curt Kerns, Alaska Fisheries Council
Armin Koernig, Prince William Sound Aquaculture Corporation
Ron Wendte, Southern Southeast Regional Aquaculture Association
Ladd MaCauley, Douglas Island Pink and Chum
Richard Matthews, Armstrong-Keta
Ken Parker, CommFish, ADF&G
Pete Bushre, Department of Revenue
Bob Clasby, CommFish, ADF&G

SELECTIVE TRANSFER OF FRED DIVISION SALMON HATCHERIES:
ADVANTAGES AND DISADVANTAGES

- 1.0 Arguments Supporting Selective Transfer of State Hatcheries to Qualified Regional Associations
 - 1.1 Philosophical Concerns
 - 1.11 User groups pay the costs for hatchery O&M and CIP improvements and completions instead of the general public.
 - 1.12 It is in keeping with the basic philosophy that "government should only do for the people what the people cannot do for themselves."
 - 1.13 Avoids potential conflict of interest by at least a partial separation of production role from regulatory role.
 - 1.14 Stronger user group input and control via elected board members, therefore, more actual public control vs. state agency control by, at times, entrenched bureaucrats.
 - 1.15 Encourages interested user group members to volunteer to help themselves more than a state operation would and provides jobs for young people at less than minimum state wages.
 - 1.16 Encourages cooperation between sports, subsistence and the various gear groups of commercial fishermen working for a common cause.
 - 1.17 Allows for faster overall program development thus enabling Alaska to establish a claim to its fair share of of the ocean pasture.
 - 1.18 Encourages longer term view point by user groups as opposed to "3 R's" so prevalent throughout the history of Alaska.
 - 1.2 Economic Considerations
 - 1.21 Eases spending limit problems while not adversely impacting other ADF&G programs or missions.
 - 1.22 Saves state O&M and CIP improvements and completion costs over project life. This savings will be in excess of \$100 million of General Funds monies. Although O&M loans will be necessary for the first two years of private operation while hatchery production is reaching full capacity -- such loans will be repaid and are an investment of non-renewable oil monies in the development of a healthy renewable resource economy.
 - 1.23 Strong incentive to quickly bring facilities up to

full production thus the user groups are able to harvest fish sooner. Secondary benefits also accrue at an earlier date.

1.24 State purchasing and personnel regulations and statutes, while written to protect public funds, may not be flexible enough to react in a timely manner when a quick operational response is necessary.

1.25 Stronger incentives for cost effectiveness due to scrutiny by selected board members, salmon enhancement tax payers or voluntary assessment contributors.

1.26 As oil revenues decline some Legislators may be tempted to close FRED hatcheries. Selected takeover allows for a more stable funding base. Hatcheries, being long term projects, require a long term, relatively stable financial base.

1.27 The private sector has a stronger incentive to sell fish, therefore a stronger incentive for the full utilization of the fishery resource.

1.3 Legal/Political

1.31 Avoids severe political controversy that will result if state attempts to sell fish. Resulting controversy could severely damage enhancement program -- public and private.

1.32 ADF&G has authority under general powers to sell fish. Explicit statutory authorization is preferred, however. A new statute is unlikely to pass due to strong opposition of the present limited entry permit holders objecting to new class of entry permits being created.

1.33 State fish sales of large blocks of fish could result in market dislocations by upsetting the delicate balance between sellers and buyers.

1.34 State fish sales may be considered program receipts. However, the legislature is under no obligation to appropriate those program receipts unless they go into a dedicated fund. If a defacto dedicated fund is created, other state agencies may be encouraged to attempt to set up their own. In the long run, uncertain oil revenues could result in FRED hatchery closings even if all of the very severe problems of state fish sales could be worked out.

1.35 By user groups bearing costs of some of the hatcheries, more public support is generated for the overall program in that benefits accruing to a readily identifiable special interest group are paid for by that group.

2.0 Arguments Against Selective Transfer Of State Hatcheries To Qualified Regional Associations

2.1 Philosophical Concerns

2.11 If hatcheries are transferred the State will lose some of its control over the facility and its management.

2.12 Large runs of adult fish returning to Regional Association hatcheries may motivate the operators to attempt to influence State management decisions.

2.13 In the near term, hatchery transfers will reduce FRED Division employee morale.

2.14 In the near term, hatchery transfers may lessen the degree of cooperation between the Department of Fish and Game, especially the FRED Division, and the Regional Associations.

2.15 Removing hatcheries from State operation may result in either reducing the supply or increasing the cost of salmon eggs or fry required for other rehabilitation or enhancement projects run by the State.

2.16 The FRED Division has more fish culture experience than the Regional Associations.

2.17 At those hatcheries transferred, the FRED Division hatchery personnel will be terminated from State employment. These personnel may or may not be hired by the Associations, at the Associations discretion.

2.3 Economic Considerations

2.21 The fishermen harvesting hatchery fish will catch a smaller portion of the run returning to a hatchery. With hatchery operation costs paid for out of the general fund for state operated hatcheries the fishermen can harvest the entire adult return less broodstock. If the facilities are operated by Regional Associations, the fishermen will have to forgo catching "cost recovery" fish.

2.22 As no Regional Association loan payments are due, it is as yet uncertain whether the corporations will be able able to repay the loans they have secured from the State.

2.23 There is no economic advantage to transferring facilities because the State could either sell fish or levy extra taxes to support the costs of its hatchery operation.

2.24 Financial stability of the hatchery program will not be increased because revenues to the Regional Association hatcheries will vary annually with fish survival rates, fish prices and harvest rates in the common property fisheries.

2.25 The cost of facility operation by the Regional Associations may be no less than the cost of operations by the State.

2.26 The composite "overhead" costs of the Regional Associations may be greater than that of the FRED Division. The four regionals each maintain an office, the FRED Division has only one central office.

2.27 An analysis of economic feasibility will be required for each facility proposed for transfer.

2.3 Political/Legal Uncertainties

There are many legal questions relating to any transfer-- some are of a general nature, some are site specific.

2.31 The legality of transferring state property to Regional Associations is questionable.

2.32 Contractual lease arrangements which would provide for operation of state owned hatcheries by the Regional Associations need to be developed.

2.33 Contractual rights of State employees currently operating facilities to be transferred need to be examined.

2.34 The ability of the Regional Associations to borrow monies to operate the facilities need to be guaranteed until sufficient adult returns make cost recovery possible.

2.35 The ownership of any capital improvements which may be made by the Regional corporations during the term of any lease agreement needs to be defined.

2.36 Transferability of any contractual agreements, permits, permits or authorizations relating to hatchery siting or operations, which the State has obtained need to be confirmed.

2.37 The State Board of Fisheries must promulgate regulations establishing "special harvest areas defining gear and time for hatchery harvest.

2.38 The Commissioner must issue an ADF&G Private-Non-Profit hatchery permit for each facility transferred, specifying species, capacities, egg take and fish release sites, Basic Harvest Management plans, etc.

Costs Associated with State Salmon Hatcherles in Alaska, 1981.

Facility	Primary Species	Operating costs (thousands)			Capital cost (millions)		
		FY 82	Full Production	Admin. and Evaluation	Present	Future	Total
Beaver Falls	chum	268.0	300.0	60.0	0.79	3.686	4.476
Beaver Mountain	king-steelhead	205.0	250.0	50.0	0.86	0.071	0.931
Blawock	chum	382.0	500.0	100.0	5.32	5.175	10.495
Crystal Lake	king-coho	422.0	450.0	90.0	3.50	1.219	4.719
Hidden Falls	chum-king	445.0	600.0	120.0	5.32	5.175	10.495
Nettisham	chum-king-coho	371.0	450.0	90.0	7.10	3.098	10.198
Annery Creek	pink-chum	349.0	450.0	90.0	4.14	0.925	5.065
Aln Bay	pink-chum	136.0	500.0	100.0	8.34	2.00	10.34
Big Lake	sockeye-coho	205.0	250.0	50.0	1.00	0.60	1.60
Chip Creek	rainbow-coho	569.0	650.0	130.0	12.70	6.793	19.493
Trail Lakes	sockeye-king-coho	52.0	800.0	160.0	6.30	2.35	8.65
Asilof	sockeye	217.0	300.0	60.0	1.50	---	1.50
Utka	pink	311.0	350.0	70.0	1.37	1.45	2.82
Itol	pink-king	321.0	400.0	80.0	1.11	4.20	5.31
Arluk	sockeye	171.0	250.0	50.0	1.60	---	1.60
Russell Creek	chum-pink	533.0	500.0	100.0	10.57	7.25	17.82
East Creek	sockeye	326.0	350.0	70.0	3.00	1.87	4.87
Clear	king-rainbow-sheefish	274.0	325.0	65.0	1.13	6.00	7.13
Sikusillaq Springs	chum	139.0	350.0	70.0	1.43	1.00	2.43
Sulkana	sockeye	141.0	175.0	35.0	0.05	---	0.05
TOTALS		5837.0	8200.0	1640.0	77.13	52.682	129.992

APPENDIX 3

Classification of Other FRED Facilities

1.0 Sport or Tourism

Region	Hatchery	FY 82 O&M costs Thousands	Completion Capital required-Millions	Full production yearly O&M cost Thousands
SE	Deer Mt.	246.0	0.071	330.0
CI	Ship Creek	682.8	6.793	840.0
FBX	Clear	328.8	6.000	420.0
Total		1,257.6	12.864	1,590.0

2.0 Research

Kotzebue	Sikusuilag	166.8	1.000	480.0
Dillingham	East Cr.	391.2	1.870	480.0
Kodiak	Karluk	205.2	—	330.0
Paxton	Gulkana	205.2	—	240.0
Totals		932.4	2.870	1,530.0

3.0 Cost Recovery Not Practical or Not Significant

SE	Crystal Lake	506.4	1.219	660.0
CI	Crooked Creek	260.4	—	420.0
CI	Trail Lakes	62.4*	2.350	960.0
CI	Big Lake	246.0	0.600	360.0
Totals		1,396.8	7.855	2,820.0

4.0 Cost Recovery Possible, No Active Regional Associations

Kodiak	Kitoi	385.2	4.200	480.0
Cold Bay	Russell Cr.†	639.6	7.250	720.0

*not fully staffed
†law suit filed

in the area at least 14 days before the meeting to give those who did not vote by written ballot at the initial public meeting an opportunity to vote. These votes shall be counted with the votes counted at the initial meeting. A majority vote for the assessment is required from the combined total of the returned ballots and the votes by ballot cast at both public meetings, before an assessment may be imposed. No person may vote twice.

(5) The qualified regional association shall establish standard registration procedures for voting on assessments under this section.

* Sec. 17. AS 16.10 is amended by adding new sections to read:

Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association qualified under sec. 380 of this chapter as a regional association is given the authority to form a regional salmon enhancement authority. There is created with respect to each of the associations qualified under sec. 380 of this chapter a public body corporate and politic as a political subdivision of the state to function in the operating areas of the individual associations. Each authority may exercise all powers conferred by secs. 600 - 620 of this chapter.

(b) A regional salmon enhancement authority may not transact business or exercise powers granted to it until the governing body of the association has, by resolution, declared there is a need for the authority to function, given it the authority to function and appointed persons to serve as the board of commissioners of the authority. The number of members of the board of commissioners, their terms of office and the filling of vacancies in office shall be determined by resolution of the governing body of the association.

(c) The regional salmon enhancement authority has jurisdiction to operate in all or part of the operating area of the individual association as determined by resolution of the governing body of the association.

Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement authority is exempt from payment of taxes or assessments for a period of 20 years from the effective date of this Act on property owned by the authority which is used for salmon enhancement purposes.

(b) All obligations or liabilities of a regional salmon enhancement authority remain its own and are not obligations or liabilities of the state.

Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement authority has the general power to

- (1) adopt, alter and use a corporate seal;
- (2) prescribe, adopt, amend and repeal bylaws;
- (3) sue and be sued in its own name;

(4) appoint officers, agents and employees and vest them with powers and duties and to fix, change and pay compensation for their services as the authority may determine;

(5) borrow money, make and issue notes and other evidences of indebtedness of the authority for any of its corporate purposes and to secure payment of its obligations by pledge of or lien on all or any of its assets, contracts, revenue and income;

(6) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any person, firm, corporation, government agency or other entity;

(7) receive, administer and comply with the conditions and requirements of an appropriation, gift, grant or donation of property or money;

(8) invest or reinvest money or funds held by the authority in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposits or time deposits;

(9) acquire, hold, use, lease, sell or otherwise dispose of property of any kind, real, personal or mixed or any interest in it;

(10) do all acts and things necessary, convenient or desirable to carry out the powers granted or implied in secs. 600 - 690 of this chapter;

(11) adopt, amend and repeal rules and regulations necessary.

* Sec. 18. Notification, public meeting and voting procedures instituted before the effective date of this Act that are substantially in compliance with AS 16.10.530(e) shall be considered to constitute compliance with this Act, and are ratified upon the effective date of this Act.

* Sec. 19. AS 16.10.400(d) and 16.10.530(b) are repealed.

* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.070(c).

Fish Tax

The following table presents the value of the salmon harvest to the fisherman for each year from 1970-1980 and shows the amount of funds which would have been generated by a tax of 2.5%, 5% and 10% respectively. A comparison of these revenues to the present and planned costs of the hatchery program is instructive.

The FRED Division was appropriated almost nine million dollars to operate and evaluate State hatcheries in FY 83. This level of operation would have been covered by the revenues generated by the 5% tax starting in 1977. The 2.5% rate would not have generated sufficient funds for the 1983 program, although the 1979 revenues would have almost been enough. An expanded hatchery program, capable of producing 50 million adult fish as called for in the Alaska Salmon Plan, would require an additional \$18 million, or a total of \$27 million, in annual operating funds. These funds would have been generated by the 10% rate in 1979 and 1980.

It should be noted that if the tax is applied statewide, the regions with small hatchery programs may be subsidizing those regions with larger, more expensive programs. A tax on processors would generate an amount, but would lessen international competitiveness by an unknown amount.

OPTION: PROGRAM ABANDONMENT

The harvesting and marketing of salmon is the most important segment of Alaska's fishing industry, in terms of both employment and value. If the salmon enhancement program is abolished, this segment will suffer. We can expect two general categories of long-term adverse responses: 1) Continued economic inefficiency in the processing and marketing sectors; and 2) reduction in industry revenues over the long-term.

Economic Inefficiency

Despite extreme and progressive fisheries management efforts, salmon populations are characterized by large environmentally-produced fluctuations in numbers.

For example, the 1974 salmon harvest was 21.9 million fish; severe catch restrictions were imposed in several regions. The 1981 harvest was 11.4 million fish, with frequent reports of under-utilized catches and instances of poor product quality.

Extreme catch fluctuations result in markedly lower accrual of societal benefits, due basically to undercapitalization of the processing and marketing sectors. At any given investment level, a minimum number of fish must be acquired in order to meet fixed and variable operating costs, as product prices are typically set internationally. If that minimum number is not handled, whether by a single harvester or a large corporate entity, capital will flow out of the endeavor, and the individual or firm will eventually cease operations. Harvesters protect themselves by entering other fisheries, or by outside employment; processors protect themselves by gearing for production levels that approximate average harvest levels, and by inter-regional transporting of fish. Fish brokers deal with additional fish species, thus reducing emphasis on salmon. Consequently, larger than average runs are inefficiently dealt with in terms of both product quality and production costs.

The Alaska salmon processing sector requires additional investment. Alaska needs not so much additional processing capacity, but rather modernization and updating of existing plants, if Alaskan salmon products are to remain competitive. In many locations, canning methods in particular have changed little since the turn of the century, and have not benefited from more recent developments in mechanization and management common to other areas of the food processing industry. Many plants require complete replacement. They have been fully depreciated by a series of owners, and cannot be used as loan collateral at levels above a fraction of their replacement costs.

If other enhancement program options are pursued, and increased numbers of enhanced salmon result, a base quantity of production can be maintained. Poor years--periods of total closure on naturally spawning stocks, with fishing allowed on just hatchery stocks, may never provide profits, but can cover the fixed and variable costs of production, even at higher investment levels. Processors and marketers can then justify the increased investments that are necessary.

Industry Revenues

The carrying capacity of the sub-Arctic Pacific is unknown with regards to salmon. It is, however, finite-- The enhancement efforts of Japan and

Russia are programmed to approximately double over the next decade. The ocean pastures shall be filled. As it will require several decades to occupy a significant share of salmon pastures, we cannot falter. If insufficient determination is displayed, the Alaskan salmon industry will hold an ever decreasing market share. As other North Pacific rim countries increase their salmon production, the price increases of salmon products can be expected to slow in comparison with the rise of costs associated with goods and services that go into harvesting, processing, and distribution of the product. Market-share and net revenues will subsequently fall, thus additionally discouraging investment.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

To: The Honorable Bill Sheffield
Governor

From: Curt Kerns, Chairman *Curt Kerns*
Alaska Fisheries Council
Office of the Governor

Subject: AFC Resolution of November 23, 1982

Date: January 3, 1983

The Alaska Fisheries Council respectfully requests your consideration of the enclosed resolution and accompanying draft legislation.

The resolution and legislation are the cumulation of work first begun in July of 1981 when Budget and Management first flagged FRED Division operating and maintenance funding as an area of potential problems, given the imposition of the spending limit. A cabinet-level steering committee and then a working group were formed. A number of options were reviewed; the steering committee narrowed the list to five. After additional study, the Alaska Fisheries Council met to review the options. Four have significant constitutional or political problems. The remaining option -- selected transfer -- while not free of objections, was judged worthy of your consideration.

Should your administration make the decision to introduce the enclosed legislation, passage of the bill and subsequent transfer of selected FRED production facilities to the private sector will not be a panacea in that FRED budgetary requirements will not be reduced. Future increases, however, will not grow as rapidly without transfer. If Alaska is to have a competitive and healthy salmon industry on into the future, FRED will need to be funded at a rate commensurate with other A.D.F. & G. divisions.

A plethora of background materials are available. If your office requires further input, please contact us.

Enclosures

RESOLUTION
OF THE
ALASKA FISHERIES COUNCIL
November 23, 1982

WHEREAS, the Fisheries Rehabilitation, Enhancement & Development Division of the Alaska Department of Fish and Game has played a vital role in the State of Alaska's Salmon Enhancement Program; and

WHEREAS, the Fisheries Rehabilitation, Enhancement & Development Division shall continue to play a vital role in the support of the Salmon Enhancement Program by providing technical services such as pathology, genetics, and limnology, as well as to produce fish in areas not suited for cost recovery for the benefit of all Alaskans, be they subsistence, sport, or commercial users, and continue to develop new biotechnology; and

WHEREAS, the People of the State of Alaska have expressed their edict by imposing a spending limit as an amendment to the Constitution of the State of Alaska; and

WHEREAS, the provisions of the spending limit may cause funding problems that jeopardize the statutorily required and other vital contributions of the Fisheries Rehabilitation, Development & and Enhancement Division to the Alaska Salmon Enhancement Program; and

WHEREAS, the policy of the State is to promote enhancement of the State's salmon fisheries through private, non-profit regional aquaculture associations comprised of all of the various user groups, thereby furthering a valid public purpose; and

WHEREAS, the search for viable options has be exhaustive and but one found; NOW THEREFORE BE IT

RESOLVED that the Alaska Fisheries Council respectfully recommends to the Governor of the State of Alaska that legislation be introduced by his hand to grant authority to the Commissioner of the Department of Fish and Game to sell or lease State-owned salmon hatcheries to Qualified Regional Aquaculture Associations, and further be it

RESOLVED that the Alaska Fisheries Council respectfully recommends to the Legislature of the State of Alaska that said legislation be enacted into law and further be it

RESOLVED that the Commissioner of the Department of Fish and Game initiate sincere negotiations with those Qualified Regional Aquaculture Associations who apply to lease or buy state-owned salmon hatcheries within their respective regions and that said negotiations be concluded in a timely fashion.

Signed,

Curt Kerns, Chairman
Alaska Fisheries Council



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 17, 1982

MEMORANDUM

TO: Representative Ken Fanning

FROM: David Teal *Teal*
Research Staff

RE: Disposal of State-Owned Fish Hatcheries
Research Request Number 82-79

John Manly of your staff requested information on procedures for disposing of surplus State property, specifically fish hatcheries. Our research indicates that transfer of State hatcheries to the private sector would be possible, but may require legislative action to pay off outstanding general obligation bonds, revise the laws governing the Fisheries Enhancement Revolving Loan Fund, and/or give State property away. Additional action would be required by executive branch agencies.

AS 44.71.010 (attached) places responsibility for disposal of obsolete or surplus State property on the Department of Administration, but the law does not specify the terms of disposal or the types of property that are covered by the section. The Property Management Section of the Department of Administration stated that the Department deals only with personal or non-real assets; the Department of Natural Resources has responsibility for disposal of land.

Hatchery Sites

According to Lowell Barrick of the Department of Fish and Game, the State owns only two of the 20 sites on which State hatchery facilities are located. Two hatchery sites are on military reservations, one is owned by the city of Ketchikan, one is owned by an individual and rented to the State, and three or four are owned by Native corporations. The remaining ten or 11 are available through special use permits issued by the United States Forest Service. Ownership is not clear in some cases where hatchery sites are included in Native land selections that have not yet been transferred from the federal government to the corporations.

Representative Fanning
March 17, 1982
Page 2

Forest Service permits are issued at the discretion of individual forest managers, but spokesmen said that the Forest Service has a general policy of support for hatcheries and they did not expect any problems with permits or private sector hatchery operators. Although they did not think the permit fee of five percent of appraised value of the land could be waived for private users, they said that attempts to make transfer of permits as smooth as possible would probably be made. The permits are usually for five or ten years and can be issued in "guaranteed renewable" form.

Chapter 38 of Alaska statutes governs disposal of State lands. The Department of Natural Resources can dispose of State lands only through auction, lottery, or negotiated sale or lease. Conveyances to nonprofit corporations according to rules specified in AS 38.05.315 (attached) may allow private use of hatchery sites at a lease rate of one percent of fair market value, but a department spokesman said that only the Legislature could give away State land. A legal opinion may be required to determine whether hatchery sites meet the "social welfare" and "public use" restrictions of AS 38.05.315.

Military and non-government owners were not contacted to determine whether transfer of hatchery ownership would result in loss of land use privileges. If you would like the agency to check with these owners, please give us a call.

Non-Real Property

According to the Division of Legal Services, bonded indebtedness is the major problem with transfer of hatchery facilities. Because the hatcheries were funded by general obligation bonds, transfer of hatcheries probably could not occur unless the bonds were paid off first. According to the Department of Fish and Game, all hatchery facilities have bonded debt outstanding. Total capital cost as of December 31, 1982 was over \$73 million, and expenditures of over \$52 million on existing facilities are anticipated. Tamara Cook, from Legal Services, said that if the financing issues could be resolved, transfer of facilities to the private sector would not be a serious problem.

The Department of Administration is responsible for disposal of non-real property. A department spokesman said that once the question of bonds is resolved, sale of hatchery facilities would not be difficult. He said that giving the facilities away could present some problem, but noted that non-real property can be (and has been) donated to recognized nonprofit aquaculture associations. Tamara Cook stated that the "public purpose" statute is very broad and that if the Legislature wants to give hatchery facilities away to private nonprofit corporations, it can probably do it.

Representative Fanning
March 17, 1982
Page 3

Fisheries Enhancement Revolving Loan Fund

The attached description of the Fisheries Enhancement Revolving Loan Fund is from House Research Agency Report Number 81-14. Marty Lentz, from the Division of Business Loans, stated that the Division would probably not be able to lend funds for purchase of an existing hatchery. AS 16.10.500 specifies that funds may be loaned for planning, constructing or operating a hatchery, but it does not mention loans for purchasing an existing facility.

In addition, Mr. Lentz pointed out that the current limits on maximum loan amounts and current level of appropriations would prevent the Fund from making loans of the size required to purchase most State facilities at fair market value. Unless the Legislature revises laws governing the Loan Fund, private financing may have to be obtained in order to purchase hatcheries. It is unlikely that private financing would offer terms similar to those available through the State program.

* * *

I hope this information is helpful. If additional information is desired, please call.

Attachments

Sec. 44.68.030. Exemptions. AS 44.68.010 — 44.68.040 do not apply to the use of vehicles by the governor. (§ 3 ch 178 SLA 1959)

Sec. 44.68.040. Violations. A state officer or employee who violates AS 44.68.010 — 44.68.040 or a rule adopted under AS 44.68.010 — 44.68.040 is subject to dismissal from state employment upon hearing as provided for other dismissal for cause. (§ 4 ch 178 SLA 1959)

Chapter 71. Surplus Property.

Article

1. Disposition of Surplus State Property (§ 44.71.010)
2. Acquisition of Federal Surplus Property (§§ 44.71.020 — 44.71.040)

Article 1. Disposition of Surplus State Property.

Section

10. Disposition of obsolete or surplus state property

Sec. 44.71.010. Disposition of obsolete or surplus state property. The Department of Administration shall take possession of obsolete or surplus property of the state for which there is no immediate or prospective use, except abandoned or obsolete school buildings and other school property. It shall also take possession of property remaining in the control of a commission or board of the state government after the commission or board stops functioning. The Department of Administration shall sell, lease, license, or dispose of the property on the terms it considers for the best interests of the state. (§ 13-1-4 ACLA 1949)

Revisor's note. — Section 13-1-4 ACLA 1949 was repealed by § 48 ch 133 SLA 1951. Section 1 ch 24 SLA 1953 repealed ch 133 SLA 1951 and § 2 ch 24 SLA 1953 reenacted § 13-1-4 ACLA 1949 as it appeared in ACLA 1949.

Am. Jur. 2d references. — 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, § 22.

Article 2. Acquisition of Federal Surplus Property.

Section

20. Authority and duty of Department of Administration

Section

30. Financing surplus property service
40. Authorization to accept property

Sec. 44.71.020. Authority and duty of Department of Administration. (a) The Department of Administration may

(1) acquire from the United States under The Federal Property and Administrative Services Act of 1949 as amended, referred to in AS 44.71.020 — 44.71.040 as the "Federal Act," and other applicable Federal statutes and regulations, (63 Stat. 377 et seq., 40 U.S.C.A. 471

Effect of amendments. — The 1976 amendment, in present subsection (a), deleted "without public notice" following "renewal lease issued" and substituted "120 days" for "90 days" in the first sentence, and substituted "§§ 75 — 85 and § 97" for "and §§ 75 — 85" in the fourth sentence.

The 1979 amendment added the subsection (a) designation, substituted "AS 38.05.315, 38.05.220, 38.05.057, 38.05.075 — 38.05.085 and 38.05.097" for "AS 38.05.315 and AS 38.05.220, 38.05.075 — 38.05.085 and 38.05.097" in the last sentence of subsection (a), and added subsection (b).

Sec. 38.05.315. Public and charitable use. (a) The lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, or the lease, sale, or disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

(b) Notwithstanding AS 38.05.070 — 38.05.080 and 38.05.095, the director, upon application filed by an applicant eligible under (b) — (d) of this section, may, by negotiation and without public auction in the manner prescribed in (c) — (d) of this section, lease state land for a term of not more than 55 years. Before leasing, the director shall prepare a land use plan and a land classification to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b) — (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definite proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner may establish limitations on the acreage which may be leased under (b) — (d) of this section to an applicant.

(c) Eligible applicants under (b) — (d) of this section are limited to nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development. No lease of land may be granted under this section for a project closed to the use and enjoyment of the general public. In every case the applicant shall submit evidence that it is exempt from payment of federal income tax. As a condition of and in consideration of the rights acquired under a lease granted under (b) — (d) of this section, each eligible organization and its parent or subsidiary organizations shall (1) maintain and preserve books, accounts, and records that the director prescribes by regulation as necessary and appropriate;

and (2) accord at all reasonable times to the state and its authorized agents and auditors the right of access to those books, accounts and records for the purpose of inspecting, examining and copying them. Any information provided the state in the course of an audit becomes a matter of public record.

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on university or acquired lands. Rent may not be charged for state land leased for a youth encampment. For the purposes of this subsection, "youth encampment" shall be defined by the commissioner by regulation. Renewal leases may be issued at the discretion of the director upon the expiration of a primary or renewal term. Each lease shall contain a provision for its termination as to all or part of the lands upon a finding by the director that the land or a part of it has not been used by the lessee for the purpose specified in the lease for a period of two years. No lease may be assigned or subleased except with the consent of the director, and in any case may only be transferred to an applicant eligible under (b) — (d) of this section. A lessee may not change the use specified in the lease to another or additional use except with the consent of the director. If, at any time after the land is leased, the lessee attempts assign the lease or transfer control over the land to another, or if the land is devoted to a use other than that for which the land was leased without the consent of the director, the lease automatically terminates.

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license.

(f) The commissioner shall lease state land for telephone or electric transmission and distribution lines for less than the appraised value of the land if the lessee is a nonprofit cooperative association organized under AS 10.25.010 — 10.25.650. Before he determines the annual rental, the commissioner shall consider the nature of the public service rendered by the nonprofit cooperative association and the terms of the grant under which the land was acquired by the state. A nonprofit cooperative association may not construct improvements other than transmission or distribution lines and substations on land leased under this subsection. (§ 4 art III ch 169 SLA 1959; am § 1 ch 155 SLA 1960; am § 1 ch 137 SLA 1962; am § 1 ch 36 SLA 1976; am § 12 ch 257 SLA 1976; am § 1 ch 76 SLA 1980; am §§ 34, 35 ch 113 SLA 1981)

FISHERIES ENHANCEMENT REVOLVING LOAN FUND

LOAN PROGRAM This loan program is administered by the Department of Commerce and Economic Development, Division of Business Loans.

AS 16.10.500 - 16.10.620; enacted in 1976; amended in 1977, 1979, and 1980

Purpose

To provide long-term, low-interest loans to regional associations for hatchery planning, construction, and operation.

Method

Applicant must obtain a salmon hatchery permit (some loans and grants are available for preconstruction activities necessary to obtain a permit) and then apply to the Division of Business Loans, Department of Commerce and Economic Development, whose Loan Committee reviews the application. Loans are purchased from Commerce and Economic Development by the Department of Revenue.

Eligibility

The borrower must be either a nonprofit corporation formed by a regional aquaculture association, or a local nonprofit corporation approved by the regional association, or any nonprofit hatchery corporation with a State permit.

Terms

Maximum Amount: \$6,000,000, to a nonprofit regional association or its designate; \$1,000,000, to any other nonprofit hatchery corporation
Collateral: Determined by the Commissioner; some collateral required by statute
Maximum Term: 30 years
Interest Rate: 9.5%

Funding Sources

- General Fund appropriation
- Interest earned on loans

- FY 80 was the first year for which the program received an appropriation; the only funding before that time came from loan pre-purchases by the Department of Revenue.

Reporting Requirements

AS 37.05.035 requires that each State agency which makes or purchases a loan prepare a report by January 30 of each year on the total loans, by type, made or purchased during the preceding fiscal year. The report must include:

- the estimated rate of interest that would have been charged if the loan had been made or purchased at the prevailing market rate;
- the difference between 1) the return which would have been realized had the loan been made at the prevailing rate, and 2) the return on the loans at the interest rate actually charged by the State; and
- an analysis of the income groups that benefit directly from the loan program.

REPORT SUMMARY

The Department of Commerce and Economic Development issued its FY 80 report for the Fisheries Enhancement Loan Program on January 29, 1981.

The report provides, for each month, the dollar amount of the loans approved, the interest rate given, and the projected income from the loans, assuming they go to full term. The market interest rate for each month is also given, as well as the difference between the projected interest income to the State from the lower State rate and the total interest income that the prevailing market rate would have yielded.

From 16 applications, the program made 11 loans during FY 80. These loans totaled \$4,541,000, and carried an interest rate of 9.5%; the projected interest income from these loans is \$7,362,600. Had the loans been made at the prevailing interest rate, which ranged from 12.5% to 18% during those 12 months, the loans would have had a projected total interest income of \$10,877,029, or \$3,514,429 more.

HB

404

DEPARTMENT OF PUBLIC SAFETY

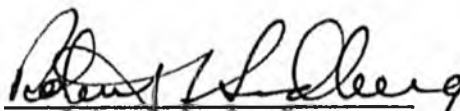
POSITION PAPER - HB 404

Neutral

January 16, 1984

HB 404, An Act Amending Portions of the Fish and Game Code.

The Department is neutral on this piece of legislation. The bill primarily proposes to make administrative changes that are expected to have little or no program effects on the Department's operation.


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: January 11, 1984

REQUEST

Bill/Resolution No.: SSHB 404
Title: Miscellaneous amendments to AS 16: Fish and Game

Sponsor: Governor Sheffield
Requestor: House Resources Comm.

Date of Request: January 11, 1984

FISCAL DETAIL

Agency Affected: Fish and Game
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Beverly Reaume Phone: 465-4120
Division: Administration Date: January 11, 1984

Approved by Commissioner: Oliver Peterson Date: 1-11-84
Agency: Fish and Game

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 404
Title: Misc. amendments to Fish & Game Code.

Sponsor: Rules
Requestor: Resources
Date of Request: 1-18-84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: FWP

BRU, Program or Subprogram(s) Affected:
FWP Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Captain Wayne A. Fleek
Division: Fish & Wildlife Protection

Phone: 269-5541
Date: 1/16/84

Approved by Commissioner: RB.
Agency: Public Safety

Date: 1-17-84

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

SPONSOR SUBSTITUTE FOR HOUSE BILL 404

AN ACT MAKING MISCELLANEOUS AMENDMENTS
REGARDING FISH AND GAME

SECTION-BY-SECTION ANALYSIS

Sections 1, 3, 4, 5, 6, 19, and 21 would change the word "chapter" to refer to the appropriate chapters of AS 16 so that the powers and duties of the boards, commissioner and department, and definitions, apply to the appropriate chapters of that title. The Legislature enacted AS 16.05 in 1959. Some other old provisions were apparently overlooked, and, when new provisions were added, the various powers or obligations established in AS 16.05 should have been, but were not, amended to cover other chapters. This oversight has left gaps in the statutes which need to be corrected.

Section 2 would expressly authorize the Commissioner of Fish and Game to conduct research and enter into cooperative agreements and contracts.

In addition to cooperative agreements, it is also appropriate for the department to enter into contracts or to make grants for specific projects. Section 2 also would require the commissioner to establish criteria governing department grants and contracts to ensure that those expenditures are a wise use of public money.

Sections 4 and 5 would authorize peace officers to enforce the provisions of AS 16 except AS 16.51 and AS 16.52, and to arrest persons violating the fish and game title. Section 6 would permit the officers to execute warrants. The word "chapter" is changed to refer to AS 16 except AS 16.51 and AS 16.52, which relate to the Alaska Seafood Marketing Institute and the Fishery Industrial Technology Center, respectively, so that uniform enforcement procedures will apply to almost all of Title 16. Also, the requirement that offenders be brought before a magistrate "immediately" is dropped. This would delete an unnecessary burden imposed on protection officers. Finally, the mandatory requirement that deputies arrest all offenders is stricken because an arrest for certain minor violations may not be appropriate and could result in unnecessary expenditures for enforcement and prosecution.

Sections 7 and 9 set out the authority of the Board of Fisheries and the Board of Game, respectively, to set quota and bag limits. No express authorizations exist for harvest levels or sex and size limitations, even though regulations of this nature are basic to resource management and have been adopted based on interpretations of other board powers. That authority is made express in sections 7 and 9, as a legal safeguard.

Sections 8 and 11 would remove the authority of the boards to adopt regulations for engaging in biological research, since biological research is a departmental function.

Section 10 would amend existing law to reflect the true function of the Board of Game. Despite the current language of AS 16.05.255(a)(6), the board does not adopt regulations regarding investigation of predators, which is an administrative function of the department. The board does, however, establish methods and means and harvest levels for the taking of predators or other competitors through regulations.

Sections 12 and 14 would eliminate the burden upon sport fishing license vendors who must distinguish between long-term nonresidents and short-term sojourners when issuing 14-day and three-day licenses. The problem arose because the definition of "visitor" included only temporary nonresidents and did not include long-term nonresidents or those awaiting residency status. Thus a person who had not yet lived here for one year was required to pay the higher nonresident license fee, even if only a few days remained in a fishing season. The proposed change is fair and will be more efficient to administer.

Section 13 would make minor technical amendments to AS 16.05.340(a)(9), to clarify the meaning of existing law.

In section 15, language in AS 16.05.685(c)(2) which describes areas no longer used in the management of king crab would be deleted.

Section 16 would clarify AS 16.05.831(a) which was enacted in 1975 to prohibit the waste of salmon. That section now contains language that could be considered ambiguous, and thus reduce the law's effectiveness. The clarification expressly provides that no salmon intended for sale, whether to a private individual or a commercial buyer, may be wasted.

Section 17 would make grammatical changes in the anadromous fish protection statute to correct an apparent deficiency. Currently, only a person or agency desiring to use, divert, obstruct, pollute or change the flow or bed of an anadromous fish stream must first notify the commissioner. In order to make AS 16.05.870 more enforceable, notification would be required before beginning any activity which may change the stream or pollute the stream.

Section 18 would restrict the criminal sanctions in AS 16.05.900 to apply only to AS 16.05.870--16.05.895, relating to anadromous fish protection. The basic penalty section

for Title 16 would be moved to a new section (AS 16.05.925, contained in section 20 of the bill) under the "general provisions" article, where it more logically belongs.

Sections 19 and 20 deal with the basic prohibition of Title 16 that it is unlawful to possess fish and game unless permitted by a statute or a board regulation. This prohibition and the accompanying penalty are AS 16.05.920(a) and 16.05.900(a), respectively. Section 20 would set out the general penalty section separately in AS 16.05.920(a). Through apparent oversight which resulted from enactment of AS 16.20 well after enactment of AS 16.05, certain prohibitions were created by regulation without an enforceable penalty. The new AS 16.05.925 would provide a uniform penalty for the violation of a regulation adopted under AS 16.05 or AS 16.20. The penalty is made a class A misdemeanor, to conform with sentencing under AS 12.55.035 and 12.55.135. Also, sec. 19 of the bill changes "made" to "adopted," with regard to regulations, for the sake of consistent terminology.

Section 21 amends AS 16.05.940 which is the basic definition section for AS 16.05--AS 16.40. Four of the definitions contained in this section would be amended as follows:

(9) the definition of "fish" would be amended to include parts of the fish; this would affect enforcement, for example, when salmon roe is sold separately from the carcass;

(13) the definition of "fur dealing" would be rewritten for clarity and to correct punctuation errors;

(14) the definition of "game" would be amended to include reptiles; this would provide regulatory authority to control the importation of undesirable snakes and other reptiles into the state; and

(28) the definition of "visitor" would be repealed, which only appears in Title 16 in conjunction with the "visitor's special sport fishing license" in AS 16.05.340(a)(6); that designation would be changed by section 12 of this bill to "nonresident special sport fishing license."

Section 22 would add a criminal sanction for wasting herring. Existing law prohibits this waste but does not clearly specify a criminal penalty.

Section 23 would amend AS 16.10.280 to allow the department's determination of a price dispute to be based on an estimate of the number of fishermen involved. During a recent Bristol Bay price dispute, the department's role in setting up mediation was hampered by the need to actually

"certify" that one-third of the registered fishermen were involved in a price dispute, as provided under existing law. Given the information available, this is not always possible.

Section 24 would correct a technical error in the land description of the Susitna Flats State Game Refuge, established by ch. 140, SLA 1976.

Section 25 would amend AS 16.35.200 to require that the use of poison to kill an animal be governed by regulations adopted by the Board of Fisheries or Board of Game as appropriate. Currently only written consent of the appropriate board is required. The requirement of regulation will provide for full public comment. The use of poison within a building, or to kill rodents at dumps or landfills, is exempt from board regulation.

Section 26 would repeal the following laws:

(a) AS 16.05.251(a)(9) and 16.05.255 (a)(8). These provisions empower the boards to adopt regulations for cooperative agreements to promote research and education and to train persons for management. These are administrative functions and do not require board regulations. The repeal of these sections will permit the separation of the rulemaking functions of the boards from the administrative functions of the commissioner of fish and game.

(b) AS 16.05.903. This section, which created the Alaska Big Game Photo Contest, was enacted in 1975. The original intent was that the revenues from entry fees and the sale of a published volume of the winning photographs would generate enough money to pay for cash prizes and operating expenses. Unfortunately, the revenues from the sale fell far short--less than 20 percent of the costs were recovered during the first year. The 1975 legislation created public criticism of the department with respect to spending priorities and proper use of taxpayer's money. The repeal will not affect the continuation of the department's annual Wildlife Photo Contest.

(c) AS 16.10.230(1). This section provides exemptions to the unlawful taking of migratory fish and shellfish in high seas areas designated by the International Pacific Salmon Fisheries Commission. That commission no longer exists and enactment of the federal Fisheries Conservation and Management Act (P.L. 94-265) makes the other exemptions set out in the statute obsolete. Therefore, this subsection should be repealed.

(d) AS 16.15.010-16.15.090. This chapter created the Alaska Fisheries Experimental Laboratory, which no longer exists.

(e) AS 16.35.010--16.35.180. These sections relate to bounties which are no longer paid. The bounties on seals are in conflict with the Marine Mammal Protection Act of 1972, which preempted these state laws. In addition, AS 16.05.255 provides that the Board of Game may establish bounties through the adoption of regulations. The remainder these sections pertain to employment of trappers and hunters for predator control, and have become obsolete.

* Pg 9, line 6
change to
game

STANCLIFF

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 404 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments regarding
7 fish and game."

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

9 * Section 1. AS 12.25.190(c) is amended to read:

10 (c) The person cited for the crime shall give a [HIS] written
11 promise to appear in court by signing at least one copy of the written
12 citation prepared by the peace officer and the officer shall deliver a
13 copy of the citation to the person. The written promise requirement
14 of this subsection does not apply to motor vehicle and traffic cita-
15 tions under AS 28.05.151 and fish and game citations for which a bail
16 schedule has been established under AS 16.05.165.

17 * Sec. 2. AS 16.05.050 is amended to read:

18 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The
19 commissioner has, but not by way of limitation, the following powers
20 and duties:

21 (1) assist the United States Fish and Wildlife Service in
22 the enforcement of federal laws and regulations pertaining to fish and
23 game;

24 (2) through the appropriate state agency, acquire by gift,
25 purchase, or lease, or other lawful means, land, buildings, water,
26 rights-of-way, or other necessary or proper real or personal property
27 when the acquisition is in the interest of furthering an objective or
28 purpose of the department and the state;

29 (3) design and construct hatcheries, pipelines, rearing

1 ponds, fishways, and other projects beneficial for the fish and game
2 resources of the state;

3 (4) accept money from any person under conditions requiring
4 the use of the money for specific purposes in the furtherance of the
5 protection, rehabilitation, propagation, preservation, or
6 investigation of the fish and game resources of the state or in
7 settlement of claims for damages to fish or game resources;

8 (5) collect, classify, and disseminate statistics, data and
9 information that, in the commissioner's discretion, will tend to
0 promote the purposes [OBJECTS] of AS 16 except AS 16.51 and AS 16.52
1 [THIS CHAPTER];

2 (6) capture, propagate, transport, buy, sell, or exchange
3 fish or game or eggs for propagating, scientific or stocking purposes;

4 [(7) Repealed]

5 (7) [(8)] provide public facilities where necessary or
6 proper to facilitate the taking of fish or game, and enter into
7 cooperative agreements with any person to effect them;

8 (8) [(9)] exercise administrative, budgeting, and fiscal
9 powers;

10 (9) [(10)] construct, operate, supervise, and maintain
11 vessels used by the Department of Fish and Game;

12 (10) [(11)] authorize the holder of an interim-use permit
13 under AS 16.43 to engage on an experimental basis in commercial taking
14 of a fishery resource with vessel, gear, and techniques not presently
15 qualifying for licensing under this chapter in conformity with
16 standards established by the Alaska Commercial Fisheries Entry
17 Commission.

18 (11) [(12)] not later than January 31 of each year, provide
19 to the commissioner of revenue the names of those fish and shellfish