

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3548 HRES HB 227 - HB 229

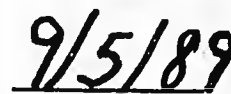
424



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Signature of Camera Operator


Date

HB

227

HOUSE RESOURCES COMMITTEE

PACKET CONTENTS:

CS HB 227 (Fisheries)

Letter-of-Intent (Special Committee on Fisheries)

Memorandum: Rep. Binkley

HB 227 (First Version)

Fiscal Notes:

Department of Public Safety = 0

Department of Labor = 0

Department of Fish and Game = 0

Department of Revenue = 0

Memorandum: Rep. Goll

Back-up Letters from Rep. Binkley

Regulations for Processor Surety

Alaska Statutes for Security pertaining to HB 227



Alaska

House of Representatives

Juneau, Alaska 99811

Phone:
(907) 465-4924

Official Business

Special Committee on Fisheries

Handwritten signature and date: D. S. 3/5

MEMORANDUM

February 4, 1986

TO: Irene Cashen
Chief Clerk

FROM: Representative Peter Goll *Peter Goll*
Chairman, House Special Committee on Fisheries

SUBJECT: Letter of Intent for CS HB227 (Fisheries)

LETTER OF INTENT
CSHB 227 (Fisheries)

This legislation is designed to help ensure that Alaska fishermen have some recourse when a fish processor or primary fish buyer fails to make promised payments for the delivery of raw fisheries resources. The effectiveness of this surety bond program is questionable unless fishermen are aware of how the program works.

The Fourteenth Alaska Legislature respectfully requests the Alaska Department of Labor to work closely with the Office of Commercial Fisheries Development, Alaska Department of Commerce and Economic Development in the development of an educational program for the surety bond program. These agencies should work through the Alaska Marine Advisory Program, commercial fishermen's organizations, Native groups, fish and game advisory committees and the news media reaching coastal Alaska and the fishing fleets.

**HOUSE
COMMITTEE REPORT**

(9)

Date referred: 2/5/86

FURTHER REFERRALS: FINANCE

DATE: 2/14/86

The RESOURCES Committee has considered HB 227

"An Act relating to fish processors and primary fish buyers."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 227 (Resources) same title
 new title

and recommends Do Pass

further referral to the _____ Committee

- and attaches:
- letter of intent (Fisheries)
 - first fiscal note
 - new fiscal note
 - zero fiscal notes

SIGNING DO PASS:

Herrmann Adelheid Herrmann
Wallis F. Keywelle
Thompson Charles B. Thompson
Pearce Will Pearce
Jenkins Robert Jenkins
Cato Bette Cato
Shultz Dick Shultz

SIGNING OTHER RECOMMENDATIONS:

Sund John Sund no rec

Co-Chairman Adelheid Herrmann

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU ALASKA 99811
19071465-4737
PO BOX 1065
BETHEL ALASKA 99559
.9071543 2922

REPRESENTATIVE JOHNE BINKLEY

February 13, 1986

MEMORANDUM

To: House Resources Committee
From: Representative John Binkley *John B.*
Re: House Bill 227

After numerous revisions since this bill was introduced on February 22, 1985, the House Special Committee on Fisheries passed HB 227.

House Bill 227 provides for an increased bond rate to \$50,000 or \$100,000 depending on previous final judgements filed against a fish processor or primary fish buyer. It attempts to address situations where the previous bond was inadequate to satisfy claims.

Operators who do not purchase fish or hire employees are exempt from the bonding requirements.

The bill requires those that were not in compliance with the bonding requirements and had not satisfied a final judgement, to post a bond at \$100,000. In Quinhagak last year, 42 fishermen and 20 employees were owed an estimated \$21,000 from a fish buyer who did not post a bond. In Elim about 16 fishermen were owed about \$11,000. In Klawock one fish buyer was assessed one final judgement which ate up his \$10,000 bond, other fishermen have filed against the fish buyer.

A letter of intent is attached to the bill to request the Department of Labor to work closely with the Department of Commerce and Economic Development to develop an educational program for fishermen and fishermen's groups throughout the state. This would be done using existing resources within these departments. A zero fiscal note is attached.

This bill would take effect immediately upon passage and signature of the Governor, and would apply towards the upcoming fishing season.

First Version

Introduced: 2/22/85
Referred: House Special Committee
on Fisheries, Resources and Finance

1 IN THE HOUSE

BY BIRNLEY

2

HOUSE BILL NO. 227

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
7 buyers."

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

9 * Section 1. AS 16.10 is amended by adding new sections to read:

10 Sec. 16.10.285. NOTICE OF BONDED AND LICENSED OPERATORS. The
11 Department of Fish and Game shall maintain a list of fish processors
12 and primary fish buyers who have furnished to the department a written
13 statement of intent to operate. The list shall specify whether the
14 processor or buyer has complied with the security bond requirements of
15 AS 16.10.290 - 16.10.296 and has been issued a valid Alaska Business
16 License or Fisheries Business License by the Department of Revenue.
17 The list shall note the processor's or buyer's standing, if any, with
18 the Alaska Better Business Bureau and membership in a chamber of
19 commerce in the state. The Department of Fish and Game shall, at the
20 beginning of each commercial fishing season,

21 (1) publish the list in a newspaper of general circulation
22 that serves each area of the state in which the fish processors and
23 primary fish buyers have stated an intent to operate; and

24 (2) distribute copies of the list to the offices of local
25 governments and village councils and to fishermen's associations in
26 the areas of the state in which the fish processors and primary fish
27 buyers have stated an intent to operate.

28 Sec. 16.10.286. INSPECTION OF LICENSES. Enforcement officers of
29 the division of fish and wildlife protection shall regularly inspect

1 fish processors and primary fish buyers for possession of proper
2 licenses.

3 * Sec. 2. AS 16.10.290(b) is amended to read:

4 (b) The amount of the bond shall be \$100,000 [\$10,000]. In lieu
5 of the surety bond the fish processor or primary fish buyer may file
6 with the commissioner a cash deposit or other negotiable security
7 acceptable to the commissioner in the amount specified for the bond.
8 If no claim is asserted under this section within two years from the
9 date the bond, cash deposit or other security is filed, the term of
10 the bond, cash deposit or other security shall be two years; if a
11 claim has been asserted within two years, the term of the bond, cash
12 deposit or other security shall be for five years.

13 * Sec. 3. AS 16.10.290(c) is amended to read:

14 (c) A person applying for a license as a fish processor or
15 primary fish buyer who has less than \$100,000 [\$10,000] in lienable
16 property in the state, with proof of the property satisfactorily made
17 to the commissioner, shall file with the application a bond or other
18 security as specified in this section. A [NO] bond is not required if
19 the fish processor or primary fish buyer has more than \$100,000
20 [\$10,000] in lienable property as specified in this subsection. An
21 appraiser from the area of the state in which the lienable property is
22 located may be used to determine the value of the property for
23 purposes of this subsection.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 227 (Fish)
 Title : "An Act relating to fish processors and primary fish buyers..."
 Sponsor : Binkley
 Requestor : House Resources
 Date of Request : 2/12/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Fish & Wildlife Protection
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *Kokies* Kathy Niles, Admin. Assistant Phone : 465-4336
 Division : Commissioner's Office Date : 2/12/86

Approved by Commissioner : *[Signature]* Date : 2/12/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note) :

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

Bill No. Committee Substitute for House Bill No. 227
(Fisheries)

Date February 6, 1986

Title "An Act relating to surety for collection
of wages and payment."


Contact: Eileen Plate
465-2700
Robert J. Sacolas
465-4870

This bill provides for an increase in the bonding requirements for fish processors and primary fish buyers if the processors or buyers previous bonding was insufficient to satisfy judgments against it. Basically, the bill provides for bonding commensurate with the processor's or buyer's track record during previous bonding periods.

The provisions of this bill, therefore, appear to be an equitable solution to the fish processor and buyer bonding problem in that they provide for the increased bonding sanction to only be imposed on those processors and buyers who fail to meet their obligations.

This legislation would not have a fiscal impact on the Department of Labor.

APPROVED:



Jim Robison, Commissioner
Department of Labor

STATE OF ALASKA 1986 LEGISLATIVE YEAR
FISCAL NOTE

Revision Date : _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. : CS HB 227 (Fisheries)
 Title : "An Act relating to fish processors & primary fish buyers"
 Sponsor : Binkley
 Requestor : His Special Committee on Fisheries
 Date of Request : 2/5/86

Agency Affected : Labor
 BRU : Labor Standards & Safety
 Components : Wage :& Hour

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Bob Bacolas
 Division : Labor Standards & Safety

Phone : 465-4870
 Date : 2/5/86

Approved by Commissioner : Jim Robison
 Agency : Labor

Date : 2/5/86

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 2/11/86

REQUEST

Bill/Resolution No. : CS HB 227(Fisheries)
Title : Fish processors and primary fish buyers

Sponsor : Binkley
Requestor : House Resources
Date of Request : 2/11/86

FISCAL DETAIL

Agency Affected : Fish and Game
BRU : Fisheries Resource Conservation

Components : Commercial Fisheries
BRU and component

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *Robert C. Clasby*
Division : Commercial Fisheries

Phone : 465-4210
Date : 2/11/86

Approved by Commissioner : *Donna Callensworth*
Agency : Fish and Game

Date : 2-11-86

Distribution (by Agency preparing fiscal note) :

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Revenue	DIVISION Public Services	BILL NUMBER HB227 / SB164	SPONSOR Binkley
DEPARTMENT POSITION Neutral			
PREPARED BY Sally Smith	DATE 2-27-85	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/4/85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL The Department of Labor	CONSTITUENT GROUP(S) AFFECTED BY BILL Fisheries Businesses
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Unknown

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill raises the bond amount on the fisheries surety bond which guarantees wages for processing workers and the purchase price of fish to fishermen.

The raise in bonding amount will raise the bond premium which could adversely impact smaller fisheries.

AMENDMENTS PROPOSED

We suggest that the bond amount be based on a percentage of the dollar amount of fish purchases. This could be set on the prior year purchases or current year estimate.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB227
 Title: An Act relating to fish processors and primary fish buyers
 Sponsor: Binkley
 Requestor: HSC on Fisheries
 Date of Request: 2-27-85

FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program or Subprogram(s) Affected: Public Services - Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
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 FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Sally Smith, Director Phone: 465-2392
 Division: Public Services Date: February 27, 1985

Approved by Commissioner: [Signature] Date: 3/1/85
 Agency: Department of Revenue

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

M E M O R A N D U M

January 23, 1986

TO: Members
House Special Committee on Fisheries

FROM: Representative Peter Goll *Peter Goll*

SUBJECT: CSHB 227 (Fish Buyers' Bonds)

Attached is a committee substitute for House Bill 227 (An Act relating to surety for collection of wages and payment). As you may recall, we decided last session to hold the original legislation over the interim for additional work.

Under existing law (AS 16.10.290), fish buyers and processors are required to post a \$10,000 bond with the Department of Labor conditioned upon the promise to pay commercial fishermen for raw seafood, and wages owed processing workers. In response to reports that many fishermen in Western Alaska were not being paid by fish buyers, Representative Binkley proposed in HB 227 to raise the amount of the bond to \$100,000.

The legislation was held for additional work when it became clear during committee hearings that the higher bond amount would cause significant problems for smaller seafood processors and fish buyers. The Senate Resources Committee made a similar determination in regard to companion legislation (SB 165).

Scores of fishermen from such widespread locations as Ruby, Haines and Klawock reported difficulties in obtaining payments for deliveries of salmon during the 1985 fishing season.

The proposed committee substitute was worked out in conjunction with staff to the Senate Resources Committee. It would raise the amount of the required bond only for those fish buyers and seafood processors who have final judgments levied against their bonds or other security deposits. The amount of the bond would be raised to \$50,000 or \$100,000 according to the amount of judgments.

CSHB 227
January 23, 1986
Page Two

The draft substitute is designed to ensure that operators who fail to pay their fishermen are required to post additional security for future purchases, while those who have a clean record are not. The proposed committee substitute would avoid undue impacts on smaller buyers.

Existing statutes provide for a waiver of the bond requirements for processors who do not purchase fish from others or hire non-family members. Section three of the committee substitute would change the waiver to an exemption so these "mom and pop" operations no longer have to apply to the Department of Labor for the waiver. If the measure is signed into law, such operators would only have to sign a form saying they qualify for the exemption when they obtain their tax security bonds from the Department of Revenue. The Department of Labor expects to receive about 300 such waiver applications this year.

The proposed substitute also provides for an immediate effective date to allow implementation for the 1986 fishing season.

City of Quinhagak
P.O. Box 58
Quinhagak, Alaska 99655
March 26, 1985

HB 22 file

APR 1 1985

Representative John Binkley
Pouch V
Juneau, Alaska 99801

Dear John,

The Quinhagak City Council support the increase of the bond rate of primary fish buyers and processors. The main problem of some fish buyers is they often don't have the funds to pay the fishermen on time. The average individual fisherman earns about \$6,000.00 in a commercial season, and that money is of a great need to the person to pay some bills that accumulated over the winter. We would like the situation remedied, so that the fishermen would be assured to get paid on time for what they bargained for.

Thank you for your time.

Sincerely,

Albert Foster
Albert Foster, Mayor

cc: file

MAR 20 1985

March 20, 1985

Representative John Binkley
Pouch V
Juneau, AK 99811

Dear John:

Thank you for the opportunity to respond to this issue.

First of all, I find fault in the proposal that the surety bond be necessary for each location. For example, last year we leased a facility in Togiak where we purchased and dressed out the fish. The expense necessary to fly product elsewhere for freezing and packaging, encourages me to defend against yet another expense. Does it mean our Bethel operation would have to add a bond to buy at Goodnews or Platinum? What if we buy at both places and fly from both, is that one or two locations?

Any attempt to have the bond amount fluctuate from year to year, might encourage unrealistic projections or be complicated by late paying methods of reward to fishermen, such as "bonuses".

I favor the plan proposed to recognize processors that have demonstrated reliability over the years, and some incentive be present for them to continue business in Alaska. The suggested amount of \$20,000. is acceptable and appreciated.

I would guess that enforcement would be easy in some fisheries and very difficult in others. It would be necessary for their presence most of a season since buyers might move in at any time during the course of a season.

I'm hopeful this letter is timely in reaching you.

Sincerely,
Tom Hyland
General Manager



KEMP-PAULUCCI SEAFOODS, INC. 4832 W. SUPERIOR STREET DULUTH MINN. 218-624-0000
PO BOX 6506 55806

file

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
POST OFFICE BOX 248
BETHEL, ALASKA 99559
TELEPHONE 543-2238

December 20, 1984

Bob Charles
Assistant to Rep. John Binkley
Bethel, Alaska

Re: Meeting of December 20

Dear Bob;

Thanks for the opportunity to meet with you personally about the needs which we see for legislative changes which could help the people on the Yukon-Kuskokwim Delta. Here are four suggestions which we can make to Rep. Binkley.

1. It is necessary to tighten restrictions on fish buyers who do business in Alaska in order to protect fishermen and other buyers.

John attended a meeting in Quinhagak in October where local fishermen discussed their problems caused by a fish buyer who received fish from them but did not pay for the fish. The buyer was Phil Lesher, and he has since filed for bankruptcy in Oregon. The bankruptcy papers show that Lesher had several court judgments against him. He owed money to other fishermen and other fish buyers. We had already learned that earlier in the year his bond had expired. Here are some things which might be done.

First, deny all operating rights to buyers who have outstanding fishermen's liens against them. This will not stop dishonest people who are buying fish in Alaska for the first time, but it will stop them from returning year after year unless they are willing to pay their debts.

It would work like this. Right now, fishermen who are owed money from a buyer can file a lien under AS 34.35.391. This is filed in the local recorder of deeds office. This section of the law could be amended to require the recorder of deeds to send copies of such liens to the Department of Fish and Game; the Department of Fish and Game would then deny approval of the Intent to Operate, and refuse to approve issuance of fish tickets. When the applicant showed that the liens had been released, then the Department would issue the necessary papers to buy fish in Alaska.

Bob Charles
December 20, 1984
Page Two

This system would help prevent deadbeats from getting receiving permissions to operate.

Second, the bond for fish buyers should be raised from \$10,000 to \$75,000. I do not know what current regulations are in this area, but I think that the Department of Fish and Game should evidence in advance that the fish buyer has paid in full the premiums for a bond which will be effective at least through December 31 of the current year. These two bonding modifications would help protect other fish buyers, as well:

2. The Commercial Fisheries Entry Commission or the State Legislature should make some rule to cover a situation where a permit holder dies leaving a minor to inherit the permit.

This situation is causing a lot of headaches in Alaska Legal Services. Typically, a young man who has a small child dies in an accident. Either the man is divorced, widowed, or dies with his wife in the same accident; the permit holder and the mother of the child might not be married at all. In the absence of a surviving wife, the minor child is left as the only heir.

The net result is a mess. The child cannot fish with the permit because he or she is too young. The Commission will allow the permit to be transferred to somebody else on an emergency basis for only one year; this means that nobody can use the permit until the child is grown, except for that one year. The Superior Court appoints a personal representative for the deceased permit holder, who is authorized to take care of the decedent's property; however, the court does not want to hold the probate case open for 14 or 16 years while the minor is growing up. The court wants to close the case within a year or two, and closing the case and the authority of the personal representative. The permit absolutely cannot be transferred with the promise that the buyer will return it at the end of a year; such restrictions are completely illegal. The only thing left for the family is to sell the limited entry permit, and, of course, nobody wants to do that. The permit is often the family's only source of income.

The law must be modified to allow the minor heir to take the permit when he or she is old enough, and to allow someone to use the permit while the minor is growing up. Often the permit is the family's only substantial asset, and its only means of earning a living. Some agency, either the court or the Commission, will have to bear the administrative burden of supervising the permit for possibly 18 years. However, it is more desirable for a state agency to alter its procedures than it is for the family to do with the permit.

Bob Charles
December 20, 1984
Page Four

My impression now is that there is enough work in the Bethel area to keep a second judge busy. I donnot know if part-time judicial positions can be created, but this might be considered.

Those are my suggestions. Again, thanks very much for the opportunity to talk with you.

Good luck in Juneau, and a Merry Christmas to you and Johnne.

Very truly yours,

ALASKA LEGAL SERVICES CORPORATION

Mark Andrews

MA/fa

cc: Robert Hickerson, ALSU

April 12, 1985

Ms. Linda Schmitz
P. O. Box 47
Wrangell, Alaska 99929

Re: House Bill 227

Dear Ms. Schmitz:

I appreciate your taking time to write about House Bill 227 which would increase bonding amounts for fish processors and buyers.

I can assure you that the intent of HB 227 is not to stamp out small businesses. It's intent is to protect fishermen. The problem is that a lot of fishermen get ripped off by unscrupulous processors. What do you suggest we do to protect them?

We're just regular people like yourself. That's why we need input from the public. The reason we held hearings through our statewide teleconference system on proposed legislation is to get input from people who are affected. The next time you're at a teleconference and you have an opinion on something, speak up--we want to hear from you.

The House Special Committee on Fisheries met again to consider HB 227 yesterday, and has decided to do further work on the bill during the lull in months. Thank you for comments.

Sincerely,

Johna Binkley
Representative

cc: Senator Robert Mueller, Jr.
Senator Richard Ellison
Representative Robin Taylor
Representative John Sund
Representative Peter Gall

APR 2 1985

April 2, 1985

Dear Mr. John Bentley,

I observed the March 29th teleconference having to do with your house bill 227 asking to change the surety bond requirements for fish processors, buyers from \$10,000 to \$100,000.

This deeply concerns me. I am land in Unalaska str. 31 years. I'm in the process of starting a business of buying, freezing and marketing our Alaskan products. I will be buying a maximum of 5,000 lbs of shrimp or month from 4 local fishermen. This involves one shipping and one process (freezing). A \$10,000 bond is reasonable for a small volume business. However, it is not right for my small volume business to pay the same bond amount as the large (full scale) companies who deal in large volume, various fisheries, different methods of processing and retail. (cans, gear, ice, etc.)

If the federal government were to impose a flat tax to be the same fee every working person, regardless of income level; would this be constitutional?

Is it the intent of H.B. 227 to set forth laws to protect the fishermen?

Is it the intention of H.B. 227 to stamp-out small business?

I feel the needs of both the fishermen and the processor can be addressed in this bill.

We are all vulnerable to the fly-by-night who leave the country with-out paying their dues.

Someone has to be held accountable and I'm confident good lawmakers such as yourself will find a means of doing this.

This Bill needs to be written allowing for input from Alaskans involved in the fisheries. All applications for processor, buyer permits should be reviewed individually and seriously. All processor buyers should be bonded including those who pay cash. Bonding amounts should vary according to guidelines set forth and agreed upon by the special fisheries committee. Guidelines should be written into the bill, after considering testimony offered by Alaskans involved in the fisheries.

Thank-you for your time and patients.

Sincerely,

Jencks Schmitz

P.O. Box 47

Wenatchee, WA 99092

Ph: (509) 574-5755

cc, copies sent to:

Robert H. Taylor

John Sund

Robert H. Taylor Sr.

Andie Morrow

Peter Bell

ALASKA LEGAL SERVICES CORPORATION

MARK ANDREWS

12/20/84

LEGISLATIVE CONTACTS: DON COOPER, CHIEF COUNSEL (276-6282)
MICHEAL STURM, CONTROLLER
ROBERT DICKERSON, EXECUTIVE DIRECTOR (DOES LOBBYING)
ISSUES: (REFER TO LETTER)

1. RESTRICTION ON FISH BUYERS.

THERE IS A PROBLEM WITH FISH BUYERS NOT PAYING THE FISHERMEN IN QUINHAGAK AND ELIM.

THERE ARE 42 FISHERMEN IN QUINHAGAK--\$16,000 EST. OWED TO FISHERMEN

\$4,000 -- \$5,000 OWED TO 20 EMPLOYEES WHO ARE PAID
COMMISSIONS/SALARIES/RENT.

THERE ARE 15-16 FISHERMEN IN ELIM -- \$9,000 TO \$11,000 OWED TO FISHERMEN

SOME WAGES ARE ALSO OWED TO EMPLOYEES.

FISH BUYERS BOND SHOULD COVER THE ENTIRE FISHING SEASON. PREMIUMS SHOULD BE FOR THE WHOLE CALENDAR YEAR.

~~2. PERMIT HOLDER INHERITANCE -- ONE HEIR.~~

~~3. PERMIT HOLDER INHERITANCE -- TWO OR MORE HEIRS.~~

~~THERE ARE 5 CASES (#2 ABOVE), 3 CASES (#3 ABOVE) BEING PROCESSED BY THE BETHEL ALS OFFICE. THE LIMITED ENTRY COMMISSION IS NOT DEALING WITH THE PROBLEM. THE PERMIT IS BEING HELD AND IS NOT ABLE TO BE USED. SOMEONE IN THE FAMILY SHOULD BE ABLE TO USE IT DURING THE SEASON. FOR MINORS, THE PROBLEM IS HAVING TO HANDLE THE CASE UNTIL THE MINOR COMES OF AGE.~~

DETERMINE THE IMPACT ON THIS PROBLEM IN OTHER AREAS OF THE STATE (ACQUIRE STATISTICS FROM OTHER ALS OFFICES.) LOOK AT THE RESTRICTIONS ON LIMITED ENTRY PERMITS (AS16.43.140-182, 20AAC05.700-770) REFER TO RESEARCH AGENCY ON THE LEGAL ASPECTS ON THE LIMITATIONS ON THE PERMITS.

OPERATING NEEDS:

1. MAINTAIN 3RD ATTORNEY POSITION.

CURRENTLY HAS 3 ATTORNEYS PLUS ONE PART-TIME. 180-210 CASES ARE BEING PROCESSED AT ANY GIVEN TIME. THE OFFICE HANDLES 1800 NATIVE ALLOTMENT OPEN CASES. BETHEL ALS IS LOSING ONE ATTORNEY POSITION. NO MONEY TO JUSTIFY IT. THE FAIRBANKS AND BETHEL OFFICES ARE IN TIGHT SITUATIONS. (DETERMINE ORGANIZATIONAL STRUCTURE--STAFFING & EQUIPMENT PRIORITIES.) THE CASE LOAD CAN JUSTIFY KEEPING THE 3RD ATTORNEY POSITION.

CHAPTER 27.
FISH PROCESSORS AND
PRIMARY FISH BUYERS

Article

- 1. Security (8 AAC 27.010-8 AAC 27.050)
- 2. Suspension and Revocation of License (8 AAC 27.060)
- 3. Assignment of Claims (8 AAC 27.070)
- 4. General Provisions (8 AAC 27.900)

ARTICLE 1.
SECURITY

Section

- 10. Security required
- 20. Certification of license applicant
- 30. Waiver of security
- 40. Revocation of waiver of security
- 50. Release of security

8 AAC 27.010. SECURITY REQUIRED. (a) A fish processor or primary fish buyer shall file with the division evidence of compliance with AS 16.10.290 and this chapter on forms prescribed by the commissioner. Acceptable security includes

(1) a surety bond in the amount of \$10,000 issued by a surety company licensed to do business in Alaska with an assignment in favor of the commissioner;

(2) lienable real property located in Alaska, provided

(A) an appraisal is filed with the commissioner which was issued by a public tax assessor or by a bona fide real estate appraiser, current within 12 months before the date of application;

(B) a title search is filed with the commissioner which was issued by a company or person qualified to perform a title search, current within 30 days before the date of application and which clearly demonstrates the license applicant has an equity of at least \$10,000 in the real property; and

(C) the license applicant executes a lien upon the real property in favor of the commissioner in the amount prescribed by AS 16.10.290(b);

(3) a negotiable instrument as defined in AS 45.03.104, assigned to the commissioner, in the amount of \$10,000; or

(4) a combination of acceptable security, including those listed in (1) - (3) of this subsection, which equals the amount of \$10,000.

(b) Separate security is required for each operational location which requires a separate license. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(a), (b), (c)

8 AAC 27.020. CERTIFICATION OF LICENSE APPLICANT. The commissioner will certify in writing to the Department of Revenue and the Department of Fish and Game when the license applicant has complied with the provisions of this chapter. The license applicant will receive notice of this certification. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(d)

8 AAC 27.030. WAIVER OF SECURITY. (a) An operation which does not purchase raw fish and which does not hire employees may request a waiver from the provisions of AS 16.10.290 - 16.10.296 by submitting Form 07-6086 to the commissioner, at least 30 days before commencement of operation, setting out

(1) the names of the persons involved in the operation;

(2) the relationship of the persons to the operation;

(3) the name of the business, if applicable;

(4) the location of the operation;

(5) the date that the operation will commence; and

(6) certification that no fish will be purchased and that no employees will be used in the operation.

Editor's Note: Form 07-6086, mentioned in 8 AAC 27.030(a), may be obtained from the Department of Labor, Box 1149, Juneau, AK. 99811.

(b) Within 15 days after receipt of a properly prepared and sworn application, the director, after investigation by the division, will approve or deny the application for a waiver. The director will deliver a written notice of approval or denial of the waiver to the applicant in person or by certified mail. A notice of denial must set out the reasons for the denial.

(c) An applicant may appeal a denial to the commissioner within 30 days after receipt of the notice of denial. No particular form for the appeal is prescribed. However, the appeal must be specific in its reasons.

(d) A waiver approved under this section is valid for one year from the date of approval. Re-application for a waiver must be made in accordance with this section.

(e) The commissioner will notify the Department of Revenue and the Department of Fish and Game of a person or business granted a waiver from the provisions of AS 16.10.290 - 16.10.296. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290(d)
AS 16.10.291

8 AAC 27.040. REVOCATION OF WAIVER OF SECURITY. (a) The department will, in its discretion and for good cause, revoke a waiver granted to a person or business under AS 16.10.291 and 8 AAC 27.030 and require filing of security as required by AS 16.10.290 and as prescribed in this chapter.

(b) The commissioner will notify the Department of Revenue and the Department of Fish and Game of a person or business whose waiver has been revoked. The commissioner will request suspension of the license of the fish processor or primary fish buyer until the person or business complies with AS 16.10.290 - 16.10.296. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.291
AS 16.10.294

8 AAC 27.050. RELEASE OF SECURITY. When the term of security filed with the commissioner under AS 16.10.290(b) has expired, the department shall release the security to the fish processor or primary fish buyer.

Notification of release of security will be delivered in person or by certified mail. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.290

ARTICLE 2. SUSPENSION AND REVOCATION OF LICENSE

Section

60. Notification

8 AAC 27.060. NOTIFICATION. (a) If the liability of the security required by AS 16.10.290 is impaired or depleted, if a bonding company cancels its bond of a fish processor or primary fish buyer, or if a fish processor or primary fish buyer violates the provisions of AS 16.10.290 - 16.10.296, the commissioner will

(1) immediately notify the Department of Revenue by certified mail of the specific sections of AS 16.10.270 - 16.10.296 which the fish processor or primary fish buyer has violated, request that the license of the fish processor or primary fish buyer be suspended or revoked under AS 16.10.294, and recommend a period of time for which the license should be suspended;

(2) by copy of the notice, through certified mail, inform the Department of Fish and Game and the fish processor or primary fish buyer of the action; and

(3) issue a cease and desist order to the fish processor or primary fish buyer who is violating AS 16.10.270 - 16.10.296, prohibiting the individual or business from acting as a fish processor or primary fish buyer.

(b) The cease and desist order will be rescinded upon a showing, acceptable to the commissioner, that the fish processor or primary fish buyer has complied with AS 16.10.270 - 16.10.290 and the requirements of this chapter. (Eff. 7/30/83, Reg. 87)

Authority: AS 16.10.275
AS 16.10.294

year, or by a fine of not more than \$5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Legislative history reports. — For report on ch. 34, SLA 1969 (CSHB 40 am S), see 1969 House Journal, p. 142.

NOTES TO DECISIONS

Cited in *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

Sec. 16.10.275. Regulations. The commissioner may adopt regulations to carry out the provisions of AS 16.10.270 — 16.10.296. (§ 1 ch 18 SLA 1981)

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 120 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970; am § 1 ch 59 SLA 1980)

Revisor's notes. — Enacted as AS 16.10.290. Renumbered in 1970. Effect of amendments. — The 1980 amendment substituted "120" for "30" near the middle of the section.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

(b) The amount of the bond shall be \$10,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years; if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

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(c) A person applying for a license as a fish processor or primary fish buyer who has less than \$10,000 in lienable property in the state, with proof of the property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. No bond is required if the fish processor or primary fish buyer has more than \$10,000 in lienable property as specified in this subsection.

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with AS 16.10.290 — 16.10.296, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the right of a person having a claim under AS 16.10.270 — 16.10.296 against a fish processor or primary fish buyer to personally bring suit upon the bond, cash deposit or other security, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

(f) If the surety on the bond desires to cancel the bond, the surety may do so by giving the commissioner written notice of intention to cancel. The cancellation is effective 30 days after the notice is delivered to the commissioner.

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch 102 SLA 1977)

Sec. 16.10.291. Waiver of bonding requirement. The commissioner may, after investigation, grant a waiver from the bonding requirement of AS 16.10.290 — 16.10.296 for those operations that do not purchase fish or hire employees. (§ 2 ch 18 SLA 1981)

Editor's notes. — Enacted as AS 16.10.292(b). Renumbered in 1981.

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to AS 16.10.270 — 16.10.296 shall initially file evidence of compliance with the bonding requirements of AS 16.10.290 — 16.10.296, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.293. Exemptions from bonding requirement. (a) Restaurants, grocery stores, and established fish markets are exempt from the bonding requirement of AS 16.10.290 — 16.10.295.

(b) For purposes of this section

(1) "established fish market" means a market maintained in a permanent structure exclusively for the sale of seafood to the public at retail;

(2) "grocery store" means a store maintained for the sale of food products exclusively to the public at retail;

(3) "restaurant" includes a place maintained for the sale and on-premise consumption of food, and a street vendor who sells food prepared for immediate consumption. (§ 1 ch 23 SLA 1982)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in AS 16.10.290, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(b) If a bonding company cancels its bond of a fish processor or primary fish buyer, the fish processor's or primary fish buyer's license shall be revoked. The fish processor or primary fish buyer may again obtain a license by complying with the requirements of this chapter.

(c) If a licensed fish processor or primary fish buyer fails to fulfill the obligations as set out in AS 16.10.290, the license of the processor or buyer shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions the license may be permanently revoked.

(d) Proceedings to suspend or revoke a license are governed by the Administrative Procedure Act (AS 44.62).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of AS 16.10.270 — 16.10.296, the commissioner shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or a representative of the commissioner, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

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Sec. 16.10.295. Penalty. A person who is required to obtain the bond required by AS 16.10.290 — 16.10.296 and fails to obtain that bond is guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense. (§ 3 ch 18 SLA 1981)

Cross references. — For sentences for misdemeanors, see AS 12.55.135.

Sec. 16.10.296. Definitions. In AS 16.10.265 — 16.10.296, unless the context otherwise requires,

- (1) "commissioner" means the commissioner of labor;
- (2) "fish" means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;
- (3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;
- (4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce. (§ 2 ch 102 SLA 1977; am § 3 ch 94 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "AS 16.10.265 — 16.10.296" for "AS 16.10.270 — 16.10.296" in the introductory language, added the language beginning "and includes fish eggs" to the end of paragraph (2), and deleted "raw" preceding "fishery resource" in paragraph (4).

Article 7. Commercial Fishing Loan Act.

Section	Section
300. Declaration of policy	338. Entry permits as collateral
310. Powers of the department	339. Regulations
315. Allocation of loans	340. Creation of fund
320. Limitations on loans	342. Special account established
325. Guarantors	350. Administration of fund
333. Loans for purchase of Alaska limited entry permits	360. Definitions
335. Default and foreclosure	370. Short title
337. Deficiencies and transfer of entry permits after foreclosure	

Legislative history reports. — For report on ch. 134, SLA 1972 (SCS CSHB 102 am FCC), see 1971 House Journal, p. 399; 1972 House Journal p. 554. For statement of legislative intent, see 1983 Senate Journal, p. 621.

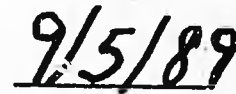


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Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3715

LETTER OF INTENT FOR HOUSE BILL 229

March 29, 1985

It is the intent of the Legislature that the approval process by the Alaska Department of Fish and Game for operations permitted under Section 1 be kept as simple as possible. The Commissioner should base his authorization upon a letter from the operator of the processing plant which details specific plans to operate in accordance with applicable state laws and regulations.

It is also the intent of the Legislature that an ongoing assessment of economically feasible alternatives for the use of herring carcasses should be a priority within existing fisheries programs of the administration, particularly the Department of Commerce. This priority should be made because of (1) the changing economics of the herring industry which sometimes make it impossible for local citizens in some areas of the state to derive benefits from utilization of the herring resource under current Alaska Statutes, (2) the current lack of economically feasible processing alternatives for the developing Bering Sea herring fisheries, and (3) the tremendous potential for increase in employment in Alaska's processing industry, statewide, which might be realized through such ongoing research.

It is the intent of the Legislature that the Department of Commerce will report to the Legislature by the fifteenth day of the first regular session of each legislature, with this information.

Original sponsors: Herrmann, Fuller
and Binkley

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IN THE HOUSE

BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 229 (Resources)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to herring stripping; and providing
for an effective date."

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

* Section 1. HERRING STRIPPING. (a) Notwithstanding AS 16.10.173 and
until July 1, 1986, the stripping of commercially taken herring for the
purpose of removing and selling the roe product is authorized if the
herring is taken from and the carcass disposal process occurs in the Bering
Sea and prior authorization is obtained from the commissioner of fish and
game. The commissioner may authorize a person to dispose of herring car-
casses in the Bering Sea only if the person demonstrates an intent to
operate in accordance with applicable state laws and regulations.

(b) The Board of Fisheries shall adopt regulations in accordance with
the Administrative Procedure Act (AS 44.62) regarding disposal of herring
carcasses for each administrative area where disposal occurs.

(c) The provisions of AS 46.03.100 apply to the disposal of herring
carcasses under this section.

* Sec. 2. Section 1(b), ch. 27, SLA 1980 is repealed.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

ANALYSIS OF THE DIFFERENCE BETWEEN CS HB 229 (Fisheries) AND
DRAFT CS HB 229 (Resources)

To: House Resources Committee Files
From: Janet Fries, Committee Aide
Date: March 29, 1985

Section 1

The wording of this section has been changed to simplify the department's interpretation of the authorization process for operations wishing to dispose of carcasses in the Bering Sea. It bases this authorization upon the processors demonstration of intent to operate within applicable state laws.

Section 2

This repeals only paragraph (b) of Section 1, ch. 27, SLA 1980.

Section 3

No change.

ANALYSIS OF HB 229

To: House Resources Committee Files
From: Janet Fries, Committee Aide
Date: March 12, 1985 (revised)

Section 1

This section creates a temporary exception to AS 16.10.173 until July 1, 1988. This section permits the stripping of herring roe and the disposal of herring carcasses into the Bering Sea, only for herring that is also harvested from the Bering Sea, during the period of the exception.

This section also gives the Board of Fisheries the authority to adopt regulations regarding this disposal, and states that the Department of Environmental Conservation regulations regarding waste will also apply to this disposal.

Section 2

This section provides for an immediate effective date.

Offered: 3/13/85
Referred: Resources

Original sponsors: Herrmann, Fuller
and Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2

CS FOR HOUSE BILL NO. 229 (Fisheries)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

9 * Section 1. HERRING STRIPPING. (a) Notwithstanding AS 16.10.173 and
10 until July 1, 1986, the stripping of commercially taken herring for the
11 purpose of removing and selling the roe product is authorized if the
12 herring is taken from and the carcass disposal process occurs in the Bering
13 Sea. Herring stripping may be allowed during 1986 only if the commissioner
14 of fish and game has given written approval after determining that the
15 processing operation that is seeking approval is capable of continuing
16 after July 1, 1986, without the commercial stripping of herring.

17 (b) The Board of Fisheries shall adopt regulations in accordance with
18 the Administrative Procedure Act (AS 44.62) regarding disposal of herring
19 carcasses for each administrative area where disposal occurs.

20 (c) The provisions of AS 46.03.100 apply to the disposal of herring
21 carcasses under this section.

22 * Sec. 2. Section 1, ch. 27, SLA 1980 is repealed.

23 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
24 10.070(c).



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 998

Phone:
(907) 465-4924

LETTER OF INTENT FOR HOUSE BILL 229

It is the intent of the Legislature that the approval process by the Alaska Department of Fish and Game for 1986 herring stripping operations be kept as simple as possible. The Commissioner should base his determination upon a letter or other documentation from the operators of the processing plant detailing specific plans to operate in accordance with the provisions of AS 16.10.173 after July 1, 1986.

ANALYSIS OF DIFFERENCES BETWEEN HB 229 AND CSHB 229 (Fisheries)

To: House Resources Committee Files
From: Janet Fries, Committee Aide
Date: March 17, 1985

Section 1

The CS (Fisheries) for HB 229 reduces the length of time of the Bering Sea exception from the herring carcass disposal statutes, from four herring seasons in the original bill, to two seasons (ending July 1, 1986).

It also adds language which says that for the 1986 season, the Commissioner of Fish and Game must give his approval for a stripping operation from which carcasses will be disposed into the Bering Sea, in writing. The sentence in which this has been stated is not completely clear nor does it address the intent of AS 16.10.172 and 173, that it is the disposal of carcasses that is prohibited, not the stripping of roe.

In addition, this sentence makes the Commissioner's approval of such operations contingent on the condition that they will be capable of continuing operations after July 1, 1986, without stripping the roe. There is no stated reason why this should be a factor in the Commissioner's determination.

Section 2

This section rolls the intent of HB 260, introduced by Rep. Pignalberi, by Request, into HB 229. The effect of this section is to remove the Legislature's intent of Section 1, Chapter 27, SLA 1980, which states that there are certain conditions under which exceptions might be made to AS 16.10 172 and 173.

Section 3

No change.

Letter of Intent

This letter specifies that the application process authorized in Section 1 is to be as simple as possible. This will help to make any associated administrative costs as minimal as possible. This letter also reiterates the language of the CS, which places the condition that plants be able to operate without stripping after July, 1986, in order to receive approval from the Department for operation during the 1986 season.

MAR 12 1985

Alaska State Legislature

COMMITTEES:

- Committee on Community and Regional Affairs
- Committee on Transportation
- Special Committee on Oil and Gas
- Special Committee on Fisheries
- Finance Sub-committee on Fish and Game



District 5

- Kenai
- Soldotna
- Homer
- Seldovia
- Kachemak
- Kasilof
- Ninilchik
- Sterling
- Anchor Point
- Point Graham
- English Bay
- Nikolaevsk
- Halibut Cove
- Clam Gulch

Representative Andre Marrou

12 March, 1985

TO: Reps. Dick Shultz and Adelheid Herrmann,
Co-Chairman, Resources Committee

FROM: Rep. Andre Marrou, Member, Fisheries Committee

This morning, the Fisheries Committee passed out CSHB 229(Fish.), on a vote of 4-2. I was one of the dissenters.


CSHB 229(Fish.) combines HB 229 and HB 260 with two additional restrictions:

1. Herring stripping would end 1 Jul.86 instead of 1 Jul.88, thus reducing from 39 months to 15 months the period for herring stripping.
2. ADF&G would be required to render a written decision as to why herring stripping should be allowed past 1 Jul.86 under any conditions.

As you may know, HB 260 would repeal important exemptions to a prior ban on herring stripping.

In testimony today, no environmental nor economic reasons were advanced for banning the herring stripping industry. To the contrary, it was pointed out that if Alaskans don't strip herring, then Canadians, Washingtonians, Koreans, and Japanese will.

Therefore, I strongly recommend that CSHB 229(Fish.) not be passed, but that HB 229 be passed.


 Rep. Andre Marrou

AVM/mc



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

M E M O R A N D U M

March 11, 1985

TO: Representative Adelheid Herrmann
Representative Richard Schultz
Co-chairs, House Resources Committee

FROM: Representative Peter Goll *Peter Goll*
Chairman, House Special Committee on Fisheries

SUBJECT: CS for HB 229

I respectfully urge the Resources Committee to adopt the committee substitute for House Bill 229 developed by the House Special Committee on Fisheries. The committee substitute received strong support from members of the Fisheries Committee, as well as from Rep. Jack Fuller, who co-sponsored the original measure.

The committee substitute was designed to provide the waivers sought for Bering Sea herring operations, while establishing a mechanism that should ensure that the entire Alaska seafood industry can comply with the state's full utilization policy within two more fishing seasons.

A brief recounting of the history of the state's full utilization policy may be helpful for the members of the Resources Committee.

In 1977, the Legislature passed a policy calling for the full utilization of herring caught in the commercial sac roe fishery. The policy was aimed at eliminating the wasteful practice of "stripping," in which the flesh of the herring is allowed to deteriorate and the valuable eggs can be easily "popped" out.

The Board of Fisheries was given authority to promulgate regulations to implement the policy. The developing Bering Sea sac roe fishery was exempted from the full utilization policy until January 1, 1979.

In 1980, the Legislature passed a law requiring the processing of herring before the seafood could leave the state. An exemption for the Bering Sea until July 1, 1982 also was granted.

In 1983, the Legislature approved a bill granting the Bering Sea another exemption from the full utilization policy; this time until July 1, 1984.

The original version of HB 229 grants the Bering Sea area an exemption until July 1, 1988. After determining that two additional fishing seasons would meet the needs of the Bering Sea herring industry, we amended that provision in the committee substitute to read July 1, 1986.

The committee substitute also incorporated the thrust of House Bill 260 which seeks to repeal legislative findings from 1980 that say that herring stripping is acceptable under certain circumstances, i.e. where healthy herring stocks exist and the seafood industry is underdeveloped.

The revised HB 229 adopted by the Fisheries Committee also would require herring stripping operations in the Bering Sea seeking to dump carcasses during 1986 to demonstrate their intent to comply with Alaska's full utilization policy during the 1987 herring season. This provision is designed to put the herring processing industry on notice that the state's full utilization policy will be fully enforced by 1987.

The Bering Sea herring processing industry is close to complying with the full utilization policy. A total of 400 metric tons of herring was stripped in the Bristol Bay fishery during 1984 out of a total harvest of 17,500 metric tons. Processors also strip herring in other areas of Alaska, but these operations all utilize the partially decomposed carcasses.

I would like to offer an amendment to CSHB229 (Fisheries) that should help clear up some confusing language and a letter of intent that clarifies the procedure for granting carcasses dumping waivers during 1986. The Alaska Department of Fish and Game says the committee substitute will not change the zero fiscal note, if the clarifying language and letter of intent are adopted.

I strongly urge adoption of the Fisheries Committee substitute bill and letter of intent.



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

LETTER OF INTENT FOR HOUSE BILL 229

It is the intent of the Legislature that the approval process by the Alaska Department of Fish and Game for 1986 herring stripping operations be kept as simple as possible. The Commissioner should base his determination upon a letter or other documentation from the operators of the processing plant detailing specific plans to operate in accordance with the provisions of AS 16.10.173 after July 1, 1986.

PROPOSED AMENDMENT TO CSHB229 (FISHERIES)

Replace lines 13-16, page 1, with the following language:

"Sea and authorization is obtained from the commissioner of the Department of Fish and Game. The commissioner may authorize a person or company to dispose of herring carcasses in the waters of the Bering Sea if the person or company demonstrates that after July 1, 1986, the processing operation will no longer need an exception to AS 16.06.173."



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fisheries	BILL NUMBER HB 229	SPONSOR Herrmann
DEPARTMENT POSITION Neutral			
PREPARED BY Robert C. Clasby	DATE 2/26/85	COMMISSIONER'S SIGNATURE <i>John R. Parnis</i>	DATE 3/4/85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL DEC	CONSTITUENT GROUP(S) AFFECTED BY BILL Bering Sea Herring Fishermen and Processors
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Except for 1984, similar legislation has been in effect since about 1979. The intent is to allow this activity until full processing can take place. Most roe herring are now frozen on the grounds, with a small amount being transported to locations such as Kodiak for shoreside reprocessing. It is this product that is stripped on the grounds.

ANALYSIS OF BILL/PROGRAM EFFECTS

None. Regulations governing herring carcass disposal in the Bering Sea are still in effect; see 5 AAC 27.093.

AMENDMENTS PROPOSED

None.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Article 3. Herring Spawn.

Section

172. Legislative policy on utilization of herring
 173. Utilization of commercially taken herring
 175. Removal of herring from state

Sec. 16.10.140 — 16.10.170. Taking of herring spawn; exceptions; certain restrictive covenants; penalties. [Repealed, § 2 ch 91 SLA 1970.]

Sec. 16.10.172. Legislative policy on utilization of herring. The legislature finds the following: (1) extensive and valuable herring populations are available for harvest in waters subject to the jurisdiction of the state; (2) commercial markets are available for herring processed in several forms; (3) one processing technique presently employed involves deliberately permitting decomposition of the herring carcass to allow for removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded. The legislature declares that the process referred to in (3) of this section is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the legislature that this process should be eliminated to the fullest extent possible. (§ 1 ch 9 SLA 1977)

Editor's notes. — Section 1, ch. 27, SLA 1980 provides: "LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING. (a) Notwithstanding AS 16.10.172, the legislature finds that in certain circumstances the processing technique described in AS 16.10.172(3), commonly referred to as "stripping", provides benefits of such importance to the state economy that the benefits may outweigh the waste involved in the process.

"(b) It is the policy of the legislature that notwithstanding AS 16.10.173 the

disposal of herring carcasses is acceptable only if

"(1) the herring is taken from waters in which the herring population is large enough to support a stripping industry without substantially reducing the availability of the herring for other uses; and

"(2) the stripping process is conducted in an area of the state where local industry either does not exist or, if it does exist, it is insufficient to provide reasonable economic support to the people who live in the area."

Sec. 16.10.173. Utilization of commercially taken herring. (a) A person may not waste or cause to be wasted any commercially taken herring. For purposes of this subsection, "person" has the meaning given in AS 01.10.060 and also includes a joint venture.

(b) As used in this section, "waste" means the failure to use the flesh of commercially taken herring for reduction to meal, production of fish food, human consumption, food for domestic animals, scientific or educational purposes, or round herring bait. Normal, inadvertent loss of flesh associated with the uses described in this subsection which cannot be prevented by practical means does not constitute waste. The com-

missioner may authorize other uses of commercially taken herring consistent with the intent of this section and AS 16.10.172 upon receipt of a request accompanied by a detailed justification.

(c) For purposes of this section, "flesh" means all muscular body tissue surrounding the bony skeleton of the herring.

(d) The Board of Fisheries may adopt regulations under the Administrative Procedure Act (AS 44.62) it considers necessary for implementation of this section. The board may delegate its authority under this section to the commissioner.

(e) The provisions of this section do not apply to herring taken commercially in the Bering Sea (including appurtenant bays, sounds, estuaries, and water of the state) north of 56° North Latitude, until January 1, 1979. (§ 1 ch 9 SLA 1977)

Editor's notes. — Section 1, ch. 14, SLA 1983 reads as follows:

"Section 1. HERRING STRIPPING. (a) Notwithstanding AS 16.10.173 and until July 1, 1984, the stripping of commercially taken herring for the purpose of removing and selling the roe product is authorized if the herring is taken from and the carcass disposal process occurs in the Bering Sea.

"(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) regarding disposal of herring carcasses for each administrative area where disposal occurs.

"(c) The provisions of AS 46.03.100 apply to the disposal of herring carcasses under this section."

Sec. 16.10.175. Removal of herring from state. (a) A person may not remove herring from the state before the herring has been frozen or otherwise processed for shipment.

(b) In this section, "processed for shipment" includes, but is not limited to, icing, stripping or salting of the herring; however, it does not include salting of the herring if five percent or more of the body weight of the herring consists of roe. (§ 3 ch 27 SLA 1980)

Article 4. Migratory Fish and Shellfish.

Section

- 180. Legislative findings
- 190. Regulations
- 200. Unlawful taking prohibited
- 210. Unlawful sale or offer prohibited

Section

- 220. Penalties for violation of AS 16.10.200 and 16.10.210
- 230. Exemptions

Sec. 16.10.180. Legislative findings. The legislature finds and recognizes these facts:

(1) Migratory fish and migratory shellfish are present in commercial quantities inside and outside the territorial waters of the state.

(2) Migratory fish and migratory shellfish taken from the waters of the state are indistinguishable, in most cases, from those taken from the adjacent high seas.

(3) Substantial quantities of migratory fish and migratory shellfish move inshore and offshore intermittently and at various times during

5 AAC 27.070. REGISTRATION AND INSPECTION DOCUMENTS. Repealed 4/14/82.

ARTICLE 3. PROHIBITIONS

Section

- 90. Unlawful possession of herring or herring gear
- 92. Unlawful acts within an adjacent seaward biological influence zone
- 93. Disposal of herring
- 95. General restrictions
- 96. Violation of reporting requirements
- 97. Violation of landing requirement
- 98. Violation of regulations

5 AAC 27.090. UNLAWFUL POSSESSION OF HERRING OR HERRING GEAR. (a) It is unlawful for any person to possess unprocessed herring aboard a vessel licensed as a commercial fishing vessel within any statistical area unless the season is open or unless the person is acting under the authorization of 5 AAC 27.030(b). This prohibition does not apply to herring possessed for subsistence or permit bait purposes under applicable cable regulations.

(b) It is unlawful for any person to possess aboard a vessel licensed as a commercial fishing vessel within any statistical area any herring or any gear used in the taking of herring if the herring or herring gear are prohibited by other regulations in 5 AAC 27 governing the area, unless the vessel is acting under the authorization of 5 AAC 27.030(b).

(c) It is unlawful for any person to possess, purchase, sell, barter, or transport herring within the state or within waters subject to the jurisdiction of the state if that person knows or has reason to know that that herring was taken or possessed in contravention of the regulations of this chapter. (In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(4),(7) and (10)
AS 16.05.720
AS 16.05.900
AS 16.05.920

5 AAC 27.092. UNLAWFUL ACTS WITHIN AN ADJACENT SEAWARD BIOLOGICAL INFLUENCE ZONE. It is unlawful for any person to take, attempt to take, cause to be

taken, or possess herring, or to operate, attempt to operate, or cause to be operated any vessel or gear or to possess any gear or to take, attempt to take, cause to be taken, or fail to take any action in violation of 5 AAC 27.010(b).

Authority: AS 16.05.251(a)(4),(7) and (10)
AS 16.05.720
AS 16.05.900
AS 16.05.920

5 AAC 27.093. DISPOSAL OF HERRING. In statistical areas N, T, W and Q, herring carcasses may be disposed of only as follows:

(1) any vessel with less than 5 metric tons of herring on board may only dump herring carcasses in waters more than five fathoms in depth;

(2) any vessel with five metric tons or more of herring on board may only dump herring carcasses in waters more than three miles from the mainland;

(3) or as specified by a permit issued by the Department of Environmental Conservation.

Authority: AS 16.05.251(a)(7)
AS 16.10.172-16.10.173

5 AAC 27.095. GENERAL RESTRICTIONS. A person shall obtain a permit from the department before taking herring during the period June 15 through February 28 in statistical areas K, L, M and N. (In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(1) and (7)

5 AAC 27.096. VIOLATION OF REPORTING REQUIREMENTS. (a) It is unlawful for any person to file a fish ticket representing the catch governed by the fish ticket as having been taken in a particular statistical area when in fact the catch or part of the catch were taken in another statistical area.

(b) It is unlawful to file any fish ticket containing information which has been purposely falsified.

Authority: AS 16.05.251(a) AS 16.05.900
AS 16.05.690 AS 16.05.920
AS 16.05.720

5 AAC 27.097. VIOLATION OF LANDING REQUIREMENT. It is unlawful for any vessel

Sec. 46.03.090. Plans for pollution disposal. The department may require the submission of plans for sewage and industrial waste disposal or treatment or both for a publicly or privately owned or operated industrial establishment, community, public or private property subdivision or development. (§ 3 ch 120 SLA 1971)

Sec. 46.03.100. Waste disposal permit. (a) A person who conducts an operation which results in the disposal of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state must procure a permit from the department before disposing of the waste material or water. The permit must be obtained for direct disposal and for disposal into publicly operated sewerage systems.

(b) This section does not apply to a person discharging only domestic sewage into a sewerage system.

(c) A permit for disposal of a hazardous waste may not be issued under this section unless the applicant for the permit has furnished proof to the commissioner of financial ability to control the hazardous waste. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations issued by the department. Acceptance of proof of financial responsibility under this subsection expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or

(3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement. (§ 3 ch 120 SLA 1971; am § 3 ch 220 SLA 1976; am § 9 ch 93 SLA 1981)

Cross references. — As to compliance with financial responsibility requirements, see AS 46.03.833.

Effect of amendments. — The 1981 amendment added subsection (c).

Opinions of attorney general. — This section confers upon the Department of Environmental Conservation permit authority over dredge or fill activities, including residential subdivisions, within wetlands, estuaries, and inland and coastal marshes periodically inundated by discernible bodies of fresh or salt water upland from the mean high tide line to the

extent of the aquatic or salt water vegetation line. November 13, 1975, Op. Att'y Gen.

Dredge or fill activities in coastal and fresh water wetlands shoreward to the aquatic vegetation line to result in the disposal of solid waste material into the waters of the state within the meaning of this section and thus, to the extent that these activities are of a commercial or industrial nature do require a permit from the Department of Environmental Conservation. November 13, 1975, Op. Att'y Gen.

Sec. 46.03.110. Waste disposal permit procedure. (a) An application for a permit shall be made on forms prescribed by the department or on forms prescribed by the United States Environmental Protection Agency and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and

any other information considered necessary by the department. Application for permit shall be made at least 60 days before commencement of a proposed discharge.

(b) Upon receipt of a proper application the department shall publish notice of the application in two separate publications of a newspaper of general circulation within the general area in which the disposal of waste material is proposed to be made. The notice may also be published in other appropriate information media. The notice shall include a statement that a person who wants to present his views to the department in regard to the application may do so in writing to the department within 30 days of the second publication of the notice. The written response entitles the writer to a copy of the application.

(c) When the department receives an application, the commissioner shall immediately send copies of the application to the commissioner of fish and game, the commissioner of natural resources, the commissioner of commerce and economic development and the commissioner of health and social services.

(d) The department may specify in a permit the terms and conditions under which waste material may be disposed of. The terms and conditions shall be directed to avoiding pollution and to otherwise carry out the policies of this chapter. No permit may be effective for a period in excess of five years from the date of issuance.

(e) If the department has certified a National Pollutant Discharge Elimination System permit under sec. 401 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. sec. 1341), and the United States Environmental Protection Agency has issued that permit to a person, the department may waive the requirements of this section, and adopt the federal permit as the permit required under AS 46.03.100. (§ 3 ch 120 SLA 1971; am § 6 ch 104 SLA 1971; am § 116 ch 218 SLA 1976; am §§ 4, 5 ch 220 SLA 1976)

Opinions of attorney general. — This section requires no more than that the Department of Environmental Conservation allow a 30-day public comment period, and that it fully and completely review those comments on receipt. June 11, 1975. Op. Att'y Gen.

The Department of Environmental Conservation cannot issue a waste disposal permit prior to expiration of the 30-day public comment period. June 11, 1975. Op. Att'y Gen.

If the Department of Environmental Conservation has reviewed and considered all public and agency comments prior to

the expiration of the 60-day period, and has also completed the preparation of the permit itself within that period, it would be competent for the department to waive the remainder of the 60-day "pre-commencement" period, and issue the permit at that time. June 11, 1975. Op. Att'y Gen.

The public comments received pursuant to subsection (b) of this section function similarly to environmental impact statements for federal agencies contemplating major federal actions significantly affecting the quality of the environment. June 11, 1975. Op. Att'y Gen.

Sec. 46.03.120. Termination or modification of waste disposal permit. (a) The department may terminate a permit upon 30 days written notice if the department finds

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 229
 Title: An Act Relating to Herring Stripping & Providing an Efftv. Date
 Sponsor: Herrmann and Fuller
 Requestor: Hs.Spec.Conc.Com.Fish + Res.
 Date of Request: Mar 4, 1985

FISCAL DETAIL

Agency Affected: Fish and Game
 Program Category Affected: Fisheries Resource Conservation
 BRU, Program or Subprogram(s) Affected: Commercial Fisheries BRU and Components

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 GRAHITS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

(please see attached page)

Prepared By: Bob Wilbur Phone: 465-4210
 Division: Commercial Fisheries Date: 3-7-85
 Approved by Commissioner: Don R. Peterson Date: 3-7-85
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

Analysis:

HB 260 seeks to repeal an AS16.10.173 exception which allows the roe of commercially harvested herring in the Bering Sea to be stripped and the carcasses disposed of in the Bering Sea. HB 229 seeks to extend that exception through July 1, 1988.

If either bill is enacted, the impacts on state programs and funding requirements will be negligible. The only foreseeable direct costs to the state would involve Board of Fisheries time allocated to public hearing and regulatory considerations, and these should represent comparatively insignificant time and cost requirements under either bill.

Should the exception be repealed (HB 260), some herring fishermen who have traditionally taken herring roe in the Bering Sea by allowing the flesh to decompose prior to roe stripping would have to conform to freezing techniques. While this prevents wastage of the flesh, it may increase capital and processing costs for the affected fishermen and processors and thereby reduce fisherman profits. Some minor impacts to local economics could therefore occur.

Alaska State Legislature

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



CO-CHAIRMAN
RESOURCES COMMITTEE

MEMBER
TRANSPORTATION
COMMITTEE

House of Representatives

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
SOUAW HARBOR
ST GEORGE
ST PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

TO: Representative Peter Goll, Chairman
Special Committee on Fisheries

FROM: Representative Adelheid Herrmann

DATE: March 8, 1985

RE: HB 229 AN ACT RELATING TO HERRING STRIPPING

Attached are letters from fishermen and processors in Togiak, Norton Sound, and Nelson and Nunivak Islands, which should provide the Fisheries Committee with additional backup to the letters and other information sent by Representative Fuller.

The herring season in western Alaska can begin as early as the end of April. Allowing the local people to strip herring will bring much needed cash income at a difficult time of year. These letters explain the reasons why they cannot comply with the state law at this time, as well as what they plan to do in the future to correct this situation.

This bill will not affect the herring resource or the environment in western Alaska, nor will it affect anyone in any other part of the state. I hope we can move the bill through the committee process as soon as possible so the fishermen can make plans for this season.

February 28, 1985

Representative A. Herrman
Pouch V
Juneau, AK

RE: Herring Carcass Utilization

Dear Rep. A. Herrman:

It has come to our attention that you are introducing legislation towards a moratorium on the Herring Carcass Utilization bill now in effect.

We have been deluged with calls from native fishermen in Togiak Twinn Hills and Manakotak villages on the possibility of our company purchasing drift net herring during the Togiak fisheries.

At this time we are budgeting for 2,200 tons of herring (seine) for processing on the M/V Bering Trader and our shore plant in Dillingham. These facilities are set up to freeze the product and will not be able to take any additional product other than that which is already committed.

Most of these fishermen are alternates on the list for the Japanese Herring Co-op in Dillingham, Alaska. These people in the past have not been able to sell because of the volume already caught by the co-op. We would be able to offer these fishermen a market if we could process at our Togiak facility. But there is no freezing. We would have to strip the roe then grind the carcasses.

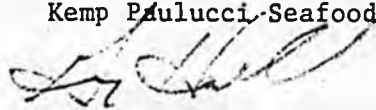
We would be able to purchase approximately 350 to 400 of gillnet herring if processing is available in Togiak.

This would mean, in dollars, a total of \$297,500 to \$340,000 for the fishermen that would not have been there previously. The fish tax would be \$2,975.00 to \$3,400.00 for a shore based facility. The local labor for the herring processing would be approximately \$43,000. This is for the nonfishermen type of local villagers.

Again our company would be happy to offer a market but are unable to do so as the laws stand now. We do not want a total moratorium, only for the next two seasons to place freezers into our Togiak facility.

Regards,

Kemp Paulucci Seafoods


Greg Hull

Togiak Plant Manager


KEMP-PAULUCCI SEAFOODS, INC. 2613 NORTHWEST 54th SEATTLE, WA 98107 206-783-7512

Rep. Jack Fuller
ATTENTION: Linda Wilde
Capital Room # 500/502
Pouch V
Juneau, Alaska 99811

Dear Rep. Fuller:

On behalf of 3NC Fisheries, I am requesting a permit to dump the herring carcasses in the Norton Sound area for this coming 1985 fishing season. We anticipate to open the herring processing in the Stebbins area, in hopes that their economy will benefit both their people and our company. We understand that dumping herring has special guidelines and know that there are certain limits to dumping.

3NC Fisheries consists of the Unalakleet, Shaktoolik, and Stebbins Native corporations and is a profit company. Our main goal is to provide some form of economy for our people and service the people in our region. We have worked with the salmon species for the past two years and look forward for a profitable one this coming season.

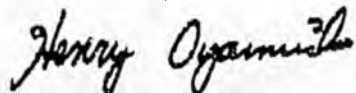
We understand the problems that may occur with discarding of the herring and we plan to work on this along with your help. Our latest talk with other companies was to sell the whole female herring and transport them out of the Norton Sound Region. It is also our contention that some plan be made with male herring, and in working with your office, we hope that a solution will be drawn up.

If you need further information please call me at 624-3053 during the workhours and at 624-3931 during the evenings. You may also call Davis Nashalook with the Arctic Sea Fisheries in Anchorage at 562-2322.

Our anticipated tonage with herring for the 1985 season is 300 metric tons.

Thank you.

Sincerely yours,



Henry Oyoumick, 3NC President

cc: Henry Mitchell, Bering Sea Fisheries



Bering Sea Fishermen's Association

805 West 3rd Avenue
Anchorage, Alaska 99501
(907) 279-6519

March 4, 1985

Representative Binkley
Pouch V
Juneau, AK 99811

Dear Representative Binkley:

I am writing to express our strong support for House Bill 229. The bill proposes to waive, for the Bering Sea, the statute prohibiting fishermen from stripping herring for roe.

A number of fishermen from Nelson Island and Nunivak Island are interested in participating in the herring fishery which will open this year. The Bering Sea Fishermen's Association (BSFA) anticipates training a minimum of 80 fishermen from Nelson Island and Nunivak Island in order to prepare them for the fishery. As you know, these areas are poor in terms of a cash economy, and commercial fishing will be the main source of jobs and income for many.

As this is the first time residents of Nelson Island and Nunivak Island will be participating in a commercial herring fishery, their lack of experience during the first year or two will naturally put them at a significant disadvantage in competing for the limited quota of herring available.

The participation of Nelson and Nunivak Island fishermen during the start-up of the commercial herring fishery is dependent upon their being able to strip for roe. At present, there are no facilities available on either Nelson Island or Nunivak Island for refrigeration and processing of herring carcasses. And, it is neither practical nor feasible to build these facilities prior to initial participation in the fishery.

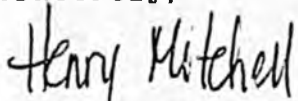
We see waiving the statute prohibiting the stripping of herring for roe in the Bering Sea as an interim yet crucial measure which will provide the people of Nelson and Nunivak Island the opportunity to become competitive in the fishery. Once the fishery is successful, it would then make sense to build refrigeration facilities and to process

Representative Binkley
March 4, 1985

herring carcasses -- thus providing more jobs and income for residents.

If I can provide any further information on this very important issue, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Henry Mitchell".

Henry Mitchell, Director
Bering Sea Fishermen's Association

cc: Adelheid Herrmann
Co-Chairman, House Resources Committee

JLS

Herrmann

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPEER BAY
KOTLIK
KOYUK
NOME

SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN



CHAIRMAN
BUSH CAUCUS
LEGISLATIVE COUNCIL
ADMINISTRATIVE REGULATION
REVIEW COMMITTEE

MEMBER
POLICY COMMITTEE
SPECIAL COMMITTEE ON LOANS
RULES COMMITTEE
COMMITTEE ON COMMITTEES

Alaska House of Representatives

MEMORANDUM

TO: Rep. Peter Goll, Chairman
House Special Committee on Fisheries
FROM: Rep. Jack Fuller *Jack*
DATE: March 2, 1985
SUBJECT: Additional information regarding HB 229 - herring stripping

Three different groups of fishermen in Western Alaska have contacted either Rep. Herrmann or me requesting a temporary waiver of the herring stripping law.

In my district, 3NC Fisheries, a cooperative effort of the native corporations of Unalakleet, Stebbins and Shaktoolik, has asked for additional time to gear up. These local people began to fish herring commercially in 1979, and at this time don't have enough on-shore freezing capacity to process all of the herring caught by their members.

In the Yukon-Kuskokwim area, the people of Nelson Island plan to begin their first commercial herring fishery next year. Until now, herring was fished for subsistence only, but with the rebuilding of herring stocks they are looking to this new fishery for much-needed cash income.

In Togiak, about 35 local gillnet fishermen without markets have asked Kemp-Paulucci to operate the shore-based plant this year. This plant will be able to provide a market for all their fish. Kemp just recently bought the plant and plans to install freezers within the next two years, but would only be able to operate the plant this season if they were able to strip.

The closest fish meal plant is in Seward, thousands of miles away, and there is not enough freezing capacity for all of the fish. Because the non-local fishermen who come up to western Alaska to fish sell their catch mostly to floating processors with freezing capacity, the herring stripping law affects local fishermen who are relatively new to the fishery and do not have established markets.

Unlike the rest of the state, the herring fishery in western Alaska is in its infancy. The fishery used to be almost entirely within the domain of outsiders, with very few locals participating even as fishermen. Local fishermen are just now learning to take vertical control of the fishery themselves, without total dependence on outsiders. As fishermen and as managers, they have gained much valuable

experience in a short time. With limited entry for Bering Sea herring fisheries looming on the horizon, I want local people to have every opportunity to become established in the fishery. Outside of fishing, there are very few ways of making a living in these villages.

The herring season comes at the end of the long winter and before salmon season starts, a time when cash is very low. On-shore herring processing provides much-needed cash income for local people, as well as markets for local fishermen. In Unalakleet alone, stripping 50-60 tons of fish provides up to twenty people with jobs, and puts up to \$35,000 into the economy. With an average annual income of less than \$3,000 in rural Alaska, this is an important source of cash.

I will be providing you with additional back-up from 3NC, Nelson Island and Togiak Natives Limited, which will set out each group's reasons for requesting an extension of the time they are allowed to strip herring, as well as their plans for compliance as the fishery is developed.

MAR 11 1985

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* DELIVER TO: JPOM
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* ORIGINAL
* SENT: 03/08/85 TIME: 14:28
* FROM: LIOKOD
* SUBJECT: KODIAK POM
* PRINT DATE: 03/08/85 TIME: 14:28
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TO: SENATORS ZHAROFF, FISCHER, STURGULEWSKI, HALFORD

TO: REPRESENTATIVES THOMPSON, HERRMANN, FULLER, GOLL, SUND,
PEARCE, HURLEY, BINKLEY, NAVARRE, JENKINS, MARROU

FR: NICK SZABO
BOX 1633
KODIAK, AK. 99615
HM: 486-3853

RE: HB 229 - EXTENDING HERRING STRIPPING IN THE BERING SEA

I STRONGLY SUPPORT HB 229 AND OPPOSE HB 260. SINCE THERE ARE NO CARCASS REDUCTION PLANTS IN THE BERING SEA, THE PASSAGE OF HB 229 WILL ALLOW SMALL PROCESSORS AND GROUPS OF FISHERMEN TO PROCESS THEIR OWN HERRING ROE. THIS ADDED VALUE PROCESSED HERRING ROE COULD BENEFIT MANY SMALL COMMUNITIES.

EOM

HISTORY OF HB 229

To: House Resources Committee Files
From: Janet Fries, Committee Aide
Date: March 17, 1985

AS 16.10.172 and 173, the statutes which prohibit the waste of carcasses from herring that have been stripped of roe, were passed by the Legislature in 1977. Section 173 included an exception from these statutes for the Bering Sea until January 1, 1979, because there was little or no infrastructure for the developing herring fishery in this area to support the processing of herring without disposal of the carcasses.

During the 1978 and 1979 herring seasons, many processors in the state who were not equipped to either freeze the roe herring whole or near enough to a reduction plant to have it reduced to fish meal economically, shipped the herring whole, lightly salted, to Japan. This herring was stripped for roe in Japan, Alaska fishermen and processors were paid less for it, and Japanese labor was used to process it, thus leaving Alaska with little economic benefit from this fishery.

In 1980, the Legislature passed Section 1, ch. 27, SLA 1980, Legislative Findings and Policy on Herring Stripping. This law did three things:

(1) It created the language which appears in the statutes (although it is not part of the statutes) following AS 16.10.172. These findings report that in some circumstances, stripping herring may provide such important economic benefits to the state that they may outweigh the waste involved in the process.

(2) It created an exception from the stripping law for the Bering Sea only from September 1, 1980 to July 1, 1982.

(3) This law also added AS 16.10.175 to the statutes, which prohibits removal of herring from the state before it is processed. This was done to solve the problem of herring being shipped from Alaska with little or no processing, that was created when the stripping statutes first became effective.

In 1983, the Legislature passed House Bill 267 which became Chapter 14 SLA. This bill created a third exception from the stripping law for the Bering Sea only until July 1, 1984, because the herring fishery was still developing in western Alaska and there was still no freezing capacity or reduction plant to support many local processing operations.

HOUSE SPECIAL COMMITTEE
ON FISHERIES
March 12, 1985
8:30 a.m.

Members Present: Representative Peter Goll, Chair
Representative Andre Marrou
Representative David Thompson
Representative John Binkley
Representative Roger Jenkins
Representative Kate Hurley
Representative Mike Navarre

COMMITTEE CALENDAR

HB 229 An Act relating to herring stripping; and providing for an effective date.

HB 260 An Act relating to legislative policy on herring stripping and providing for an effective.

WITNESS REGISTER

Representative Jack Fuller
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
Telephone: 465-4984
Position Statement: Co-sponsor HB 229

Clements Ady
Chugach Alaska Fisheries
4241 21st Avenue West
Seattle, Washington
Position Statement: Supports broadening of HB 229

Larry Cotter
International Longshoremen and Warehousemen's Union
307 South Franklin Street
Juneau, Alaska 99801
Telephone: 586-6642
Position Statement: Supports original version HB 229

Henry Oyoumick
3NC Fisheries
P. C. Box 37
Unalakleet, Alaska
Telephone: 624-3931
Position Statement: Supports original version HB 229

Jerry Abramczyk

Administrative Assistant
Representative Marco Pignalberi
Pouch V
Juneau, Alaska 99811
Telephone: 465-4944
Position Statement: Testified in behalf of Representative
Pignalberi, sponsor of HB 260.

Janet Fries
Administrative Assistant
Representative Adelheid Herrmann
Pouch V
Juneau, Alaska 99811
Telephone: 465-4942
Position Statement: Testified in behalf of Representative
Herrmann, prime sponsor HB 229.

Ken Parker, Director
Division of Commercial Fisheries
Alaska Department of Fish and Game
P. O. Box 3-2000
Juneau, Alaska 99811
Telephone: 465-4210
Position Statement: Observer

Bob Clasby
Division of Commercial Fisheries
Alaska Department of Fish and Game
P. O. Box 3-2000
Juneau, Alaska 99811
Telephone: 465-4210
Position Statement: Observer

Christine L. Kelly
Licensing Administrator
Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99811
Telephone: 465-4081
Position Statement: Observer

Reed Stoops
Chugach Fisheries
2 Marine Way, Suite 218
Juneau, Alaska 99801
Telephone" 586-3561
Position Statement: Observer

PREVIOUS ACTION

HB 260: Read first time 03/04/85 and
referred to Fish, Res, and Rules. No
previous action in this committee. HB 229:

Read first time 02/22/85 and referred to Fish, Res and rules. No previous action in this committee. Today Fish reported out CS with 4DP and 1NR, 1NOT CS; zero fiscal note with analysis in Supplement No. 28.

ACTION NARRATIVE

TAPE #11, SIDE ONE
Recording
Number 005

The meeting was called to order at 8:35 a.m. by Chairman Goll who announced the calendar and asked for motion to adopt a committee substitute for HB 229 for purposes of discussion. Representative Thompson made the motion. Representative Marrou asked for clarification of the committee substitute. The motion carried and CS for HB 229 was adopted for purposes of discussion.

Number 035

Representative Fuller called attention to background information and letters of support in the members packets and began his presentation with history and utilization of herring and urged the members to consider passage of the committee substitute to get the industry going.

Number 140

Chairman Goll addressed the two bills and commented to Representative Marrou that while the prohibition on herring stripping would remain the same in statute, the exemption would be deleted and by reenacting new legislation it would create that exemption again with certain stipulations.

Number 229

Janet Fries, Assistant to Representative Herrmann, testified that HP 229 creates a temporary exception to legislative policy on herring utilization to permit the stripping of herring and disposal of carcasses in the Bering Sea only. She urged quick approval of the bill.

Number 333

Larry Cotter, President, Local - International Longshoremen and Warehousemen's Union, stated he was unsure of supporting the committee substitute but did support allowing herring stripping to continue in Bering Sea.

Number 367

Representative Marrou asked Mr. Cotter what he sees as environmental concerns with

herring stripping. Mr. Cotter discussed pollution and the potential of full utilization of the herring resource including roe extraction, herring carcasses and employment opportunities.

Number 416

Clements Ady, Director - Special Projects, Chugach Alaska Fisheries stated their primary business is processing seafood from Prince William Sound and Cook Inlet and testified support of herring roe stripping and expansion of the industry. All herring produced in the State of Alaska, he continued, is sent to Japan in some form. There is no other market in the world to his knowledge for herring, including fish meal. The herring produced in the State of Alaska is transported out of Prince William Sound to Korea or Canada for stripping; the Japanese have a quota on the importation of frozen herring. He continued that Alaska processors are in the same position again as when the Japanese initially purchased all the seafood plants and feels that a major reason for the decline in Alaska fisheries is because of the stranglehold the Japanese have on plant facilities. If the processors were able to strip herring, he continued, depending on the way the product is graded, they would get four times the present value by doing their own production.

CHANGE TAPE #11 TO SIDE TWO

Number 023

Jerry Abramczyk, testified in behalf of Representative Pignalberi - prime sponsor of HB 260, and began with preparatory remarks regarding introduction of the bill and possible defects in existing state statute. He continued that in state statute, the clear intent of the state has been to prohibit the stripping of roe and an exception to policy is needed; by repealing Section 1, Chapter 27 SLA 1980 the business of the state can continue more clearly to enhance the herring industry.

Number 191

Representative Marrou said it was his understanding of the bill and legal opinion that if HB 260 is passed it would ban herring stripping and asked what specifically is the intent of the sponsor.

Number 392

This is a verbatim transcript of the

testimony of Mr. Henry Oyoumick, chairman of 3NC Fisheries before the House Resources and Special Committee on Fisheries joint comm.'ttee meeting March 13, 1985.

"My name is Henry Oyoumick from Unakaleet 3NC Fisheries and I'm chairman and what I'm going to do is give you a little history that we have been exposed to in herring fisheries and the Norton Sound Herring fishery has been ongoing substantially since 1979, although there were small amounts taken in '77 and '78.

Traditionally the process is that freezer ships and in the case of one buyer a processing boat will come to the Norton Sound with a large number of their own fishermen. The local fishermen will go out to the herring grounds and deliver to either their favorite buyer or to the closest tender boat. All of the herring will be brine chilled until they are transferre. to a larger freezer or processing boat. These herring will be brought outside of the area to such places as Seward or even to Korea for final processing. Irregardless of where they are brought as far as we know locally, essentially none of the herring is processed in Norton Sound area. There is no one hired by these outside processors from the local areas.

In 1981, the Norton Sound Fishermens' Cooperative tried processing herring on the ground in Unakaleet. The fishermen, all local, delivered herring from the herring grounds about 7 miles from the plant. The herring was salted and four days later split open to extract the eggs from the females. All of the male carcasses and the stripped female carcasses were stored until after all of the females were stripped. After rough finish packing of the roe was completed, the male and female carcasses were rolled in a combination of rice, bran and salt, delivered to Korean transfer boats and shipped to Korea where they were packed in their finished form.

Norton Sound Fishermen's Co-op records show that there were 571,075 pounds of herring salted, stripped and processed or close to 286 tons. Of this there were approximately 80% Number One roe recovery as compared with

most of the rest of the state. At this time this was a very high return meaning that there was a lot less of the smaller, immature or less valued roe extracted.

Although it was not originally planned nor part of the herring stripping contract, rather than dump the carcasses, our buyer decided that male and stripped female carcasses would be rolled in rice, bran, salt combination to be shipped to Korea to be sold there for food preparing. Except for approximately 50 tons of carcasses that had been sitting in the sun for a day or two all of the 286 tons were shipped. After asking the local people if they wanted the spoiled herring carcasses for food or dog food, only 50 tons or 17.5 % of the local catch was dumped in the Norton Sound. Further, it might interest you to note that the amount of herring dumped in the Norton Sound as opposed to the total catch for that year amounted to approximately 2% of the total catch for '81 which was, according to ADF&G records, 2,448 short tons area wide. Because of the short time of preparation the NFSC payroll records are sketchy at this point. We estimate that approximately \$40,000 was expended towards payroll for processing the herring in '81 as was done in 1980.

For your information, the Norton Sound Fishermen's Cooperative did not operate their plant after 1981 opting themselves instead to lease their plant to other operators. Irregardless, the impact that the stripping on Unakaleet was fairly substantial in labor, supplies, utilities and operations in general. It might interest you also, that those employees during the '81 season would not otherwise begin working until June 15 when our salmon season begins. All of these people draw unemployment during the off season because of lack of other employment.

In 1983 the 3NC Fisheries Incorporated decided to make another attempt at stripping herring. 3NC Fisheries is a joint venture fish buying, and processing for profit corporation made up of the village corporations from Unakaleet, Shaktoolik and Stebbins equally of which I am chairman.

We leased the fish plant from the Norton Sound Fishermens' Co-op annually, our primary goal is first to return a profit to our sponsoring village corporations and secondly to reap as much impact from the fisheries on our local economies. The latter reason was the reason for attempting stripping herring in Unakaleet again in 1983.

Perhaps a short explanation of herring fisheries trend would be in order at this point. Because of the rush of the fish coming into the area, and the worry by fishermen that the sitcord of approximately 20% of the biomass could be eaten up within 5-10 days. It is impossible anymore to expect fishermen to deliver fish 7 miles away from the fishing grounds. It is more economical for fishermen to stay with their nets, deliver to out of the area tender boats that are sitting within a quarter of a mile away at the most and return back to the cleaning of their nets again for another delivery.

Understanding this, plus the fact that many of the out of the area processors will not take fish from small 16 to 18 foot boats with a ton or less that many of our local fishermen out of necessity and further chose same processors would have started taking only 8% herring or better.

3NC tried a small stripping operation in '83. The results were fair. There were approximately 141,570 pounds of herring delivered to the plant in Unakaleet or approximately 71 short tons. Of this there was a realization of \$25,000 paid to the fishermen for that product and approximately another \$25,000 paid for labor and processing in handling the herring.

Because of the market conditions, the carcass from that product could not be sold. What we were essentially told was that we could have a 20¢ per pound product that would cost 40¢ per pound to ship to the market. Which made it not feasible to market the carcass as opposed to the 1981 situation for the co-op. Estimating that 7.6% of that roe, our total dumpage was approximately 66 tons into Norton Sound.

Even with this that amounted to less than 1.5% of the total harvest for Norton Sound which was 4,572 short tons, according to ADF&G figures.

3NC Fisheries and other organizations locally are again interested in local production of finished herring roe. As it was inferred earlier because of market conditions, it is impossible for the Norton Sound herring carcass to compete with other areas in the food and herring based products which is the prime reason for asking again for an extension of the ability to dump herring carcass into Norton Sound.

At a recent 3NC board meeting, it was agreed that 3NC would dump strip herring only in the Stebbins-St. Michael area of the fishing grounds, utilizing those local people for labor. I'm sorry I don't have specific statistics to pass on to you of their local economy, but I'm sure that each of you are familiar with the general conditions of the villages in our area. For your information, St. Michael's and Stebbins are not involved in salmon fisheries whereas the rest of the communities in Norton Sound are. Stripping of herring would then have a very positive impact on those communities. There is no other resource development in that area. Nor is there any other economy except for a local few jobs.

The general plan for operation is to collect fresh herring on a locally owned barge-tug boat combination. Local people would be used to separate the male and female as they are purchased. As time permits the females would be stripped and the finished roe product would be rough packed in brine to be shipped out by air for final packing. For those female products that cannot be stripped, which according to our calculations would be at least 50% of the females, those would be flown to Anchorage to be frozen and shipped overseas for final processing.

The barge tug operation holds approximately 300 tons of herring. Estimating that 50% of the herring purchases would be female, we would then have 150 tons of fresh female herring, of this approximately 75 tons would

be stripped and 75 tons flown to Anchorage for freezing. Being there is no market for the male carcass, we would then estimate that approximately 225 tons would be dumped into Norton Sound. These figures seem optimistic and seem out of proportion to our past experiences, we mean to give you as our estimate the worst possible scenario from the standpoint of having to dump herring. ADF&G estimates that this year that they would allow 3,740 short tons of herring to be caught in the Norton Sound. If 3NC were lucky to have the aforementioned production, the 225 tons of them would be approximately 6.4% of the total production of Norton Sound. Relatively speaking considering the overly optimistic forecast for our production, 6.4% seems rather a small dumpage, which would probably be naturally eaten up by the many varied bottom fish in the Norton Sound.

Our long term plans are continuing to develop the natural resources in our area, to develop the local economies in our communities. As has been done in the past, it is always our goal to sell the whole product for food and not realize wastage by dumping.

The logistics are such that we cannot compete at this point in time with other producing areas, the fact that the dollar is very strong in the foreign exchange is definitely not helping our efforts either. Our attempts are to make ourselves as self-sufficient as possible and I am here to pass on to you that our people given the chance will be very happy to eliminate some of the programs that are provided by the state.

Allowing our operation and were you to word it such that only locally owned entities and shore-based entities were allowed to dump herring and setting a maximum of 10% of the total harvest allowed to be dumped would lead our people towards that goal. And, I guess, in some of the questions that were asked earlier in relationship to both the CS 229 and the original I have had not I guess sufficient time to analyze both but it sounds as though from looking at either one I would probably prefer the original.

Thank you.

Number 562

Representative Navarre moved to pass committee substitute for HB 229 with individual recommendations. Representative Marrou objected. Committee substitute for HB 229 passed out of committee with individual recommendations. Representatives Thompson, Navarre, Hurley and Goll voted DO PASS, Representative Jenkins voted No Recommendation and Representative Marrou voted pass HB 229 only (not CS).

Number 567

The meeting was adjourned at 10:00 a.m.

TESTIMONY OF REPRESENTATIVE ADELHEID HERRMANN ON HB 229

BEFORE THE HOUSE RESOURCES COMMITTEE

MARCH 29, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I WOULD FIRST LIKE TO EXPLAIN THE LEGISLATIVE HISTORY OF THE STATE'S HERRING STRIPPING LAWS, AND THEN EXPLAIN TO YOU WHY I HAVE INTRODUCED HOUSE BILL 229.

THE SAC ROE FISHERY FOR HERRING IN ALASKA DEVELOPED IN THE LATE 1960'S AND EARLY 70'S, IN SOUTHEASTERN ALASKA, COOK INLET AND PRINCE WILLIAM SOUND, DUE TO AN INCREASE IN DEMAND FOR THE HIGHLY VALUED ROE PRODUCT ON THE JAPANESE MARKET. THERE WAS LITTLE FREEZING CAPACITY IN THE STATE AT THAT TIME AND THE DEMAND WAS FOR THE EGGS ONLY, SO THE HERRING WERE STRIPPED OF THEIR ROE AND THE CARCASSES WERE DISPOSED INTO THE WATERS NEXT TO THE PROCESSING PLANTS.

FOR THOSE OF YOU WHO ARE NOT FAMILIAR WITH THE PRACTICE OF HERRING STRIPPING, IT IS A PROCESS BY WHICH HERRING ARE HARVESTED IN THE SPRING, WHEN THEY ARE ABOUT TO SPAWN, PLACED IN A BRINE SOLUTION FOR SEVERAL DAYS, AND THEN THE EGGS ARE STRIPPED OUT OF THE FEMALE HERRING AND BOTH THE FEMALE CARCASSES AND MALE HERRING ARE EITHER DISPOSED OF, SOLD AS FOOD OR BAIT, OR PROCESSED INTO FISH MEAL AND OIL.

BECAUSE THE SAC ROE FISHERY DEVELOPED SO RAPIDLY DURING THE EARLY YEARS AND BECAUSE MOST PROCESSORS SIMPLY DUMPED WHOLE HERRING CARCASSES INTO THE BAYS ADJACENT TO THEIR PLANTS, IN SOME CASES KILLING THE BAYS AND CREATING BAD ODORS, MANY PEOPLE IN THE COASTAL COMMUNITIES OBJECTED TO THIS FISHERY.

RESPONDING TO THIS, GOVERNOR HAMMOND INTRODUCED LEGISLATION IN 1977 WHICH, IN ITS AMENDED FORM, BECAME THE ALASKA STATUTES 16.10.172 AND 173, WHICH PROHIBIT THE WASTE OF HERRING CARCASSES IN THE STATE. THESE STATUTES DO NOT PROHIBIT THE STRIPPING OF HERRING AS LONG AS THE CARCASSES ARE UTILIZED AS FOOD, BAIT OR FISH MEAL.

AT THE TIME THE GOVERNOR INTRODUCED THIS LEGISLATION, THE TOGIAK HERRING FISHERY WAS JUST BEGINNING AND THERE WERE NO OTHER COMMERCIAL HERRING FISHERIES IN THE BERING SEA. BECAUSE OF THIS, THE ORIGINAL VERSION OF THE GOVERNOR'S BILL CALLED FOR AN EXCEPTION TO THIS LAW FOR THE BERING SEA, UNTIL SUCH TIME AS THE COMMISSIONER OF FISH AND GAME DETERMINED THAT SUFFICIENT PROCESSING CAPACITY EXISTED IN THIS REGION TO ALLOW THE APPLICATION OF THE LAW WITHOUT CREATING UNDUE HARDSHIP.

THE SENATE AMENDED THIS SECTION TO PUT A TIME LIMIT ON THE BERING SEA EXCEPTION AND THE BILL PASSED BOTH HOUSES UNANIMOUSLY. HOWEVER, WHEN THIS LAW BECAME EFFECTIVE, THERE WERE MANY PROCESSORS IN THE STATE THAT WERE UNABLE TO COMPLY, AND IN ORDER TO TAKE ADVANTAGE OF THE FISHERY, THEY SHIPPED THE HERRING DIRECTLY TO JAPAN, IN THE ROUND, IN A BRINE SOLUTION, WITH THE RESULT THAT NONE OF THE ECONOMIC BENEFITS OF THE PROCESSING REMAINED IN ALASKA.

IN ORDER TO CORRECT THIS PROBLEM, THE LEGISLATURE PASSED SECTION 1, CHAPTER 27 OF THE STATE LAWS OF ALASKA IN 1980. THIS BILL DID THREE THINGS:

FIRST, IT REPORTED THE FINDINGS OF THE LEGISLATURE THAT IN CERTAIN CIRCUMSTANCES THE BENEFITS TO THE STATE OF ALLOWING HERRING STRIPPING OPERATIONS MAY OUTWEIGH THE WASTE INVOLVED IN THE PROCESS.

SECOND, THIS BILL OUTLAWED THE EXPORT OF HERRING FROM THE STATE WITHOUT IT FIRST BEING PROCESSED.

AND FINALLY, FINDING THAT THERE WERE STILL NO PROCESSING ALTERNATIVES FOR THE BERING SEA REGION, IT EXTENDED THE EXCEPTION FOR THIS AREA UNTIL 1982.

IN 1983, THE LEGISLATURE AGAIN SAW THE NEED TO EXEMPT THE BERING SEA FROM THE STATE'S HERRING WASTE STATUTES.

I THINK THERE IS A TENDENCY ON THE PART OF THE LEGISLATURE TO IMAGINE THAT DEVELOPMENT CAN OCCUR MORE RAPIDLY THAN IT ACTUALLY DOES. PEOPLE WHO HAVE BEEN INVOLVED WITH TRYING TO DEVELOP A SHORE-BASED BOTTOMFISH INDUSTRY IN ALASKA HAVE FOUND THIS AGAIN AND AGAIN.

THE FACT IS THAT IN THE BERING SEA THERE IS STILL A LACK OF FREEZING CAPACITY, THERE IS STILL NO FISH MEAL PLANT, AND IT IS STILL NOT ECONOMICAL TO PROCESS HERRING ON-SHORE IN MOST COMMUNITIES WITHOUT THE EXCEPTION TO THE STATUTES THAT HAS BEEN GRANTED SINCE THOSE STATUTES BECAME LAW. FOR THIS REASON, I HAVE INTRODUCED HOUSE BILL 229, WHICH WOULD CREATE SUCH AN EXCEPTION FOR A FEW MORE YEARS.

WHILE I'M HOPING THAT THIS WILL GIVE THE COMMUNITIES A CHANCE TO BUILD FREEZERS OR FIND SOME WAY TO USE THE CARCASSES, I CERTAINLY CAN'T GUARANTEE THAT AT THIS TIME.

WHAT HOUSE BILL 229 WILL DO, IF PASSED, IS TO GIVE 30 FISHERMEN IN TOGIAK A MARKET FOR THEIR FISH AND 45 TO 50 LOCAL PEOPLE JOBS IN THE PROCESSING PLANT. THIS INCOME COMES AT A TIME OF THE YEAR WHEN THERE ARE FEW OTHER SOURCES, AND THE LONG WINTER HAS DEPLETED FOOD SUPPLIES OR SAVINGS THEY MAY HAVE.

THE PROCESSOR WHO INTENDS TO OPERATE IN TOGIAK, KEMP-PAULUCCI, HAS JUST BOUGHT A PLANT THERE AND PLANS TO INSTALL FREEZERS, BUT THEY WON'T BE READY FOR THIS YEAR AND THEY MAY NOT BE READY UNTIL THE 1987 SEASON. THERE IS A LETTER IN YOUR PACKETS FROM KEMP-PAULUCCI, AS WELL AS FROM THE BERING SEA FISHERMEN'S ASSOCIATION, WHICH IS ASSISTING THE NELSON AND NUNIVAK ISLAND PEOPLE TO DEVELOP THEIR FIRST COMMERCIAL HERRING FISHERY THIS YEAR. THERE IS ALSO A LETTER FROM THE 3NC FISHERMEN'S COOP IN NORTON SOUND, WHICH ALSO WILL ONLY BE ABLE TO OPERATE IF HOUSE BILL 229 IS PASSED.

I UNDERSTAND THERE ARE PROCESSORS IN OTHER AREAS OF THE STATE THAT ARE ALSO INTERESTED IN GETTING AN EXCEPTION FOR THEIR AREA. I UNDERSTAND THEIR PROBLEM AND KNOW THAT THE COST OF SHIPPING CARCASSES TO A FISH MEAL PLANT DOES COST THEM SOME OF THEIR PROFITS, BUT THESE COSTS ARE NOT SO HIGH THAT THEIR OPERATIONS WOULD NOT BE PROFITABLE IF THEY COMPLIED WITH THE CURRENT STATE LAW.

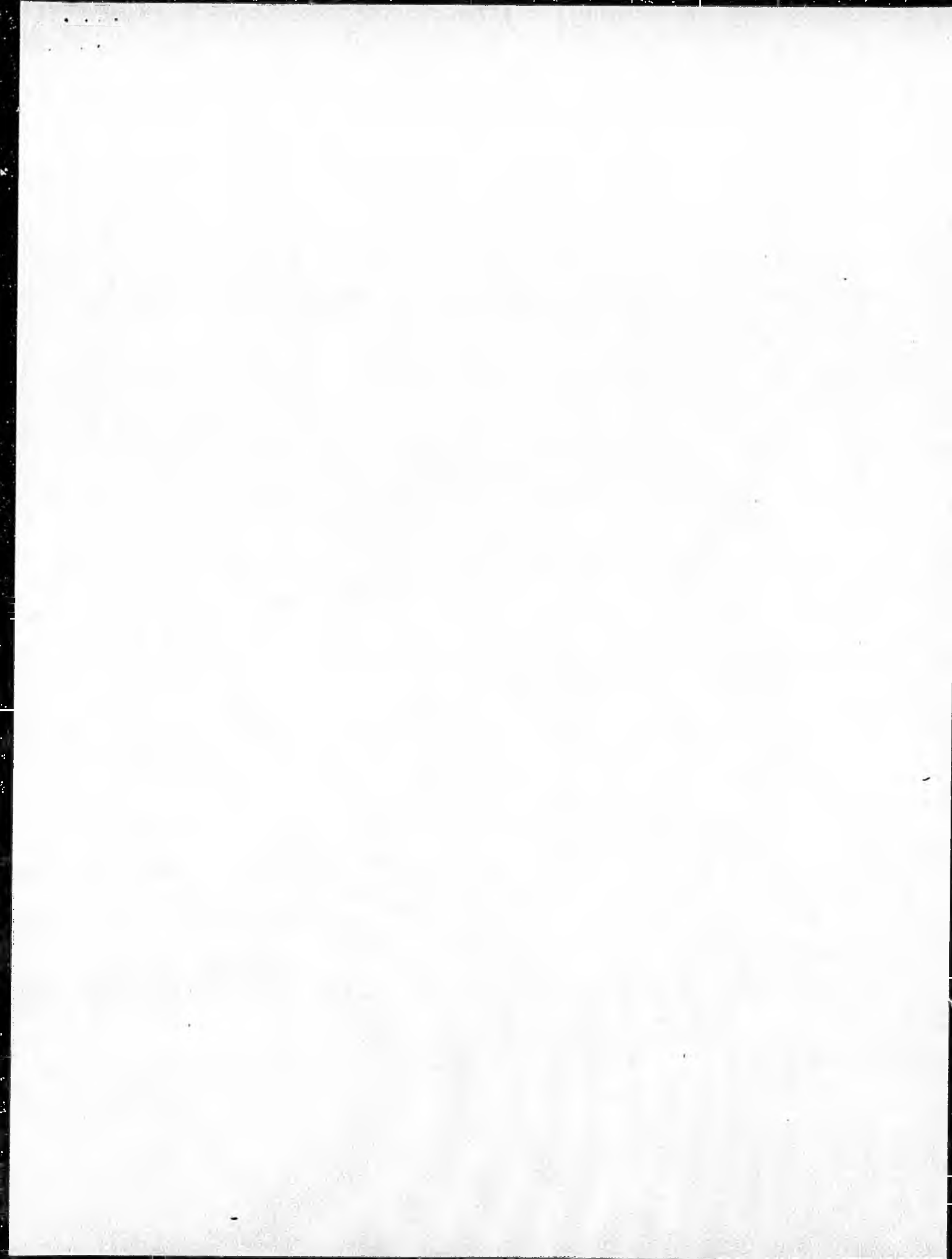
IN YOUR PACKETS YOU WILL FIND A DRAFT RESOURCES COMMITTEE SUBSTITUTE FOR HOUSE BILL 229, AS WELL AS AN ANALYSIS OF THE CHANGES IN THIS CS, COMPARED TO THE ONE THE SPECIAL COMMITTEE ON FISHERIES PASSED.

SECTION 1 OF THE RESOURCES CS SHOULD TAKE CARE OF THE CONCERNS OF THE FISHERIES COMMITTEE, BUT THE WORDING IS SIMPLIFIED SO THAT IT IS EASIER FOR THE DEPARTMENT OF FISH AND GAME TO IMPLEMENT.

SECTION 2 HAS BEEN CHANGED SO THAT ONLY PARAGRAPH (B) IS REPEALED. THIS SHOULD ELIMINATE THE QUESTION OF WHETHER AN EXCEPTION MAY BE CREATED FOR, SAY, A PROCESSOR IN SOUTHEASTERN ALASKA, AND AT THE SAME TIME, LEAVE THE INTENT OF THE 1980 LEGISLATURE ON THE BOOKS.

THE DRAFT RESOURCES COMMITTEE LETTER OF INTENT THAT IS IN YOUR PACKETS RESTATES THAT THE LEGISLATURE INTENDS THAT THE AUTHORIZATION PROCESS FOR BERING SEA PROCESSORS BE KEPT AS SIMPLE AS POSSIBLE. IN ADDITION, IT REQUESTS THE DEPARTMENT OF COMMERCE TO CONTINUE TO LOOK INTO NEW ALTERNATIVES FOR UTILIZATION OF HERRING CARCASSES IN ALASKA.

I'M ASKING FOR YOUR SUPPORT FOR THE DRAFT RESOURCES CS OF HOUSE BILL 229 AND THE LETTER OF INTENT, SO THAT THE LOCAL COMMUNITIES IN THE BERING SEA CAN BENEFIT FROM THE COMMERCIAL HERRING FISHERY IN THEIR REGION.





COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATING

P.O. Box 521, Cordova, Alaska 99574

March 7, 1985

Clemens A. Ady, Director
Special Projects
Chugach Alaska Fisheries, Inc.
4241 21st Avenue West, Suite 204
Seattle, WA 98199

Dear Clem:

Re: Herring Stripping

I have been asked by your local representative to provide comment on current restrictions on herring dumping in Prince William Sound.

As I understand the current interpretation of the statute concerning wastage of fish and game resources, "waste" of herring is defined as failure to use the carcass for things such as reduction to meal, fish or domestic animal food, human consumption, bait, etc.

I understand your company is currently supporting legislation to legalize dumping as an alternative primarily for economic reasons. I'll just relay a few observations on the situation:

1. The current restrictions pose a serious financial burden on herring processors. The economics of fully utilizing herring carcasses are at best marginal and in many cases prohibitive. Also, Japanese import quotas on round herring can present real market limitations.
2. The current restrictions significantly affect several coastal communities in Alaska in that they in effect make it non-profitable to strip locally and thus preclude the positive economic benefits of local processing.
3. The sac-roe fishery is an extremely important one both in timing and in the magnitude of economic benefits

4. Deep water dumping is probably one of the most economic alternatives available to processors.
5. Deep water dumping of stripped carcasses would not, in a strict marine ecological sense, constitute "waste" of organic material. The biochemical constituents of the carcasses will be rather quickly reincorporated into the marine food web that supports biomass production. If carcasses are dumped in deep water, a number of mechanical (wave action, turbulence, etc.), biological (bacterial digestion, grazing by other zooplankters and fish), and chemical (oxidation, etc.) processes will within a relatively short amount of time degrade all the material into its basic organic components which will then be reincorporated into either the benthic (bottom) or pelagic (water column) food webs. Such an addition of nutrients, especially the nitrates from degraded amino acids and proteins, could enhance phytoplankton production on a very limited scale, since most oceanic phytoplankton production seems to be limited by available sources of nitrate. It would be, in effect, fertilizing a very, very small volume of ocean water. The degradation process would be sped along by grinding the carcasses but will occur even if they are not ground. Larger chunks of carcasses might make their way into benthic food webs via crabs or bottom feeding fishes such as black cod, halibut, rockfish, etc. In a strict sense, the nutrient balance of Prince William Sound is being upset by continual removal of organic nutrients incorporated into both salmon and herring and could possibly even exceed the rate of usable nutrient input at specific times and places. If such a situation does indeed exist, then these localized nutrient deficits could actually be limiting the overall productivity of the Sound for things such as wild and hatchery-reared salmon fry, herring, etc. Any reintroduction of nutrients removed by commercial fishing, if done in the proper manner, could only help the productivity of the sound. The University of Alaska Institute of Marine Science presently is involved in a multi-

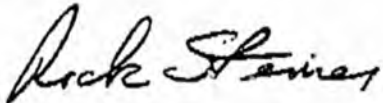
Mr. Ady
March 7, 1985
Page 3

institution program to study just such a process of nutrient cycling in the Bering Sea. The project is called ISHTAR.

6. The main issue in "wastage" of herring carcasses seems to be more moral/ethical than biological.
7. It would probably be to the long-term economic advantage of Alaskan processors to develop an economical means of fully utilizing herring carcasses, i.e., meal, ensiling, etc. I would be glad to help you analyze any of these alternatives.

If you have any questions on any of this or need any additional information, please give us a call.

Sincerely,



RICK STEINER
Assistant Professor of Fisheries

gf

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska 99574
(907) 424-3447 (907) 424-7473



3/29/85

Mr & Madam Chairman - Members of the committee:

While you are discussing CS for HB 229 we would like the Committee to consider including Prince William Sound in Addition to the Bering Sea. We request your consideration because by doing so you would be increasing the economy of Cordova, Valdez and possibly Whittier, increasing the price paid for the resource to Alaskan fishermen and subsequently increasing the revenues to the State via the rae fish tax.

The following is a list of reasons we feel are pertinent to your consideration

- 1- Current market conditions of stripped herring are far above the value of frozen raw herring.
- 2- Increased profits to processors means increased prices to the fishermen. Higher ex vessel prices means more raw fish taxes to the State.
- 3- Increased raw fish taxes return more revenue to the communities.
- 4- Under present processing restrictions local land based processors can only process about 20% of the 5000 ton herring quota.
- 5- With relief from the present restrictions the local land based processors could process up to 40 or 50% of the quota providing they can purchase that amount from the fisherman.

Cordova District Fisheries Union

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(2)

6- 5 of the 6 established land based processors on Alaskan owned corporations.

7- A large labor force will be required for a two week period rather than a small labor force for a one week period. Probably a four fold increase in labor requirements.

8- Because of the current market conditions - and if the necessary restrictions are not received much of this herring will be transported to Canada or the lower 48 for processing which will be a substantial loss to the local and state wide economy.

9- There are no objections by PWS residents to this proposal.
We urge your careful consideration of this proposal

Thank you

Bob
Bluh



Grand Camp
Alaska Native Brotherhood

P.O. Box 76
Angoon, Alaska 99820

March 15, 1985

Honorable Peter Goll
Alaska State House of Representatives
Alaska Capitol Building Pouch V
Juneau
Alaska

Re: CSHB 229

Dear Peter:

This is to confirm my phone call to you in which I expressed my feeling on the CSHB 229 concerning the "Stripping of herring." This is a bad bill and should not be put into law. It allows special Privilege to a small area and will be discriminating to other communities that do not waste any part of the harvest of herring.

Only a small amount of "Roe" is taken from a large take of herring from the female species and if the males are included this becomes a large woton waste, this is not including the immature portion of the complete harvest of herring.

Unalakleet, Stebbins and Shaktoolik, has begun to fish herring commercially since 1979 which is about six years ago and still do not have a freezing plant to handle their harvest makes us stop to think if there will be any at all.

The bill SBHB 229 if passed will open the doors to other areas to "strip for the Roe" only. This is what we should stop from becoming law before results in depletion of the herring population in our State. We should prevent the practice of stripping herring for the "Roe only" from spreading to other areas of our fishing industries which depends on herring.

All species of fish follow the herring and feeds on it, and where there are no feed there are no salmon. We should do all we can to preserve our herring stock.

Let me touch on Personal use, fishing. There are still those that depend on fish for a living. There are those that cannot get a job during the winter months that have to put up enough fish for the hard winter ahead. So when you vote on personal use fishing bill please remember these people when you vote, this is my plea.

Yours with best regards,


Cyrus E. Peck

Grand Secretary Emeritus
Alaska Native Brotherhood

cc: file &
the Senate

Past ANB Grand Presidents
Dr. Alfred Widmark
Patrick J. Paul
Thomas Jackson

John Hope
Frank See
Dr. Walter Soboleff

Richard Stitt
Steven V. Hotch
Nelson D. Frank

Frank O. Williams
Herbert Hope
Robert A. Martin

Roy Peratrovich, Grand President Emeritus
Dr. Cyrus Peck, Sr., Grand Secretary Emeritus
Dr. Mildred Sparks, ANS Grand President Emeritus

Introduced: 3/4/85
Referred: House Special Committee
on Fisheries and Resources

1 IN THE HOUSE

BY PIGNALBERI BY REQUEST

2

HOUSE BILL NO. 260

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to legislative policy on herring
7 stripping; and providing for an effective date."

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

9 * Section 1. Section 1, ch. 27, SLA 1980 is repealed.

10 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
11 10.070(c).

Article 3. Herring Spawn.

Section

- 172. Legislative policy on utilization of herring
- 173. Utilization of commercially taken herring
- 175. Removal of herring from state

Sec. 16.10.140 — 16.10.170. Taking of herring spawn; exceptions; certain restrictive covenants; penalties. [Repealed, § 2 ch 91 SLA 1970.]

Sec. 16.10.172. Legislative policy on utilization of herring. The legislature finds the following: (1) extensive and valuable herring populations are available for harvest in waters subject to the jurisdiction of the state; (2) commercial markets are available for herring processed in several forms; (3) one processing technique presently employed involves deliberately permitting decomposition of the herring carcass to allow for removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded. The legislature declares that the process referred to in (3) of this section is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the legislature that this process should be eliminated to the fullest extent possible. (§ 1 ch. 9 SLA 1977)

Editor's notes. — Section 1, ch. 27, SLA 1980 provides: "LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING. (a) Notwithstanding AS 16.10.172, the legislature finds that in certain circumstances the processing technique described in AS 16.10.172(3), commonly referred to as "stripping", provides benefits of such importance to the state economy that the benefits may outweigh the waste involved in the process.

"(b) It is the policy of the legislature that notwithstanding AS 16.10.173 the

disposal of herring carcasses is acceptable only if

"(1) the herring is taken from waters in which the herring population is large enough to support a stripping industry without substantially reducing the availability of the herring for other uses; and

"(2) the stripping process is conducted in an area of the state where local industry either does not exist or, if it does exist, it is insufficient to provide reasonable economic support to the people who live in the area."

Sec. 16.10.173. Utilization of commercially taken herring. (a) A person may not waste or cause to be wasted any commercially taken herring. For purposes of this subsection, "person" has the meaning given in AS 01.10.060 and also includes a joint venture.

(b) As used in this section, "waste" means the failure to use the flesh of commercially taken herring for reduction to meat¹ production of fish food, human consumption, food for domestic animals, scientific or educational purposes, or round herring bait. Normal, inadvertent loss of flesh associated with the uses described in this subsection which cannot be prevented by practical means does not constitute waste. The com-