ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3564 HRES HB 312 - HB 383

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Table 1. Summary of nine fall/winter bird surveys of Gustavus beach, 1981-82 (total no. of observations).

Species	Beach Subunit I	II	III	IV	V	VI	VII	VIII	Total
Common loon				1		2	1		4
Horned grebe				2	4	10	15		31
Whistling swan	1								1
CANADA GOOSE	528	140	270	355	341	14	377	193	2,218
MALLARD	469	369	482	48	293	260	1,055	134	3,110
PINTAIL	75	60	26		21	37	37	190	446
GREEN-WINGED TEAL	169	68	8	40	28		33	12	358
Blue-Winged Teal							3		3
Shoveler							6		6
WIGEON	232	230	183	153	162	130	68	51	1,209
Goldeneye spp.	7				4	5	10		26
Bufflehead			3		4		2	8	17
Harlequin	4								4
SURF SCOTER	2,705	200				20			2,925
MERGANSER SPP.	300	18	263	123	63	604	168	3	1,542
Sharp-shinned hawk	1								1
Rough leg hawk						1	1		2
BALD EAGLE	16	6	4	9	10	2	5	14	66
Marsh hawk	5	5	2	1		1	6	1	21
Merlin		1	1				3	2	7
G. blue heron							2		2
SANDHILL CRANE	P							6	6+
Semipalm. plover	10								10
Killdeer			3						3
Golden plover		61				2	2		65
Black bell. plover	22						8		30
Bar-tailed godwit	6								6
Snipe							1	2	3
Yellowlegs spp.			6						6
ROCK SANDPIPER	812	122					385	206	1,525
"Peeps"[1]	68	80			7		570	45	770
Pectoral sandpiper	104	74	6	65			22	17	288
Dunlin	12	184					75		271
DOWITCHER	15	168	53	95	15		29	160	535

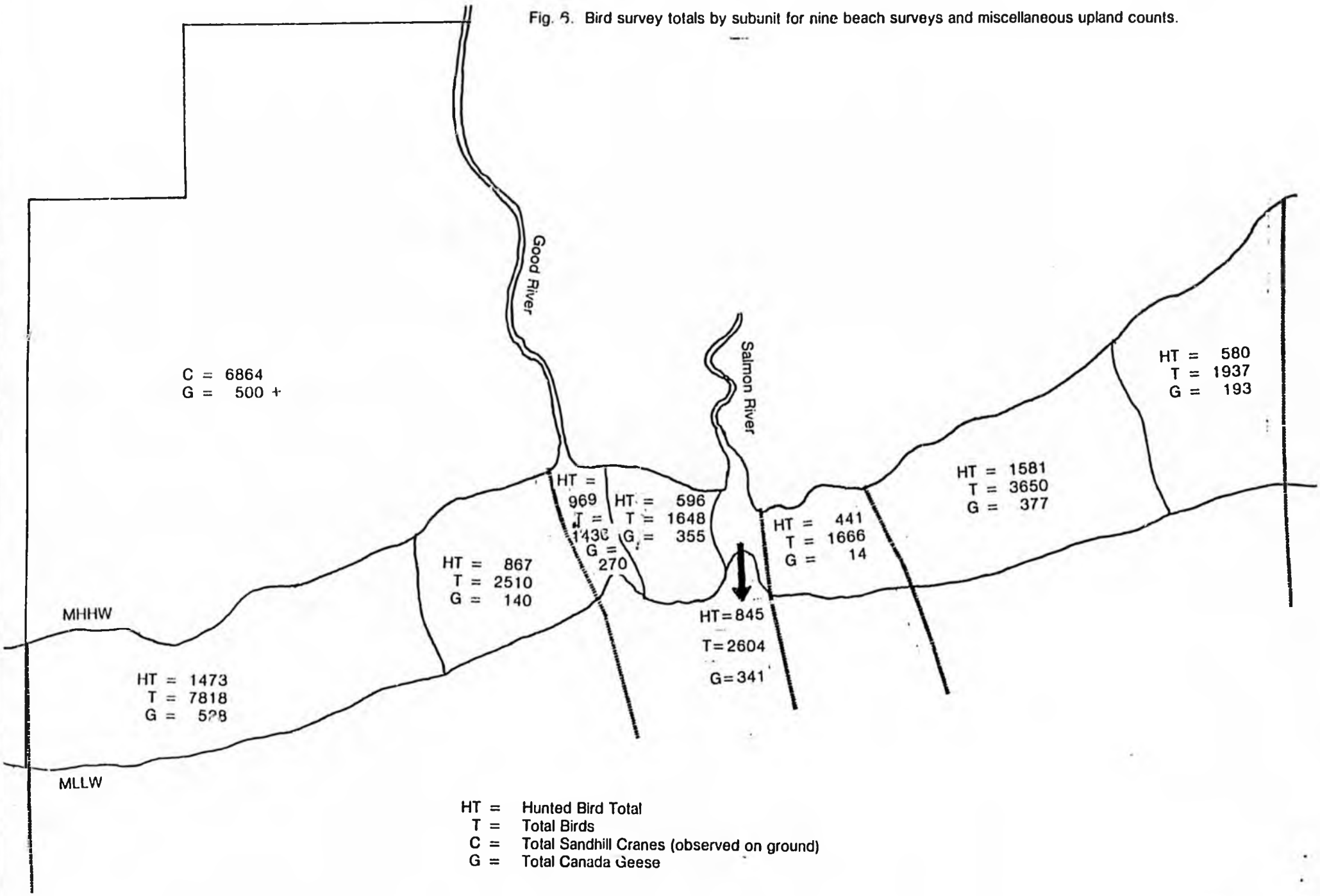
Table 1 (Cont'd). Summary of nine fall/winter bird surveys of Gustavus beach, 1981-82 (total no. of observations).

Species	Beach Subunit I	II	III	IV	V	VI	VII	VIII	Total
SANDERLING	357		40	46		6	193	238	899
Parasitic jaeger						1	1		9
GLAUC. W/HERRING GULL	489	127	37	87	296	130	184	78	1,419
MEW GULL	990	304	21	523	371	100	227	319	2,855
BONAPARTE'S GULL	99	63	18	116	187	45	59	185	772
Bl. leg. kittiwake				3	403				406
Short-eared owl							1		1
Kingfisher			1		1				2
Magpie	3		4		1				8
Raven	5	2	4	3	5	7	2	1	30
N.W. crow	2	30						2	34
Ch. bk. chickadee	P								P
N. shrike			1						1
Savannah sparrow	P								P
Fox sparrow	P								P
Tree sparrow	6								6
Water pipit	P								P
Snow bunting	3				40	300			343
Longspur	160+						100	70	330+
W. front goose							2		2
Uni.D. Ducks	152	6		8	352	1			519
Plover sp.	2								2
TOTALS: Hunted Species	1,473	867	969	596	845	441	1,581	580	
All Species	7,821	2,350	1,436	1,672	2,608	1,678	3,653	1,937	

[1] Western, least and Bairds sandpipers.

P Present but uncounted.

Fig. 6. Bird survey totals by subunit for nine beach surveys and miscellaneous upland counts.



HT = Hunted Bird Total
T = Total Birds
C = Total Sandhill Cranes (observed on ground)
G = Total Canada Geese

Table 2. Timing of bird species occurrence on Gustavus beaches, 1981-82.

Species	September Week 1	2	3	4	October Week 1	2	3	4	November Week 1	2	3	4	December Week 1	2	3	4	January Week 1	2	3	4	February Week 1	2	3	4	March Week 1	2	3	4	Probable Status*
Common loon																	X				X				X				1, 4
Horned grebe			X		X																X				X				1, 4
Whistling swan							X																						1
Canada goose	X	X	X		X	X	X		X	X	X				X		X				X				X				0, 1, 3
Mallard	X	X	X		X	X	X		X	X	X				X		X				X				X				0, 1, 3
Pintail	X	X	X		X	X	X			X																			3
Green-winged teal	X	X	X		X	X	X																						0, 1, 3
Blue-winged teal	X	X	X		X	X	X		X	X	X				X		X				X				X				3
Shoveler	X																												3
Wigeon	X	X	X		X	X			X	X	X				X		X				X								1, 3
Gadwall		X																											3
White-fronted goose	X																												3
C. Goldeneye																					X								1, 4
B. Goldeneye																													1, 4
Bufflehead							X				X				X		X								X				2
Harlequin																	X												0, 1, 4
Surf Scoter																	X				X								0, 1, 4
C. Merganser			X		X	X	X								X		X				X								1, 3
Red-breasted merganser	X	X	X		X	X	X		X	X	X				X		X				X				X				0, 1, 3
Sharp-shinned hawk	X	X																											3
Rough leg hawk	X																												3
Bald eagle	X	X	X		X	X	X			X	X				X		X				X				X				0, 1
Marsh hawk	X	X	X		X	X	X																						3
Merlin	X	X	X																										3
G. blue heron	X																												4
Sandhill crane	X	X	X																										3
Semipalm. plover	X																												3
Killdeer			X																										3
Golden plover	X				X		X																						3
Black bell. plover			X				X																						3
Bar-tailed godwit			X																										3
Snipe					X	X																							3
G. yellowlegs	X				X																								3
Rock sandpiper							X				X				X		X				X				X				2, 3

Table 2 (Cont'd). Timing of bird species occurrence on Gustavus beaches, 1981-82.

Species	September Week 1 2 3 4	October Week 1 2 3 4	November Week 1 2 3 4	December Week 1 2 3 4	January Week 1 2 3 4	February Week 1 2 3 4	March Week 1 2 3 4	Probable Status*
Pectoral sandpiper	X X X	X X						3
Western sandpiper	X X X							3
Least sandpiper	X X							3
Dunlin	X X X	X X						3
Dowitcher	X X X	X X						3
Sanderling	X X X	X X X	X X	X	X	X	X	1, 3
Parasitic jaeger	X							3
Glaucus W. gull	X X X	X X X	X X X	X	X	X	X	0, 1, 3
Herring gull	X X	X X X		X	X			1, 3
Mew gull	X X X	X X X	X X X	X	X	X	X	0 1, 3
Bonaparte's gull	X X X	X X X						0, 3
Bl. leg. kittiwake	X	X X						0, 3
Short-eared owl		X						0, 3
Kingfisher	X							1
Magpie	X X	X		X		X	X	0, 1
Raven	X X	X X	X X	X	X	X	X	0, 1
N.W. crow	X		X	X				0, 1, 4
Ch. bk. chickadee			X					4
N. shrike					X	X		2, 4
Savannah sparrow	X							0, 3
Fox sparrow	X							0, 3
Tree sparrow			X					4
Water pipit	X	X						3
Snow bunting		X	X X		X			2, 3
Lap. longspur	X X X	X X						3

* - based on authors' general knowledge of the area.

0 - summer/fall resident.

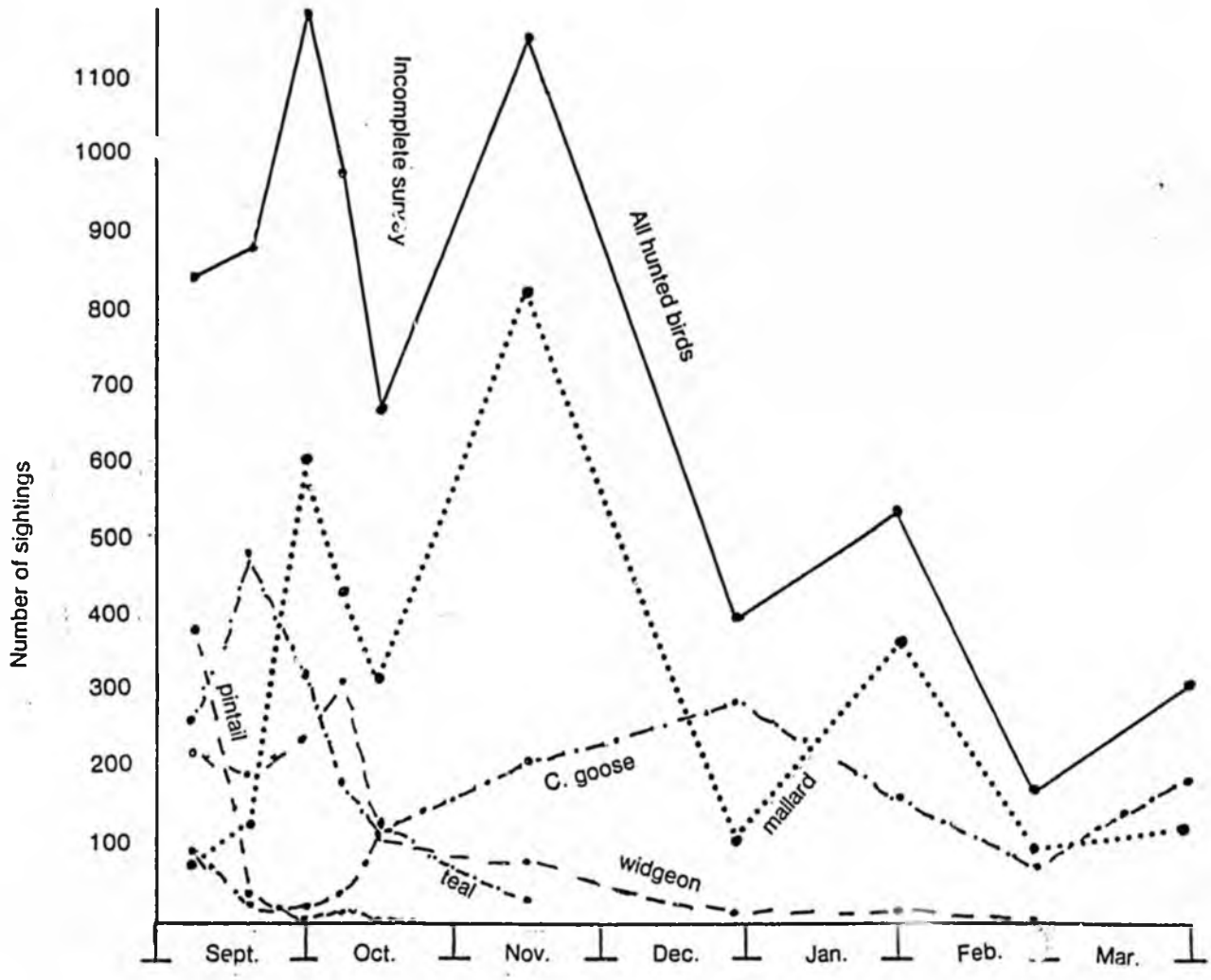
1 - fall/winter resident.

2 - winter resident.

3 - migrant.

4 - in neighborhood, but seldom in study area.

Fig. 7. Numbers of hunted bird species counted during fall/winter surveys of Gustavus beaches. 1981/82.



Avian Use Patterns - Late Winter and Spring:

Systematic foot surveys ended April 1, 1982. Information on bird populations and distribution for late winter and spring is based on our general knowledge and specific opportunistic observations.

Winter 1981-82 had few thaws and all but the upper beaches were generally coated with ice into March. In early April the upper beaches had thawed, providing foraging habitat for early migrant waterfowl and songbirds. Shorebirds began arriving in late April. By early May many species were present, including several that were scarce or absent in fall (notably whimbrels and yellowlegs). Total shorebird numbers in spring appeared to exceed those of fall migrants; the peak of migration was probably in early May. In spring 1982 foraging in upland habitats by whimbrels, pectoral sandpipers, and dowitchers seemed unusually pronounced.

Spring migration included waterfowl that were scarce or absent during fall; examples were brant, snow geese, white-fronted geese, and harlequin ducks. Migrant Canada geese arrived in May, joining the residents of that species. All geese were found principally on upper beaches and in grassy upland meadows. Marsh hawks and short-eared owls also were prominent in these open areas.

Migration appeared to be over by early June. Our visits to the study area during summer were too limited to provide the basis for generalizations. However, it would appear that the study area is not critical nesting habitat for any shorebird or waterfowl species.

Avifauna of the Dude Creek Uplands:

Sandhill cranes were the focus of our observations in these uplands. They occurred in large numbers, especially during fall migration (see species accounts below). In the course of crane observations and during winter mammal surveys, data on other birds also was accumulated.

In general, fall and winter bird populations were sparse and poor in species diversity on the uplands. Ravens, magpies and eagles occupied the area in small numbers, and the songbirds typical of Gustavus at this time of year (notably chickadees and crossbills) were present.

Pectoral sandpipers and snipe occurred in modest numbers during migration. Geese of several species, but primarily Canadas, used the meadows in some number during spring and fall; the largest single observation was of 290 Canada geese on 19 September 1981.

In spring, snipes' territorial displays were prominent over the Dude Creek meadows. This species, along with least sandpipers and savannah sparrows, nested there during summer.

Avian Species Accounts:

Sandhill Crane.

The magnitude, location, and timing of use by migrating cranes was documented during fall 1981. Observations showed that a minimum of 12,899 cranes passed through the Gustavus area during this period (Fig. 8). Of these at least 6,870 landed, nearly all of these on the Dude Creek uplands. Small groups were also reported from the upland meadows near Gustavus Chapel, Rink Creek and Salmon River, and six were observed on the upper beach in subunit VIII. About 3,500 that overflew Gustavus appeared to have taken off from the Carolus or Dundas areas of Glacier Bay National Park.

Most cranes observed on the ground were west of Dude Creek (5,926), but the distribution of sign, and discussion with the Prouty family (who can see the eastern Dude Creek Meadows from their home), indicated that substantial use occurred throughout. Use of the open meadows was considerable, but a substantial amount of activity also occurred at meadow margins, even when the mosaic of brush and scrub forest precluded long views. Sightings were scattered, suggesting that no particular localities were consistently favored.

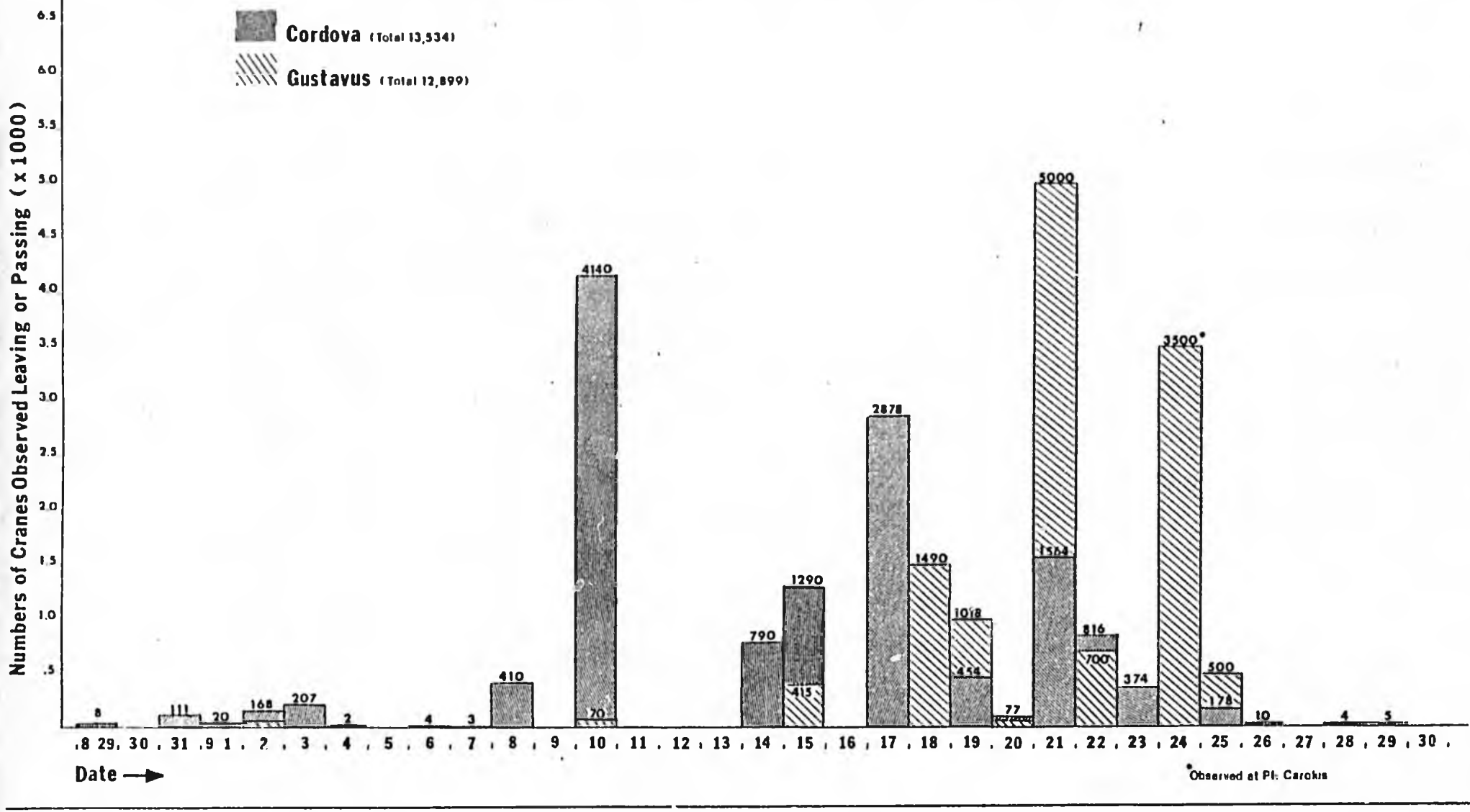
The small number of scats and probings found, even in areas occupied previously by large flocks, indicated light feeding activity, but more observations are needed to confirm this. Food preferences were not determined.

The fall 1981 crane migration occurred almost entirely during September (Fig. 8). Flocks moved through in pulses, often just after a period of bad weather and during either calm or northerly winds. Typically, large flocks arrived during the evening, then lifted off in late morning or early afternoon the next day.

Although they cannot be considered complete, our count totals are remarkably similar to those of Dale Herter's (University of Alaska) research group for the eastern Copper River delta (Fig. 8). This similarity, plus the temporal differences in occurrence of peak numbers observed, strongly suggest that the two counts refer to substantially the same population of birds. If so, the shift in peaks indicates that cranes took about a week, on average, to move from the eastern Copper River delta to the Gustavus area.

Observations of cranes during the spring of 1982 were infrequent and opportunistic; they provide an incomplete picture of this migration period. Cranes were first observed on 21 April and last seen in number on 21 May, although a group of three stayed at Gustavus into July. The spring migration seemed less voluminous than that of the previous fall; however, the recorded spring total of 1,295 is certainly an underestimate.

Fig. 8. **Observed Timing and Magnitude of Crane Migration Past Cordova and Gustavus, Fail 1981**



A single foot survey of the Dude Creek uplands during spring 1982 (27 May) documented the presence of 530 cranes in the eastern meadows. Sign of other crane activity was found at that time both to the east and west of Dude Creek. The Proutys reported frequent crane activity in the eastern meadows within view of their property throughout the spring migration period.

Canada Goose.

Canada geese were resident in the study area, but did not appear to nest there. Only a few evidently unpaired birds were observed during the summer, but our observations were too few to be conclusive in this respect. Goose numbers appeared to increase to some extent during fall, perhaps mainly due to the return of local birds (little of the increase was due to the influx of the small-bodied races). By early December the populations consisted of the winter residuum which on 27 December 1981 numbered at least 265 birds, judging from the counts made that day in subunits IV and V.

Canada geese used all beach subunits as well as upland areas (Table 1), but the distribution of concentrations varied. Some of the variation appeared seasonal. The Dude Creek uplands were deserted by geese when frozen up in winter, while up to 308 were counted in this area during the September 1981 crane surveys. Eastern beaches were deserted during mid-winter, but were concentration areas during fall. It was likely that many geese left for other areas (such as Bartlett Cove in Glacier Bay National Park) during mid-winter cold snaps. In March, goose activity increased on the upper beaches as thaws opened the seaward edges of the sedge meadows.

Some distributional changes may have been related to human activity, however. Geese tended to frequent the more remote beach subunits during fall. During winter and early spring, when hunting, boating and hiking were at a minimum, there was a tendency for the geese to return to the central estuaries and beaches.

This supposition is supported by observed goose sensitivity to human presence. During surveys, geese typically occupied sites with long views. They flushed readily and repeatedly at a distance and often moved to peripheral beach units or left the area altogether.

Mallard.

This species was present throughout the study period. Non-breeders were often observed during summer, and it was likely that a few nested along the upland streams and marshes of the study area. Numbers of mallards swelled dramatically in late September 1981, stayed at high levels through November, then declined to a winter population of no less than 150 individuals (subunits I, II, III; 2 February 1982). During the fall period, mallards were almost as numerous as all other hunted waterfowl species combined (Fig. 7).

Mallards were common in all beach subunits except the central sand beach, exclusive of Glen's Ditch (Table 1). They were spread through all beach habitats, being especially common along sloughs and estuaries. Mallards (and pintails) occupied the middle beach more frequently than any other duck species. No seasonal shifts in distribution were perceived. Distribution patterns suggested little tendency to avoid areas of human activity.

Human presence appeared to have less effect on mallards (and other Anatinae) than on Canada geese. Although ducks flushed readily, they often doubled back to the same area after the disturbance (hiker, boater, etc.) had passed.

Other Anatinae (Pintail, Wigeon, Teal).

Although all of this group were common spring and fall migrants, they were relatively uncommon in summer months. None were found to nest in the study area.

During migration, these ducks were spread throughout the beach subunits (Table 1). However, there was a general preference for estuaries and sloughs.

Pintails were notable early fall migrants in 1981. Conceivably, many had moved through the area before beach surveys began in early September (Fig. 7). Of all waterfowl, this species showed the greatest tendency to occupy the sedge meadows of the upper beach. By late September, pintails were nearly absent and their ecologically similar relative, the mallard, was appearing in number.

Teal appeared to arrive in two waves during fall migration: one at or before the beginning of the survey period and another in October (Fig. 7). By late December they were absent. Nearly all teal were green-winged, although some blue-winged teal were recorded. The relatively low teal count numbers were surprising.

The abundance of the American wigeon also appeared somewhat bimodal. Wigeons were always more numerous than teal and persisted in small numbers through most of the winter. Wigeon and teal densities appeared to shift from central estuaries to the more remote beaches in October, perhaps in response to human activity.

Surf Scoter.

Surprisingly, this was the only species of scoter recorded in the study area; white-winged and black scoters are also present in the Icy Passage area. Surf scoters were often observed in large rafts just offshore. During winter they were found in the rocky shallows of the western beach subunits on several occasions. Most likely they were feeding on organisms of the mussel-barnacle community found on these rocks and almost nowhere else in the study area.

Merganser (Red-Breasted and Common).

These ecologically similar species are combined here because of difficulty in field separation.

Both species occurred the year around, and a few may have nested in the study area. They were present in number during spring migration, when they congregated around the salmon river estuary, presumably feeding on sandlance and salmon fry.

Substantial groups (primarily red-breasted) occurred during fall in the larger estuaries and low-intertidal margins. Mergansers were among the few species that frequented the central sand beach unit.

Bald Eagle.

Adult and immature eagles occurred the year around in the study area, but were not found to nest there. The Proutys, however, suspect the presence of a nesting pair near the lower margin of the Dude Creek meadows. At least four individuals were present in the study area during fall and winter.

Winter Shorebirds (Sanderling, Rock Sandpiper).

These were the shorebirds found in some number on winter beaches of the eastern and westernmost beaches. Although found in the same hundred yards of beach edge, there was some habitat separation. Rock sandpipers tended to occupy rocky patches, while sanderlings were often found in sandier spots. In the absence of rocks on eastern beaches, rock sandpipers tended to use spots with irregular surfaces such as the shell reefs of subunits VII and VIII.

Fall Shorebirds (Dowitcher, Least/Western Sandpiper, Snipe).

In early fall when sanderlings were scarce and rock sandpipers had not yet arrived, this group of shorebirds (except snipe) was common on study area beach margins and (unlike the winter shorebirds) along estuaries. They often occurred as mixed flocks that included the dunlin. Activity was centered on the silty or sandy intertidal flats.

By October most of these sandpipers were gone (Table 2), although dowitchers were found in small numbers through that month. Like many of the shorebirds, these species appeared to be more common during spring migration. They were essentially absent from the beaches during summer and winter, although least sandpipers appeared to nest in the Dude Creek meadows.

Migratory and summer resident/nesting snipe were conspicuous in study area uplands. Their spring displays were prominent over the Dude Creek meadows. Areas with considerable standing water were points of concentration for snipe in September and October.

Large Gulls (Glaucous-Winged Gull, Herring Gull).

These two closely related gulls often occurred together on study area beaches, the glaucous-winged being by far the most numerous. Neither was found to nest in the study area, but they (as a group) were abundant and ubiquitous the year round. Large flocks occurred in the spring and at times in the fall.

Their numbers on beaches were probably inversely related to the availability of "balls" of schooling capelin and sandlance offshore. These gulls foraged on all portions of the beach, being particularly active along the water's edge and along the flotsam lines left by recent high tides.

Mew Gull.

This abundant medium-sized gull was resident in the study area, and may have nested there in small numbers. It was commonly observed in large flocks, particularly in spring. Often it formed mixed flocks with other gulls, foraging on beaches and diving for schooling fishes. It was frequently observed immediately off the beach dabbling for small crustaceans in a few inches of water. Perhaps because of this plasticity in feeding strategy, it was found throughout the study area beaches in the largest numbers of any gull during fall and winter.

Bonaparte's Gull.

Non-breeding individuals of this small gull species were common during summer and fall. Bonaparte's gulls typically foraged in shallow waters, where they apparently concentrated on small fishes and invertebrates. Beaches appeared to be used only for resting sites: at this time the species formed large mixed flocks with other gulls, typically at estuary mouths.

Mammals

General Description:

Because of their generally secretive ways, mammals cannot be visually enumerated as readily as birds. Consequently, much of our data comes from analysis of sign. Because of the small volume of information accumulated per unit effort in this work, general observations from previous years were used to supplement 1981-82 data.

About 17 species of mammal representing nine families have been recorded from the study area. This faunal composition is typical of mainland northern southeast Alaska in most respects.

As the study area's physiography and vegetation are dynamic, so have been the mammal populations. Previously common species (e.g. fox) have died out and new ones (e.g. mink and moose) may be in the process of moving in. Those now established have demonstrated marked yearly variations. Few large mammals could be classified as "common", but a number of smaller ones could.

During the study period, general mammal densities appeared to be low to moderate compared to the previous few years. Densities were typically greatest along: 1) upper beaches, especially in the westernmost sununits remote from human settlement and adjacent to the rich Point Gustavus area, and 2) Dude Creek and portions of Good River, whose game trails link the western beaches with upland sites.

Species Accounts by Family:

Phocidae (Harbor Seal).

Seal population levels were high in the general area during our study. Consequently, up to a dozen seals were seen frequently in the study area despite scarcity of high-quality feeding or haulout habitat. The major estuaries, notably Salmon River, and western inshore waters were most often utilized. Occasionally, a few seals hauled out on the larger rocks of the western beach subunits.

Ursidae (Brown Bear, Black Bear).

Brown bears once occurred in the Dude Creek/western beach area and probably on far eastern beaches in the study area as well. The last record we know of was of a sow and cub along Dude Creek in the late 1960's.

Black bears were at low population levels during the study period; perhaps as few as 3 were present in the Dude Creek/western beach area. Bear tracks were seen on the beach only in subunit III. Sign was noted on the upper Good River and upper Dude Creek in fall 1981. Our last record was on 11 November 1981.

This was in contrast to 1979 and 1980 when black bear populations were higher and game trails along Dude Creek and Good River showed regular use. Highbush cranberries along these watercourses were heavily used by bears in those years.

Canidae (Wolf, Coyote, Red Fox).

There were apparently few wolves using the study area during fall/winter 1981-82. Sign of one to two wolves was occasionally noted along the Good River and two individuals were observed at the carcass of a winter-killed horse in February.

Wolf use of the Gustavus area is usually greatest when high population levels in the surrounding National Park combine with difficult winter conditions and low prey availability to force individuals into the proximity of people. This situation did not exist during our study, which perhaps accounts for the low level of documented wolf use.

Coyotes were the most evident large mammals of the beach; they or their sign were observed in all subunits. Although sign was not so frequently observed in the uplands and along watercourses, howling indicated the presence of coyotes in these areas during fall 1981 and

especially in February 1982 (during what is probably their mating time). Scats examined over the years suggest a broad diet emphasizing voles and birds up to the size of Canada goose and blue heron.

The relative prominence of coyotes during the study period underscores their apparent reciprocal relationship with wolves. Observations in past years have suggested that when wolves show regular use of the Gustavus area coyotes are less conspicuous.

Red foxes were once common in Gustavus, but declined around the 1920's, after coyotes became established. The last record in the Gustavus area was in 1968.

Mustelidae (Short-Tailed and Least Weasel, River Otter, Marten, Mink, Wolverine).

Short-tailed weasel sign was abundant, especially in the Dude Creek uplands in winter 1981-82. A recent decline in voles may have forced widespread foraging, notably in the semi-open Dude Creek meadows, where voles were the apparent target species. In previous winters, small tracks, possibly of the least weasel, were observed; however, the presence of this species has not been confirmed.

The often common river otter was relatively scarce in the study area during our period of observation. An otter was seen on lower Good River in September and tracks of one to four were observed on several occasions on the west, and central beach subunits II, III, and IV. Some sign was also noted on Dude Creek in winter. In other years "family" groups of up to six animals have been tracked and observed.

Because the light-footed and often arboreal marten leaves little sign under most conditions, its status is evident only when there is good tracking snow. Although marten can be numerous at times, the study period was a time of apparent average abundance. Tracks were scattered throughout forested areas of the Dude Creek uplands and associated meadow margins and occasionally crossed open meadows.

The mink has apparently moved only recently into the area, and is uncommon. Clear tracks were observed on 11 January 1982 along central Good River at the eastern edge of the study area.

The wolverine is also rare or absent in the study area. The most recent record from the area was on upper Dude Creek several years ago.

Cervidae (Moose, Deer).

Occasional moose wander through the Gustavus area from expanding populations to the north, but they have not yet become established. One set of tracks was observed in subunit VIII in September.

Deer are established on the Excursion ridge to the east and Pleasant Island to the south, but only one record exists for the study area. Sign was noted along lower Dude Creek once in the late 1960's.

Erethizontidae (Porcupine).

The porcupine has maintained relatively constant numbers in the study area over the past few years. Porcupine sign was observed in fall and early winter in several areas along Good River and Dude Creek where well-drained denning sites closely adjoin the lush swales preferred for foraging during the growing season. There are a few localized spots, especially along Dude Creek, where porcupine have caused some spruce tree mortality.

Sciuridae (Red Squirrel, Flying Squirrel).

Red and (presumably) flying squirrels are common only in the mature spruce forests along Good River and Dude Creek. Red squirrel populations fluctuate substantially; the study period appeared to be a time of "average" numbers. Flying squirrels are secretive and nocturnal; scattered observations were recorded at a feeder near Good River, but their abundance in the study area cannot be estimated.

Cricetidae (Voles).

Only the long-tailed vole was recorded from the study area, although certainly the red-backed vole and possibly the tundra vole occur as well. Long-tailed voles are at times very abundant in the Dude Creek and supratidal meadows. The last major population highs were about 1969 and 1974. A moderate peak occurred about 1980. A decline since that time put the population at generally low levels during the study period.

Soricidae (Shrews).

Shrews of undetermined species were noted in the study area. Dusky and wandering shrews have been collected from nearby localities, as has been a species of water shrew.

Domestic Animals.

Horses have grazed unrestricted for many winters in the upper beach meadows between the Good and Salmon Rivers. About eight individuals were present during our study. One animal that died of natural causes provided a considerable attraction for scavenging birds, coyotes and wolves.

No sign of domestic animals was seen in the Dude Creek uplands, except along lower Good River and in the immediate vicinity of Proutys'. Sign of dogs was noted occasionally in proximity to that of hunters or hikers, but we noted no instances of wide-ranging individuals. Domestic cats have been known to range into the meadow fringes on the west side of Good River.

FURTHER DISCUSSION AND CONCLUSIONS

In examining the conclusions of this report, the limitations of our data should be kept in mind. Survey methods were designed to generate indices of comparative abundance, rather than actual population estimates. The cumulative observation time was a small fraction of the total study period. And finally, this was a one-year study of a biological system notable for its annual fluctuations. Though we have included some inferences of change over longer periods, much more study is required before firm conclusions on most important topics would be warranted.

The Outlook for Cranes

As the Glacier Bay ice sheet began its retreat about 200 years ago, outwash rivers ceased their action. The Gustavus area, which had been a barren outwash plain, began to support vegetation. Since then progressive forestation has diminished the area of open meadow, until now only a relatively small proportion of Gustavus (primarily the Dude Creek uplands) remains open (Fig. 4).

Sandhill cranes clearly prefer to use the largest remaining wet, open meadows in the Gustavus area, a habit they adhere to elsewhere along the coastal flyway, as well as in the continental interior (Lovvorn and Kirkpatrick, 1981). Cranes have landed in Gustavus as long as the oldest residents can remember, although areas of concentration may have changed.

Areas remaining as wet meadows are those with the highest water tables. Natural creek entrenchment has lowered the water table in many areas and ditching has lowered it in others. Thus far, no ditches have been dug that interrupt the flow of ground or surface water into the Dude Creek meadows (although a new ditch will affect the country just to the southeast). Any lowering of the water table would accelerate the drying of the surface soils and the advance of forest into open meadows, a process already occurring naturally. Conversely, any activity raising the water table or directly removing trees and shrubs may enhance the habitat for cranes.

Despite the tendency for a few cranes to land in areas of heavy human use, a majority of cranes land in the most remote large meadows in Gustavus. This species also tends to seek remote sites in other areas along the Alaskan coast (notably the Copper River Delta) and in the continental United States (Lovvorn and Kirkpatrick, 1981). Cranes generally show strong fidelity to traditional landing sites (ibid. 1981), and the few that land in the Salmon River area may be the last adherents to an old pattern.

Currently, there is very little human activity on the Dude Creek uplands. Except for a single, newly-resident family, no one lives within sight of the principle crane landing areas. Should this situation change, the tolerance of cranes is uncertain, but very probably low. With substantial human activity or alteration of the upland habitat, abandonment of the area by cranes is a distinct possibility. The proposal for a subdivision at the southeast edge of the major eastern meadow is of concern in this context.

Birds of the Beach

Beach surfaces and landforms are kept youthful by wave action and isostatic rebound, both of which can be expected to continue into the forseeable future. Thus, the spectrum of plant communities and intertidal productivity should not change appreciably, although the positions of landforms and communities will change.

There is potential for various human modifications of the beaches. Ditching of uplands would probably channel more water into estuaries and reduce ground water moving through the beaches. The enlargement of existing estuaries might increase the carrying capacity of beaches for waterfowl, since these species seem to be attracted to water edge and large estuary habitat. For instance, Airport Slough and Glen's Ditch have both been enlarged by upland ditching and are important waterfowl habitat. However, ditching or vehicle rutting in sedge meadows may affect these valuable foraging areas detrimentally.

Extensive, uncontrolled use of beach areas by people, their machines, and their pets may also alter bird use of the area. Data suggest that mallards are quite resistant to human displacement; that wigeons and teal may be less so; and that geese likely respond to human presence by shifting their preferred use areas (at least during the hunting season). Current hunting pressure is not a problem because of the moderate number of hunters, limited access, and erratic presence of migratory birds.

Mammals

Although prediction of changes in mammal populations in response to possible habitat changes is difficult, certain general predictions seem warranted. Shrinkage of the Dude Creek meadows would mean reduction of long-tailed vole populations and a probable subsequent drop in short-tailed weasels and avian predators such as the short-eared owl and marsh hawk. The extension of forest might favor such species as squirrels, marten, and porcupine.

The clearest threat to mammals is habitat preemption by humans. In settled or intensely used portions of Gustavus, mammals larger than squirrels and weasels generally seem to be eliminated. Coyotes provide a partial exception to this rule, perhaps in part due to deriving protection from wolves in the vicinity of people. Yet, even they tend to avoid the most populous parts of Gustavus, including such prime foraging habitat as the Salmon River upland meadows.

Of particular concern are the corridors used by larger mammals to move between uplands and beaches. The major water courses and riverside forests provide such corridors in the Gustavus area. When interrupted by human settlement/activity, they become little used. The lower Salmon River has been almost completely disrupted as a corridor, and Good River and Rink Creek substantially so. Dude Creek is the last corridor to remain intact in the Gustavus area.

RECOMMENDATIONS

We have found no substantial cause for concern over present human activity in the study area. However, use appears to be increasing. Recent State land disposals and plans for development on private land suggest that this trend will continue. Future land disposal policy and management decisions will determine whether the wildlife and habitat values identified in this study are perpetuated.

We recommend that:

- Key wildlife habitat be retained in public ownership.

- Public lands in the study area be classified to protect and perhaps enhance 1) use of upland meadows by migrating cranes, 2) use of beaches and estuaries by migrating waterfowl, and 3) large mammal access to key habitat. In particular, plans for the area should,

  in the case of cranes:

  - avoid drainage of the Dude Creek uplands,

  - retain levels of human use compatible with continued occupation by cranes during fall and spring,

  - place special emphasis on protection of the major crane landing areas west of Dude Creek, and

  - allow for the future possibility of maintaining selected meadows free of encroaching brush and trees.

  in the case of waterfowl:

  - avoid upgrading access, especially to remote beach subunits,

  - provide Canada geese protection from excessive disturbance by foot or machanized traffic,

  - avoid drainage changes that diminish the extent or productivity of sedge meadows, and

  - provide for the channeling of any new upland drainage into existing sloughs and estuaries.

  in the case of mammals:

  - protect thoroughfare along Dude Creek, and

  - avoid improved access to western beach areas.

These recommendations do not comprise a complete or final list of requirements for successful wildlife management of the study area. For this reason, it is important that provisions be be made for monitoring the status of at least the cranes, geese and large mammals as a test of the effectiveness of future management strategies.

ACKNOWLEDGEMENTS

We thank Senator Richard Eliason for his concern over the fate of State lands in the Gustavus area and his support of research efforts. Don McKnight of the Alaska Department of Fish and Game was instrumental in assuring support for our efforts. Bob Howe provided information on his crane sightings in Gustavus. Dena Matkin assisted on several surveys, and Barb Streveler typed the original manuscript. Dara Miller, ADF&G typed the final report.

LITERATURE CITED

Lovvorn, J. R. and C. M. Kirkpatrick. 1981. Roosting Behavior and Habitat of Migrant Greater Sandhill Cranes. J. Wildl. Manage. 45(4):842-857.

Alaska Environmental Lobby, Inc.

204 N. Franklin Street, Suite 3 Juneau, Alaska 99801 907-586-2345

DUDE CREEK CRITICAL HABITAT AREA: HB312

Even the modest growth and development around small towns can have big consequences for the wildlife of Alaska. The case of Gustavus, in Southeast Alaska, is a good example. Half or more of the entire Pacific population of lesser sandhill cranes stop over in the Gustavus area during their Fall migration South. In years past, the cranes were dispersed over the whole Gustavus area, because wet meadows, their favorite habitat, were plentiful. But the construction of the airport and main roads, combined with natural forest succession, have severely reduced the wet meadows in the area. These meadows provided the cranes with rich food for their migration, shallow water for roosting, visibility for protection from predators, and remoteness from human activity. Most of the migrating cranes now concentrate in the Dude Creek area immediately west of Gustavus, one of the few areas where suitable meadows remain.

House Bill 312 would establish the Dude Creek Critical Habitat Area, for the protection and enhancement of the cranes and of the Dude Creek wet meadows, the key roosting area for the migrating cranes. The State owns almost all of the meadows--about 4100 acres presently managed by the Department of Natural Resources. The rest of the land (160 acres) is federally owned. Under the bill, the meadows would be open to public access, grazing, firewood harvesting, wildlife viewing, hiking and berry picking, as long as those activites didn't harm the cranes or their habitat. The Department of Fish and Game would develop a plan in consultation with the community of Gustavus and approved by the Board of Game for the management of the area.

Similar efforts to protect the flyway of the lesser sandhill cranes are being made in the four Pacific states, as well as in British Columbia. The concept of the Dude Creek Critical Habitat Area was endorsed in a community-wide referendum in Gustavus in January 1984, by a 66-25 vote. This bill has subsequently received the unanimous endorsement of the Gustavus Community Association.

The Alaska Environmental Lobby supports HB312 with enthusiasm. The sandhill cranes that stop over in Gustavus travel nearly statewide. Because of their distincitve profile, these handsome birds are often recognized at great distances as they fly. Although the critical habitat area is in Gustavus, it benefits all of Alaska.

Issue paper #5 prepared for the AEL by Brian Allen, 4/8/85

RECORDS CERTIFICATION

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James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)

HB

316

REPRESENTATIVE
SAM COTTEN
DISTRICT 15

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POUCH V, JUNEAU, AK 99811

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

MEMORANDUM

TO: Members of the House Resources Committee
FROM: Rep. Sam Cotten
RE: HB 316, an act relating to navigable or public waters
DATE: April 10, 1985

The purpose of this bill is to clarify the right of the public to use public and navigable waters, as created by the Alaska Constitution, Article VIII, Section 14.

Public and navigable waters are defined by statute, AS 38.05.965 (12) and (16). Basically, public waters encompass a very wide range of water bodies. Navigable waters are basically those waters that are susceptible for use in commerce, mainly navigation. All public waters are navigable but not all navigable waters are public. Public waters are those that may be important for any public purpose, including wildlife habitat.

This bill clarifies the public's right to use and have access over water. It creates a remedy, namely, misdemeanor sanctions for any obstructions of that public right.

Currently, courts are the only recourse. A public or private party that is obstructed faces the task of suing the obstructor in superior court. This can be very expensive. HB 316 will make this access right more easily enforced, providing the public with a clearer standard.

The bill does not guarantee or allow any access over private land, except to the entent already provided by AS 38.05.127 over state land.

There is one case currently being handled by the Department of Law concerning the obstruction across a passage along the Talkeetna River. The bill, if it becomes law, would expedite abatement of such an obstruction.

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Revisor's notes. — Formerly AS 38.05.355. Renumbered in 1984.

Sec. 38.05.965. Definitions. In this chapter, unless the context otherwise requires,

(1) "acquired land" means land belonging to the state including tide, submerged and shoreland which has been obtained by escheat, purchase, or any means other than by general land grant;

(2) "agricultural land" means land chiefly valuable for agricultural purposes;

(3) "commissioner" means the commissioner of natural resources;

(4) "department" means the Department of Natural Resources;

(5) "director" means the director of the division of lands of the Department of Natural Resources;

(6) "geothermal resources" means the natural heat of the earth at temperatures greater than 120 degrees Celsius, measured at the point where the highest-temperature resources encountered enter or contact a well or other resource extraction device, and includes

(A) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(B) the material medium, including the geothermal fluid naturally present, as well as substances artificially introduced to serve as a heat transfer medium; and

(C) all dissolved or entrained minerals and gases that may be obtained from the material medium, but excluding hydrocarbon substances and helium;

(7) "grazing land" means land chiefly valuable for grazing purposes;

(8) "industrial and commercial land" means land chiefly valuable for industrial trade, manufacturing or business use;

(9) "lieu and indemnity land" means land which the state is entitled to select under the provisions of 38 Stat. 1214, as amended (48 USC 353) or a similar statute to compensate for land in place of surveyed rectangulars, which have been lost to the state by reason of deficient sections, prior rights, claims, withdrawals, reservations and other appropriations;

(10) "mineral land" means land prospectively valuable for mineral deposits;

(11) "multiple use" has the meaning given in AS 38.04.910;

(12) "navigable water" means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdction, that is navigable in fact for any useful public purpose, including but not limited to water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes;

(13) "park and recreation land" means land chiefly valuable for public park and recreation use;

(14) "preference right forest lease" means a lease granted to a lessee whose United States Forest Service term special use permit was cancelled to allow the land under permit to be selected by the state;

(15) "preference right grazing lease" means a grazing lease granted to a lessee whose federal grazing lease was cancelled to allow the land under lease to be selected by the state;

(16) "public water" means navigable water and all other water, whether inland or coastal, fresh or salt, that is reasonably suitable for public use and utility, habitat for fish and wildlife in which there is a public interest, or migration and spawning of fish in which there is a public interest;

(17) "rule of approximation" is the rule which is applied in determining whether or not a lease complies with the area limits set forth in this chapter and regulations adopted under it and in keeping the boundaries of leased land coincidental with legal subdivisions; under the rule, if the area covered by a lease in excess of the permitted maximum is smaller than the area of any deficiency that would result by eliminating from the lease the smallest legal subdivision covered by the lease or application for lease, the excess area will be permitted to remain in the lease; if the excess area is greater than the deficient area would be, then the smallest legal subdivision will be eliminated from the lease;

(18) "shoreland" means land belonging to the state which is covered by nontidal water that is navigable under the laws of the United States up to ordinary high water mark as modified by accretion, erosion, or reliction;

(19) "state land" or "land" means all land, including shore, tide and submerged land, or resources belonging to or acquired by the state;

(20) "submerged land" means land covered by tidal water between the line of mean low water and seaward to a distance of three geographical miles or further as may hereafter be properly claimed by the state;

(21) "tideland" means land which is periodically covered by tidal water between the elevation of mean high and mean low tides;

(22) "timber land" and "material land" mean state land chiefly valuable for materials, including, but not limited to, sand, stone, gravel, pumice, common clay, or timber and other forest products;

(23) "university land"

(A) means

(i) all sections 33 reserved to the university under 38 Stat. 1214, as amended;

(ii) all land granted to or reserved for the benefit of the university that retains its designation as university land;

Section 11. Mineral Rights. Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

Section 12. Mineral Leases and Permits. The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

Section 13. Water Rights. All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

Cross reference. — See note to Alaska Const., art. VIII, § 15.

Legislative intent. — The provisions in this article were intended to permit the broadest possible access to and use of state waters by the general public. Wernberg v. State, Sup. Ct. Op. No. 972 (File No. 1797), 516 P.2d 1191 (1973), rehearing denied, 519 P.2d 801 (1974).

Section 14. Access to Navigable Waters. Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

Legislative intent. — The provisions in this article were intended to permit the broadest possible access to and use of state waters by the general public. Wernberg v. State, Sup. Ct. Op. No. 972 (File No. 1797) 516 P.2d 1191 (1973), rehearing denied, 519 P.2d 801 (1974).

The owner of the uplands has been stated to have the right of access for the purpose of navigation, but no right of possession of the land below high water mark as against another. 1959 Op. Att'y Gen., No. 1.

Free access may be exercised by means of wharf or other structure. — In Dalton v. Hazelet, 182 F. 561 (9th Cir. 1910), it was recognized that the right of free and unobstructed access may be exercised by means of a wharf or other structure over shoal water from the upland property to deep water. 1959 Op. Att'y Gen., No. 1.

Right to use foreshore. — The mere physical passage is not the only right involved in the right of access. The upland owner has the right to use the foreshore in such manner as is necessary for the complete enjoyment of his right. 1959 Op. Att'y Gen., No. 1.

Actionable use of tidelands. — Any use of tidelands in such a manner as to deny the upland owner access to the navigable waters would be actionable. 1959 Op. Att'y Gen., No. 1.

The Alaska Constitution allows the state to take riparian or littoral property rights for "beneficial or public uses" other than in aid of water navigation. Wernberg v. State, Sup. Ct. Op. No. 972 (File No. 1797), 516 P.2d 1191 (1973), rehearing denied, 519 P.2d 801 (1974).

Section 15. No Exclusive Right of Fishery. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State. [Amendment effective October 14, 1972]

Cross reference. — For provisions relating to the limitation of entry into the fisheries of the state, see AS 16.43.

Effect of amendment. — The amendment approved August 22, 1972 (7th Legislature's HCS CSSJR 10) added the last sentence.

This section was derived from the White Act, 48 U.S.C. §§ 221, 222. 1961 Op. Att'y Gen., No. 3.

The first judicial application of this constitutional provision should properly be by an Alaska court. Reetz v. Bozanich, 397 U.S. 82, 90 S. Ct. 788, 25 L. Ed. 2d 68 (1970).

The White Act merely expressed the common law in prohibition against exclusive fishing rights. Grimes Packing Co. v. Hynes, 11 Alaska 154, 67 F. Supp. 43 (D. Alas. 1946), vacated and remanded on other grounds, 12 Alaska 348, 337 U.S. 86, 69 S. Ct. 968, 93 L. Ed. 1231 (1949).

It did not permit a monopoly of fishing in Indian citizens as a conservation measure. Hynes v. Grimes Packing Co., 11 Alaska [illegible]

other grounds, 12 Alaska 348, 337 U.S. 86, 69 S. Ct. 968, 93 L. Ed. 1231 (1949).

Under the language of the White Act (48 USC § 222) the Secretary of Interior was prohibited from granting any exclusive or several right of fishery in favor of the Natives on the Karluk River on Kodiak Island. The court held that the prohibition against granting and exclusive right of fishery applied to commercial fishing by natives equally with fishing companies, and that the secretary could not grant to the occupants of an Indian reservation the privilege of exclusive commercial fishing rights. 1960 Op. Att'y Gen., No. 9, citing Hynes v. Grimes Packing Co., 12 Alaska 348, 337 U.S. 86, 69 S. Ct. 968, 93 L. Ed. 1231 (1949).

Constitutionality of ch. 186, SLA 1968. — See Bozanich v. Reetz, 297 F. Supp. 300 (D. Alas. 1969); Reetz v. Bozanich, 397 U.S. 82, 90 S. Ct. 788, 25 L. Ed. 2d 68 (1970).

Quoted in Metlakatla Indian Community [illegible]

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 316

Title: Navigable or Public Waters

Sponsor: Cotten,Shultz,MW Miller, & Phillips

Requestor:

Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources

Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected: Land & Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Mike Vediner

Phone: 465-2400

Division: Land & Water Management

Date: 4-9-85

Approved by Commissioner: Ronald D Arnold, Deputy

Date: 4-9-85

Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

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James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)

HB

323

REPRESENTATIVE
BEN GRUSSENDORF

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RULES COMMITTEE
LEGISLATIVE COUNCIL

DISTRICT 3
ELFIN COVE
PELICAN
PORT ALEXANDER
SITKA
TENAKEE

Alaska State Legislature

WHILE IN JUNEAU
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House of Representatives

SPEAKER OF THE HOUSE

April 12, 1985

POSITION PAPER
HB 323 - Pelican Land Grant

The City of Pelican has been the unfortunate victim of a series of legislative and administrative decisions over several years. Unlike other Alaska communities, Pelican has never received any land under the municipal entitlement program.

The original entitlement act called for any municipality to receive ten percent of the "vacant, unappropriated, unreserved" state lands available at the date on which the municipality applied for entitlement. That date of application varied, of course, from community to community, which created administrative difficulties as state land records were not adequate to determine [illegible] acreage was actually conveyed to the State on such and such a day. The state was receiving title to federal lands under terms of the Statehood act, and there was often uncertainty over the timing and location of "new" state lands being transferred from the federal government. In response to the situation, the Legislature in 1979 required established communities to apply for land entitlement by a fixed date.

Unfortunately for Pelican, as of that fixed date, the State had not received any land from the federal government in Pelican's vicinity. With no nearby State lands, there was zero percentage available for Pelican's entitlement rather than the ten percent envisioned by earlier statute. The city, however, was assured by the Director of Lands, Mike Smith, that it would somehow be accommodated in the future when the State did gain lands in its vicinity.

The State has since received lands from the federal government, including 8.9 acres directly adjacent to the City of Pelican. Current statutes, however, allow the transfer of land to Pelican only for public and charitable uses, not for the community expansion which Pelican needs and wants. A municipal entitlement for Pelican is possible only through enactment of the proposed legislation in HB323. The bill corrects an inequitable situation, putting Pelican on the same basis as other Alaska communities which enjoy municipal land entitlements.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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March 28, 1985

POSITION PAPER

RE: HB 323

SPONSOR: Representative Grussendorf

Program Effects of Bill

The bill would grant 10 acres of state land to the City of Pelican. The property in question was recently annexed to the city, and contains the location of the city's sanitary landfill. The city council has considered purchase of the property to allow for community expansion, and while it has not met to formally endorse HB 323, its support appears certain. The council was very supportive of the acquisition when the city received a copy of a letter from Speaker Grussendorf to Commissioner Wunnicke, indicating that such a bill would be introduced. There is a shortage of developable land in Pelican, and the acquisition of this property would be a significant step in alleviating this shortage.

The property is surveyed, and no fiscal note is anticipated.

Comments

The purpose of the bill is to make state land available to the city which the city is not otherwise entitled to receive. A brief history follows.

The state's original municipal land entitlement statutes allowed established cities to select up to 10% of the vacant and unappropriated land within their boundaries by a time certain to be set by the city. At the same time, the state was receiving title to federal lands under the terms of the Statehood act. Transfers between the state and local governments became somewhat confusing, due to uncertainty over the timing and location of state acquisition of federal lands. The legislature responded to the situation in 1979, by requiring established communities to apply for their land entitlement by a fixed date.

Unfortunately for Pelican there was no state land available for municipal selection as this date arrived then passed, as the state had not received title to federal lands in or near Pelican. Thus, the city did not apply for entitlement lands, and found itself without the authorization to receive entitlement properties, except under AS 38.05.810. This citation requires that the land be used for a general public purpose and not for settlement as the city wishes. Likewise, the city could not receive land under AS 29.18.201-.213, as they were an established and not a new municipality, and, as mentioned, their "window of opportunity" had closed.

This bill is simply to rectify the situation, and provide Pelican with the same rights to property enjoyed by other communities. It expands the scope of municipal land entitlements by allowing Pelican, as an established community, to use the entitlement for other than a general public purpose, but the language of the bill appears sufficiently specific to prevent a precedent from being established.

The Department supports passage of this legislation.

Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 323

Title: Land Grant to Pelican

Sponsor: Grussendorf

Requestor:

Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources

Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Mike Vedine Phone: 465-2400

Division: Land and Water Management Date: April 15, 1985

Approved by Commissioner: Date: April 15, 1985

Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84


HB
3555

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 355

Title : An Act authorizing the establishment & implementation of onboard observer programs; & providing an effective date

Sponsor : Thompson

Requestor : House Resources

Date of Request : _____

FISCAL DETAIL

Agency Affected : ADF&G

BRU : _____

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	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

K Nutgrass

Prepared by : Captain James R. Nutgrass — Phone : 269-5509

Division : Fish & Wildlife Protection — Date : 2/21/86

Approved by Commissioner : [signature] — Date : 2/24/86

Agency : _____

Distribution (by Agency preparing fiscal note) :

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

10/25/85

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 355
February 21, 1986
SUPPORT

HB 355 - "An Act Authorizing the establishment and implementation of onboard observer programs; and providing for an effective date."

The Department of Public Safety is in support of House Bill No. 355.

The Department of Public Safety supports House Bill 355, an act authorizing the establishment and implementation of an onboard observer program.

The State has experienced in recent years a sharp decline in the shellfish stocks being available in the commercial crab fisheries.

In conjunction with the Department of Fish and Game management program, this Department has over the years expended a considerable amount of effort through inspection of vessels and shore plants, extended vessel patrol days and air patrol hours monitoring the fishing activity of the State's crab fisheries.

The State has experienced in recent years an increase in numbers of catcher/processor vessels in the crab fishery since the first one was operational in 1973.

The catcher/processor type vessel has proven to be economically superior in its ability of being mobile in catching and processing crab at any time or place within a fishing ground.

This situation does create a management and enforcement problem by the inability to monitor catches being processed and to receive or accurately monitor catch composition.

The major concern that exists in this situation is the inaccurate management data being received and the capability of a catcher/processor type vessel harvesting undersize crab undetected, thus placing the present and future stocks in jeopardy by the illegal take and the lack of accurate data for properly managing the resource.

Since 1973 to the present the following type of violations have been documented involving catcher/processor vessels:

The taking of king crab after the closure of the fishery and reporting the poundage on a shellfish ticket as being tanner crab and processing sublegal crab.

The quota system that is established for a specific area allowing specified poundage of crab to be harvested can be affected by the misinformation provided on shellfish tickets, which is detrimental to sound management and an economical disadvantage to the majority of the hard working, honest fishermen.

Robert J. Sundberg
Commissioner

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 355

Title : An Act authorizing the Board of Fisheries to establish onboard observer program.

Sponsor : _____

Requestor : Governor

Date of Request : _____

FISCAL DETAIL

Agency Affected : Dept. of Fish & Game

BRU : Commercial Fisheries BRU and Components

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		355.3	400.3	445.3	490.3	535.3
TRAVEL		37.5	42.5	46.3	50.9	55.3
CONTRACTUAL		3.2	3.2	3.8	4.0	4.3
SUPPLIES		4.0	4.0	4.6	4.8	5.1
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS		-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING		400.0	450.0	500.0	550.0	600.0
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		400.0	450.00	500.0	550.0	600.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		0	0	0	0	0
PART-TIME		20	20	20	20	20
TEMPORARY		0	0	0	0	0

ANALYSIS : Attach a separate page if necessary

Prepared by : GW Thornbrough Phone : 465-4210

Division : Commercial Fisheries Date : 1/30/86

Approved by Commissioner : _____ Date : _____

Agency : Department of Fish and Game

Distribution (by Agency preparing fiscal note) :

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

10/25/85

KODIAK FISH & GAME ADVISORY COMMITTEE
211 Mission Rd.
Kodiak, Alaska 99615

January 7, 1986

JAN 13 1986,

Alaska State Board of Fish
Box 3-2000
Juneau, Alaska 99802

Dear Board Members,

The Kodiak Fish & Game Advisory committee met on January 3, 1986 to discuss time and area closures for trawl gear in king crab sensitive areas. Approximately seventy eight people were in attendance. As mentioned in our January 4 letter to you, the K.A.C. recommends specific time and area closures for hard on the bottom trawling and strongly urges protection of Kodiak's rebuilding king crab stocks.

One important issue discussed was ADF&G funding for observers on trawl vessels to document incidental catch statistics on all species, i.e. salmon, halibut, tanner crab, etc. The K.A.C. voted unanimously, vote 9-0, to put pressure on the ADF&G and the legislature stressing the importance of obtaining funds for observer programs for all fisheries which ADF&G needs to obtain incidental catch information.

It was brought to the K.A.C. attention that $100,000 in fines from the "Baranof case" was earmarked to be spent on observers. The committee is also aware that in most cases fines from violations are deposited directly into the state's general fund. However, in this case, since the $100,000 from the "Baranof case" has been specifically earmarked already for use in funding observers, the K.A.C. requests your assistance in assuring this much needed observer money <u>does not</u> get deposited into the General Fund but into the ADF&G observer program.

Cordially,

Sid Omlid, Chairman
Kodiak Fish & Game Advisory Committee

cc Governor Sheffield
Don Collinsworth, Commissioner ADF&G
Senator Fred Zharoff
Representative Dave Thompson

UNITED FISHERMEN OF ALASKA

Jack Cadigan
Executive Director
907-586-2820
1-800-478-FISH

Mr. Anthony Calio
NOAA Administrator
U.S. Department of Commerce
14th and Constitutional Ave. N.W.
Washington, D.C. 20730

18 February 1986

Dear Mr. Calio:

United Fishermen of Alaska have been supporting efforts for better control and enforcement of all fisheries, both foreign and domestic. We today testified in support of legislation before the (Alaska) House Special Committee on Fisheries that would authorize on-board observers for domestic vessels operating in state waters. We plan to continue lobbying hard for this legislation so that it will clear the legislature this session.

The state pilot program has a fiscal tag of $300,000. This is, however, insufficient to meet what is really needed. We therefore solicit your support for the allocation of $250,000 submitted by the Alaska office of NMFS for a pilot observer program. This should meld the federal and state governments into creating a multi-funded comprehensive observer program, and set the stage for continued teamwork for a common goal.

Your interest and assistance in this significant proposed step is most appreciated.

Very respectfully,

J. J. Cadigan
Captain, USCG(Ret)

Copy to: Rep. Peter Goll (Ch. Spec Comm. on Fisheries)
Rep Adelheid Herrmann (Ch. House Resources)
Senator Arliss Sturgelewski (Ch. Senate Resources)

BUSINESS • FISHERMEN • PROCESSORS • INDIVIDUALS

ALASKA COASTAL COMMUNITIES ALLIANCE

P.O. Box 382 Kodiak, Alaska 99615 Phone (907) 486-5096

Kevin O'Leary
486-5488
try after 4:00

March 21, 1985

Senator Arliss Sturgulewski
Senate Resources Committee
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sturgulewski,

The Alaska Coastal Communities Alliance would like to express its support for Senate Bill 79 which would authorize an onboard observer program on certain fishing vessels engaged in Alaskan fisheries. We agree that direct benefits would be derived through enhanced management, more reliable data gathering, and improved compliance.

In addition to the obvious improved enforcement and compliance, the data gathered could certainly aid in the management of a particular fishery or fisheries. New knowledge gained could include, but definitely not limited to; predator-prey relationships between species of different fisheries, the effects that catching non-targeted species (incidental catch) have on one fishery by another fishery, the optimum timing or area of harvesting a given fishery to reduce any impact on other fisheries or to enhance the impact on the primary fishery, the benefits of a total ecological approach to managing a fishery versus a single species approach, and of course many other areas of needed new information.

Of particular concern to many fishermen and processors lately is the predator-prey and incidental catch relationships between fisheries. Examples of some questions that reflect on these relationships are in the following sentences. If one fishery targets on and harvests a predator species, does it directly enhance the yields and fortunes of another fishery engaged in harvesting a prey species? If one fishery takes a proportionately high incidental catch of a species being targeted on by another fishery, does it significantly detract from the yields and fortunes of the other fishery? We feel these and other questions could best be answered through the implementation of an onboard observer program.

Our support for the onboard observer program is not without qualifications however. First and foremost among these is the addition of subsection 14(D) to section 2AS 16.05.050 dealing with fees being assessed to the operators of vessels within the given fishery to pay for the onboard observer program. We are adamant and unanimous in our opposition to the assessment of any new and extraneous fees to cover the cost of this program. We feel the operators of these vessels and processors are currently paying sufficient fees (such as gear, vessel, and crew licenses, and etcetera) and taxes to support this and other management programs. We further feel that with the improved compliance resulting from this program the State should realize particular cost

savings through reduced enforcement burden and overhead. Again, we ask that the offending 14(D) subsection be stricken from this bill.

A related area of concern is the increased operational costs incurred by the vessel operator due directly to the onboard observer program. We feel an actual reimbursement to these vessel operators needs to be considered. An example being the cost of food. Some operators pay insurance premiums based on crew size and with the addition of an observer onboard could be liable for increased insurance costs. Costs which we might add are already out of reach of some vessel operators and owners. In the case of insurance, simple reimbursement of increased premiums is not enough. We feel that the State should bear the full liability for the observer beyond the gross negligence of the operator or vessel owner. Some sort of hold-harmless clause protecting the vessel operators from frivolous or occupational related lawsuits needs to be considered to make this bill palatable to the majority of our fishermen.

If the above concerns are addressed then we feel we can be wholeheartedly behind the passage of Senate Bill 79. This bill properly enacted could go a long ways toward enhancing and protecting the various fisheries of Alaska.

In closing we wish to thank you for taking the time to consider this letter and wish you the very best in your decisions and deliberations. Again, thank you.

Sincerest Regards,
ALASKA COASTAL COMMUNITIES ALLIANCE

Slim M. Jorgensen
Member-Director

cc: Alliance's Member Organizations
Representative David W. Thompson
Senator Fred F. Zharoff

ADF&G

On-Board Observer Program for groundfish and shellfish fisheries in the Central Gulf of Alaska, Alaska Peninsula and Bering Sea, and Southeast Alaska.

This document is designed to provide information and guidance for administrators in preparation of a budget document for a Westward groundfish--shellfish observer program. Attached is a detailed operational plan for groundfish observation procedures including the purpose, objectives and detailed sampling procedures. Included also is a table showing the proposed scheme of effort distribution relative to quarter, management area and species for the proposed budget by line item.

The primary purpose of this observer effort would be to monitor and document the composition of catches as they come aboard commercial groundfish and shellfish vessels during fishing operations. This purpose would be achieved through accomplishment of the following objectives:

1. Monitor the composition and catch per effort of target, incidental and prohibited species catches made by commercial shellfish-groundfish operations relative to time and area fished.

2. Study the spatial and temporal distribution of prohibited species catches in an effort to determine if cyclic spatial and/or temporal relationships can be detected for specific species groups.

3. Distribute observer effort on the various species based on the times and areas of primary fleet emphasis.

4. Work closely with the various user groups to learn the problem areas relative to prohibited species by-catches and the extent to which the fleet can avoid these species.

5. Continue to evaluate the sampling strategy, data collection procedures, and sampling methodologies used to collect, record and summarize shipboard observer data.

6. Determine the statistical validity of expanding prohibited species catch rates into the catch by the total fleet on a time-geographic area basis. Revise existing procedures, if necessary.

7. Continue to develop summaries and overviews of observer results. Attempt to develop routine summaries which answer the many questions posed by the various user groups.

8. Attempt to improve the data exchange on observer results with NMFS. The goal of this coordination would be to develop an integrated observer reporting system which includes the domestic as well as joint venture and directed foreign fishing effort.

9. Develop a data summarization program with the flexibility to summarize the accumulated data base on any desired group of parameters so as to satisfy needs of diverse user and agency groups.

This observation effort would be allocated quarterly on a prioritized basis among four fisheries management areas (Kodiak-Chignik, South Alaska Peninsula, the Bering Sea, and Southeast Alaska, and six species (Pacific cod, pollock, Tanner crab, Dungeness crab, king crab and sablefish). In terms of species priority, the catcher processing operations targeting on king crab, cod and pollock would have first priority, with the shore-based fleet targeting on cod and pollock having second priority. Effort would be most intense during the April-June quarter due to heavy effort for pollock and sablefish, with the least effort scheduled during the June-September quarter when the primary effort is for Pacific cod in the Bering Sea. This prioritization scheme is incorporated into the effort distribution table (Table 1) by quarter, management area and species group.

A breakdown of cost factors for this proposed observer effort by line item is shown in Table 2. Review of the proposed expenditures by line item shows that 88% of the costs would be in personnel services. These personnel services costs are based on Fishery Technician III salaries and the observers being paid sea pay for seven days a week during one-half of their total employment period. Sea pay is presently paid at the rate of 3.5 hours per weekday at sea

and 15 hours per weekend day or holiday while at sea. This calculates to 85 hours per full week at sea including base pay.

As mentioned above, this observation effort would be distributed over five fisheries-Pacific cod, king crab, pollock, sablefish and Tanner crab. The fisheries for cod and pollock use bottom trawl gear, those for king and Tanner crab utilize pots, and that for sablefish utilizes bottom trawls, longline gear as well as pots. While the majority of observation effort would be in the trawl and crab pot fisheries due to their higher potential for prohibited species catches, effort would be expended in the sablefish longline fishery on a time available basis due to its potential for catching halibut.

The final product of the observer data collection procedure would be estimates of the total catches of each species by haul. These estimates are coupled with the basic haul parameters from each tow via an integrated Lotus/R-base program which can summarize catches according to nearly any desired group of variables. In-depth operational plans for observation procedures including subsampling, effort distribution and data handling protocols trawl, have been developed and are available for use in this program.

Table 1. Distribution of FY 1987 shellfish and groundfish on-board observer effort (man-months) by quarter, management area, and species group.

Area	Species Group	Quarter Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec
Kodiak	PC-Pol	6	8	-	8
	Tanner	2	-	-	-
	Dungeness	-	2	0.5	-
	Sablefish	-	2	-	-
Shumagin	PC-Pol	2	2	2	-
	Tanner	2	-	-	-
Bering Sea	PC-Pol	3	9	6	3
	Tanner	-	-	-	-
	King Crab	-	-	-	2
Southeast	Rockfish	1.5	2	0.5	1.5
	Sablefish	-	2	0.5	-
	Flatfish	1.5	-	-	1.5
Totals		18	27	9.5	16

Table 2. Shipboard observer cost distribution.

ON-BOARD OBSERVER PROGRAM
Shellfish/Groundfish FY87
Proposed Expenditures

LINE ITEM			COST
100 Personal Services			
FB I - 6.0 MM @ 2518/mo.			$ 15.1
FT III - 64.6 MM @ $2185/mo.			140.9
900 hrs. sea pay @ 16.78/hr	(2 FB I's)		15.1
7316 hrs. sea pay @ 13.14/hr	(18 FT III's)		96.1
			267.2
Employee Benefits @ 33%			88.1
		Total	$355.3
200 Travel			
18 Roundtrip Kodiak-Dutch Harbor @ $854			$ 15.4
1080 days per diem on vessels @ 20			21.6
6 days commercial per diem @ $80			0.5
		Total	$ 37.5
300 Contractual Services			
Xerox charges			$ .6
Contingency inter-island air charter			1.0
Telephone charges			0.8
Printing of forms			0.2
Computer supplies			0.6
		Total	$ 3.2
400 Commodities			
Sampling Equipment:			
Plastic baskets			$ .5
Scales			.5
Repair & equipping of survival equipment			.6
Misc. sampling equipment			.4
Raingear			.5
Professional and scientific supplies			1.5
		Total	$ 4.0
		GRAND TOTAL	$400.0

MEMORANDUM State of Alaska

DRAFT

TO: Molly McCammon
Special Staff Assistant
Office of the Governor

DATE: February 4, 1986

FILE NO:

TELEPHONE NO: 465-4100

FROM: Steven Pennoyer
Deputy Commissioner
Department of Fish and Game

SUBJECT: Onboard Observer Bills; SB 79 and HB 355

Enclosed is a bill analysis and fiscal note for HB 355, Representative Thompson's onboard observer bill. It is identical to the department's bil SB 79, except that it contains no provision to fund the observer program through a fee structure system, or any other method.

During the last few years, there has been a growing interest, on the part of the public and the federal and state agencies, to develop an onboard observer program for the domestic fisheries. All feel that such a program is needed to provide basic biological data, particularly in the case of groundfish, as the domestic fleet replaces the foreign fleet. Observers can also be used to enforce regulations, such as those dealing with size and sex restrictions in the king and Tanner crab fisheries. Any effective observer program will have to be legally achievable in both federal and state waters and be funded.

The Magnuson Fishery Conservation and Management Act (MFCMA) allows the federal government to place observers on domestic fishing vessels. This authorization is by statute so does not require implementing regulations. The Board of Fisheries has authority to require onboard observers by regulation. Both the board and the North Pacific Fishery Management Council in 1984 decided to work towards a goal of complimentary onboard observer programs in state and federal waters. Since the regulatory mechanisms are in place, the major hurdle has been funding.

The department, in conjunction with the Department of Law, developed SB 79 as the state's answer to the funding problem. The primary purpose of that bill is to provide a source of funding, via permit fees, for the program. Declining revenues have caused reductions in operational budgets. The department cannot fund the observer program without taking cuts in other ongoing projects of high priority to the management of established fisheries. One option is for the program to fund itself. Originally, we thought this concept might be feasible. As it turns out, we are now unsure. The federal government cannot use such a fee structure to fund a domestic observer program since it is forbidden by the MFCMA. If the state accepts the king crab delegation, and I believe we will, we

the Magnuson Fishery Conservation & Management Act!

most likely will fall under that prohibition. Since the king crab fishery is one of the two fisheries most in need of observers, this loss of a funding source will gut the program. Additionally, there seems to be a great deal of opposition from fishermen and processors for a fee structure. They are saying the state should fund the program out of current revenue sources.

The bottom line is that there is no money for an onboard observer program in the FY 86 or FY 87 budget. The department priority for such a program is above the increment level, and it is very unlikely the Legislature will approve a permit fee structure. Since the Board of Fisheries has already adopted a program identical to that suggested in the bill, the legislation is no longer necessary for the department to legally implement such a program if funds were made available.

The key point to get across to the Legislature and the public is that passage of either bill, without some funding source, will not cure the problems they perceive are happening.

The enclosed fiscal note and proposal reflect the minimum level observer program that both we and the Board of Fisheries feel is needed to provide basic coverage of current fisheries. Any increase in the king and Tanner crab harvests or implementation of additional prohibited species catch levels in the groundfish fisheries would require increased funding above the level in the fiscal note.

Enclosures

cc: J. Ayers
B. Clasby
K. Parker

5 AAC 39.141. ONBOARD OBSERVER PROGRAM. (a) The Board of Fisheries finds that, in particular fisheries, observers on board fishing vessels would greatly enhance management, primarily by facilitating information gathering, and by improving regulatory compliance. Onboard observers may be the only practical fishery monitoring, data-gathering, or enforcement mechanism in some Alaska fisheries where a large component of vessels, such as catcher/processors and floating processors, rarely or never enter Alaskan ports. The Board of Fisheries, therefore, finds it necessary to authorize the Alaska Department of Fish and Game to implement onboard observer programs in particular fisheries when the board determines that it

(1) is the only practical data-gathering or enforcement mechanism;

(2) will not unduly disrupt the fishery; and

(3) can be conducted at a reasonable cost.

(b) Onboard observers of the Departments of Public Safety and Fish and Game shall have free and unobstructed access to inspect the catch, equipment, gear or operations of the fishing vessel, tender or processor to which assigned while that vessel is

(1) within waters under the jurisdiction of the state;

(2) taking or intending to take any species of fish; or

(3) transporting or processing any species of fish.

(c) Onboard observers must be as unintrusive to vessel operations as practicable and must make the scheduling and scope of their activities predictable and practicable.

(d) Onboard observers are not required to obtain criminal or administrative search warrants to conduct their duties.

(e) Onboard observers shall carry out such scientific and other duties as deemed necessary or appropriate to manage, protect, maintain, improve, and extend the fish and aquatic plant resources of the state.

Authority: AS 16.05.251

5 AAC 39.145. ESCAPE MECHANISM FOR SHELLFISH AND BOTTOMFISH POTS. A sidewall of all shellfish and bottomfish pots must contain an opening with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter. For shrimp pots, the opening may be on the top of the pot. The opening must be laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread. Dungeness crab and shrimp pots may have the pot lid tie-down strips secured to the pot at one end by untreated cotton twine no larger than 120 thread, as a substitute for the above requirement.

Authority: AS 16.05.251
AS 16.10.125

Domestic Observers: Is it Time to Start Watching Ourselves?

by John van Amerongen

"I feel like a doctor trying to find the cure for AIDS." That's how fisherman Bart Eaton described his frustration at the first meeting of the NPFMC workgroup on domestic observers. The seven-man team met in Seattle October 14 at the Wharf restaurant.

The challenge for the workgroup is to come up with a method for implementing observer coverage on U.S. vessels operating within the 200-mile FCZ. It's an ironic twist to the whole concept of Americanization —once the foreigners have gone, we have to start watching ourselves.

Since the Magnuson Act was amended in 1982 and provisions were made for an observer surcharge to foreign fleets, the NMFS goal has been to place an observer on every foreign fishing vessel. Actual coverage is somewhat less. During 1984 the Foreign Fisheries Observer Program provided more than 24,000 days of observer coverage on foreign and joint-venture fisheries. Actual coverage attained in the Bering Sea-Aleutians amounted to 86.3 percent and Gulf of Alaska coverage was better than 90 percent.

The federally mandated role of the observer on a foreign vessel is twofold. Not only is he present to record catch data, but he is also there to ensure the vessel is operated in accordance with current U.S. fishery regulations.

As observers train their binoculars from the foreign to the domestic fleet, three key questions must be answered: 1) Will domestic observers continue to be both biologists and policemen? 2) How many will be needed to adequately cover the domestic fleet? 3) Who's going to pay for them? These questions, of course, are predicated on the assumption that observers are necessary at all.

Why do we need observers on U.S. vessels? According to Russ Nelson, who coordinates the NMFS observer program at the Northwest and Alaska Fisheries Center, observer data is necessary to round out and verify the data collected by NOAA vessels on their annual stock assessment surveys. As fishermen themselves often argue, survey data does not always mirror information collected from actual fishing vessels involved in an ongoing fishery.

Nelson, who did not attend the October meeting, admits that observers aren't necessary for all information on the domestic catch. Data on the total retained catch is generally available when domestic vessels off-load, particularly when they off-load unprocessed fish.

When the catch is filleted, formed, or minced, however, it becomes much more difficult to generate information on the size, sex and age composition of the catch. Nevertheless, the focus isn't just on catcher/processors. Important data on incidental catches and discards of prohibited and low-quota species need to represent all vessels in the fishery if it's to be accurate. And accuracy counts.

If biologists and fishery managers don't get enough information, as Nelson puts it, "They have to live with the data they have."

According to Nelson, there are data gaps already developing as a result of Americanization. A prime area of concern right now is Shelikof Strait. Both foreign and joint-venture fisheries will likely be eliminated next year due to a decline in pollock stocks and an increase in domestic effort.

Shelikof stock assessments in the past have been based on a combination of survey and foreign observer data. Said Nelson, "For the past 4-5 years we've used both sources." Soon there will be no foreign observer data on that fishery, one less piece in the puzzle.

Faced with a shortage of verifiable data, managers take a more cautious, conservative approach to OY figures and quotas—at least that's what fishermen claim. Since nobody wants to take responsibility for wiping out a resource, ties go to the fish, not the fishermen.

Better domestic coverage, some argue, would not only decrease the possibility of a manmade resource disaster, but it would likely result in more liberal quotas for verifiably healthy stocks. Accurate recording might also open the door to retention of non-target species that would otherwise have to be discarded. That's the bottom-line reason for fishermen to support the domestic observer program—but unfortunately, nothing is simple.

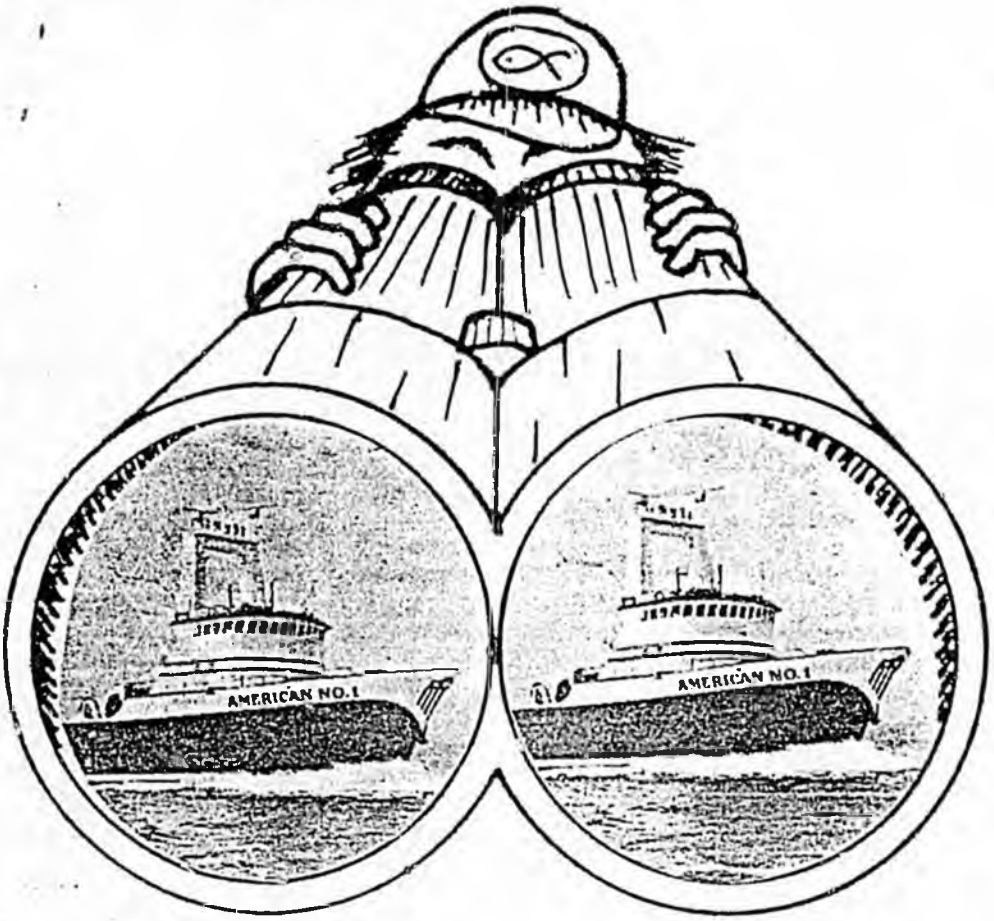
As Councilman Rudy Peterson put it, "It's a tough nut."

The first tough question is whether domestic observers should also be policemen. Most of those attending the October workgroup meeting agreed that fishermen would not likely welcome a Big Brother onboard.

Councilman Oscar Dyson questioned whether it would be reasonable to expect observers to report violations by domestic fishermen. "Unless the observer is trained," Dyson noted, "you put him in a hostile environment . . . he's not going to do it."

Bob Alverson, chairman of the workgroup, noted that observers and their logs would be subject to subpoena, whether the intent was scientific, or not.

The next big question deals with observer coverage. Just how many



If biologists and fishery managers don't get enough information . . . they have to live with the data they have.

observers would it take to handle the domestic fishery? According to Russ Nelson, and these were his personal ideas, "somewhere between 25 and 30 percent" coverage would be enough to get a scientific picture of the catch.

Nelson's estimate was a far cry from Oscar Dyson's suggestion to keep one observer in Kodiak year round and assign him to special target fisheries as needed. Dyson's philosophy was to "start small . . . and see where it goes."

One observer would be enough, said Nelson, if he were sampling a four-boat fishery. Larger fleets would require more observers to obtain a statistically representative sampling. Said Nelson, "You need to get enough to make some judgments about the data you get."

If you want observers to be enforcement officers in the domestic fishery, coverage would have to be closer to 100 percent, Nelson said. It's safe to say that would cause a more than small rumble in the fishing community, especially if fishermen had to pay for the service themselves. And that brings up the third big question: Who's going to pay for this?

Foreign fleets pay for the observers on their own vessels through the observer surcharge authorized by Congress in 1982, but there are no funds currently available to fund domestic observers. Some fishermen think the federal government should pick up the tab for Americanization of the observer program, but Rudy Peterson thinks the Feds have other ideas.

Commenting on the federal trend toward user fees, Peterson said, "I don't think anybody in government has any other idea than this (funding) coming out of the industry."

That makes the nut particularly tough, especially when you figure in insurance cost. Some consider insurance liability the ultimate roadblock to the implementation of the program. Given the large awards available to crewmen injured at sea, what's to prevent an injured observer—or worse, the family of a dead observer—from suing the vessel owners for millions? The question has yet to be answered fully.

Bob Alverson brought with him some estimates of liability insurance premiums. According to Alverson, $2 million worth of liability insurance for one observer on a dragger in the Bering Sea would cost the vessel owner about $1800 a month. That's just for the insurance; the cost of the observer would be extra.

There are some in the industry who claim nothing will happen until the insurance crisis is solved. Still, there are plenty of other questions to be answered: Is this just a program for draggers, or are pot vessels and longliners eligible as well? Surely longliners would benefit from closer scrutiny of dragger bycatch, so wouldn't they be considered users and share the cost? What about salmon fishermen and crabbers? What if there isn't a bunk available for the observer? What if the skipper refuses to take an observer aboard? Who's going to administer the program, the Council or NMFS? And what if the Council can't get the information it needs to make sound management decisions?

Fishermen with answers, opinions, or further questions about the domestic observer program can attend the next meeting of the domestic observer workgroup to be held in conjunction with the Anchorage meeting of the North Pacific Fishery Management Council. Call the Council office (907) 274-5467 for time and location. Those not able to attend can send written comments to Ron Miller at the Council office (P.O. Box 103163, Anchorage 99501) or contact the following workgroup members: Bob Alverson, Rudy Peterson, Bart Eaton, John Winther, Barry Fisher or Oscar Dyson. □

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

9/5/89
Date

02-519 (REV 8/78)

HB

3803

Introduced: 4/17/85
Referred: Resources

IN THE SENATE BY HALFORD

SENATE BILL NO. 285

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the recoupment conveyance for land at Illinois Creek; and providing for an effective date."

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

* Section 1. PURPOSES AND FINDINGS. (a) The purposes of this Act are to permit the state to recoup certain land selection rights provided for in sec. 606(d)(6) of Public Law 97-468 and to realign the ownership of land as between the state, Cook Inlet Region, Inc., and the United States in order to

(1) facilitate land management;

(2) create private land ownership patterns that encourage mineral development in appropriate areas;

(3) facilitate implementation of the Alaska Native Claims Settlement Act; and

(4) assure maximum public benefit from selections made under the Alaska Statehood Act.

(b) The legislature finds that the recoupment conveyance of land at Illinois Creek is a matter of statewide significance, is in the general public interest, and will accomplish the purposes intended.

* Sec. 2. APPROVAL OF TRANSFER. (a) The commissioner of natural resources may convey certain land described in the "Out of Region Agreement" dated November 18, 1982, between Cook Inlet Region, Inc. and the state to the United States for reconveyance to Cook Inlet Region, Inc., in return for recoupment of selection rights under the Alaska Statehood Act

and other consideration described in the "Out of Region Agreement." Notwithstanding AS 38.05.125, a conveyance by the commissioner of natural resources under this subsection transfers all of the right, title, and interest of the state in the land, including the subsurface mineral estate as authorized by sec. 12(b)(11) of Public Law 92-204 as amended by sec. 606(d)(1) of Public Law 97-468.

(b) The commissioner of natural resources may grant those easements described on a map entitled "Illinois Creek Recoupment Conveyance-1985."

* Sec. 3. WAIVER. AS 38.50 does not apply to a conveyance under sec. 2(a) of this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

COMMITTEE REPORT

HOUSE

5/3

(9)

4/17/85

FURTHER: FINANCE

Date: May 2, 1985

The Committee on RESOURCES has had HB 383

"An Act relating to the recoupment conveyance for land at Illinois Creek; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 383 (Resources) [✓] same title [ ] new title

and recommends it do pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS		MEMBERS HAVING OTHER RECOMMENDATIONS:
Shultz	Dick Shultz	
Herrmann	Willis J. Herrmann	
Thompson	David W. Thompson	
Sund	John L. Sund	
Wallis	J. Kay Wallis	

Dick Shultz

Co-Chair CHAIRMAN

Original sponsor: Szymanski

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 383 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the recoupment conveyance for land at Illinois Creek; and providing for an effective date."

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

* Section 1. PURPOSES AND FINDINGS. (a) The purposes of this Act are to permit the state to recoup certain land selection rights provided for in sec. 606(d)(6) of Public Law 97-468, to realign the ownership of land as between the state, Cook Inlet Region, Inc., and the United States in order to

(1) facilitate land management;

(2) create private land ownership patterns that encourage mineral development in appropriate areas;

(3) facilitate implementation of the Alaska Native Claims Settlement Act; and

(4) assure maximum public benefit from selections made under the Alaska Statehood Act.

(b) The legislature finds that the recoupment conveyance of land at Illinois Creek is a matter of statewide significance, is in the general public interest, and will accomplish the purposes intended.

* Sec. 2. APPROVAL OF TRANSFER. (a) In return for the recoupment of selection rights under the Alaska Statehood Act and other consideration described in the "Out of Region Settlement" dated November 18, 1982, between the Cook Inlet Region, Inc. and the state, the commissioner of natural resources may convey the following described land to the United

States for reconveyance to Cook Inlet Region, Inc.:

(1) Township 15 South, Range 6 East, Kateel River Meridian
Sections 11 - 14
Sections 23 - 25

(2) Township 15 South, Range 7 East, Kateel River Meridian
Sections 17 - 20
Sections 29 - 30

(3) Township 16 South, Range 4 East, Kateel River Meridian
Sections 1 - 2
Sections 11 - 14
Sections 23 - 27
Sections 34 - 36

(4) Township 16 South, Range 5 East, Kateel River Meridian
Sections 6 - 9
Sections 16 - 36

(5) Township 17 South, Range 4 East, Kateel River Meridian
Sections 1 - 3
Section 12

(6) Township 17 South, Range 5 East, Kateel River Meridian
Sections 1 - 12

(b) Notwithstanding AS 38.05.125, a conveyance by the commissioner of natural resources under this section transfers all of the right, title, and interest of the state in the land, including the subsurface mineral estate as authorized by sec. 12(b)(11) of Public Law 92-204 as amended by sec. 606(d)(1) of Public Law 97-468.

(c) The commissioner of natural resources may grant those easements described on a map entitled "Illinois Creek Recoupment Conveyance-1985."

* Sec. 3. WAIVER. AS 38.50 does not apply to a conveyance under sec. 2(a) of this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

April 29, 1985

Mike Penfold, State Director
Bureau of Land Management
701 C. Street, Box 13
Anchorage, AK 99513

Subject: F-44008

Dear Mr. Penfold:

The State of Alaska's land conveyance priority list (p. 28) for federal fiscal year 85 (FFY 85) includes state selection F-44008 (Township 7 South, Range 8 West, F.M.) near Anderson. I am aware that your staff has previously been unable to convey this land to the state due to two factors: competing Cook Inlet Region, Inc. (CIRI) selections; and two military withdrawals (PLO 1847 and PLO 547).

Recently, CIRI relinquished its land selections near Anderson, thereby helping to facilitate the transfer of this land to the state. Unfortunately, however, the military withdrawals have not yet been removed. I therefore request your assistance to help expedite the removal of these excess military withdrawals as they apply to Sections 4, 5, 7 and 8. I am informed the withdrawal revocation process is underway. Conveyance of this land to the state will enable us to work directly with the City of Anderson to address its urgent need for land associated with community development activities. Thanks for your assistance.

Sincerely,

Tom Hawkins

Tom Hawkins
Director

TH/GG/vlf

DELIVER TO: Mike Vediner LOCATION: Comm-Juneau
FROM: Gary Gustafson LOCATION: Anch-DLG AK89
TELEPHONE/TELECOPIER #: TOTAL NUMBER OF PAGES: 1
TRANSMITTING ON/SPEED: DATE: 4-30-85 TIME: 10:50
PHONE FOR PROBLEMS-NAME/NUMBER: Vicki 265-4346
COMMENTS:

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

May 1, 1985

The Honorable Richard Shultz
Co-Chairman
House Resources Committee
Pouch V
Juneau, AK 99811

Dear Representative Shultz:

Re: HB 383 - Illinois Creek Recoupment Conveyance

My staff and I have received a copy of the ten questions on HB 383 which were posed to you on May 1 by Resource Committee staff. Although several of these questions were discussed before the committee this morning by Gary Gustafson and myself, I am pleased to respond to each of the questions.

1. What are the resource values of the land being relinquished by the state (surface and subsurface)?

   Preparatory to signing the November, 1982 Out-of-Region Agreement with CIRI, the department conducted a resource inventory analysis of the Illinois Creek land and also consulted with other stage agencies. The Illinois Creek region is largely a mountainous area of treeless tundra east of the Yukon River. The surface resource values were determined to be relatively insignificant in comparison to other land statewide. The only natural resources identified as significant were hard rock minerals, particularly lead, zinc, silver and gold. The hard rock mineral resources were determined to be in the top 30 percent statewide by the department's 1978 Resource Assessment System inventory.

2. Why did the state select the lands originally if they do not possess any significant resource values presently?

   The Illinois Creek area was selected as part of the massive 40 million acre state selections conducted in 1976 and 1977. In those days, it was commonplace for the state to select entire township blocks. This particular area was selected because it was one of the last available tracts near the Yukon River and mineral terranes were considered favorable.

3. What lands are available to the state in return and why won't these lands be available otherwise?

   HB 383 allows the state to recoup another 43,000 acres of general grant selection rights which can then be applied between now and 1994 to any vacant, unappropriated and unreserved federal land in Alaska. There are currently about 35 million acres of federal land (managed by BLM) available for selection. In addition, it is likely that additional land, not presently selectable, will become available for selection before 1994. This could include land currently encompassed by Native overselections, excess military withdrawals and other archaic federal withdrawals, which might be revoked in the near future. In short, the state will have the opportunity to obtain replacement land for Illinois Creek of greater value and utility. These lands will be available otherwise, but the recoupment provision allows the state another 43,000 acres to use to select them.

4. What factors in the original Cook Inlet Land Trade caused the Out-of-Region Agreement between CIRI and the state?

   This question was discussed and answered in my letter to you dated April 30, 1985.

5. What types of land did Cook Inlet Region and the state trade originally?

   All kinds. The specific lands and values thereof are discussed at great length in the 1976 State-Federal Land Use Planning Commission Report on the Cook Inlet Land Trade which has been provided you under separate cover.

6. Why does Cook Inlet presently have a nomination priority over future state land selections outside Cook Inlet Region?

   Section I.C.(1)(c) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" which was approved by Congress and the Alaska State Legislature, provides that any CIRI out-of region land nomination "shall be superior to and take precedence over any state selection made after July 18, 1975". The vast majority of the state's pending land selections were filed after this date.

7. Why is there a waiver in this bill of AS 38.50 which requires legislative approval of land exchanges involving values over $5 million?

   Because HB 383 is not a land exchange. Rather, it allows the state to convey patented land back to the U.S. (for reconveyance to CIRI) in return for an equal acreage amount of new selections which can be applied elsewhere. The land thus conveyed to CIRI would occur pursuant to CIRI's entitlement under ANCSA.

8. Why are there no legal descriptions of the land being relinquished by this legislation?

   Legal descriptions were provided at the committee hearing and the bill has now been amended to incorporate them.

9. What aspects of the Out-of-Region Agreement will CIRI be legally required to carry out if this legislation is enacted?

   The only discretionary provision of the agreement is Section 7 - the Illinois Creek recoupment conveyance. This section was made discretionary because it required legislative approval. If HB 383 passes, the entire agreement must be implemented by CIRI and the state. The department has asked the Attorney General's Office (AGO) to review HB 383 so as to ensure that this is the case. The AGO has responded affirmatively.

10. DNR records show that at the time of state selection there were 457 unpatented federal mining claims filed within the 43,000 acres cited in this bill. What information is known about these claims and the resource value of this land?

    Actually, state records reveal the presence only of state mining claims on the 43,000 acres (filed entirely by Anaconda), not federal claims. According to the Division of Mining, these claims remain in good standing. Any transfer of the Illinois Creek land would occur subject to these claims. Also, it is my understanding that should this conveyance occur, Anaconda intends to relinquish its state claims in favor of a leasehold system with CIRI. As you know, the Anaconda Mineral Corporation is in strong support of this legislation.

I appreciated the opportunity to testify in support of HB 383 before the committee this morning. Department staff will also be present at tomorrow's committee meeting to discuss the bill and respond to further questions.

As you know, I also addressed the City of Anderson's land status situation in my April 30 letter. I would like to add that the department agrees to consult the City of Anderson should any land use application be submitted to the state in the adjacent area. Should Anderson be granted a municipal entitlement, you may count upon the department being responsive.

Sincerely,

Esther C. Wunnicke

Esther C. Wunnicke
Commissioner

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

The 1976 approval of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Region (hereafter "Terms and Conditions") by the Alaska State Legislature signaled the end of a protracted period of Native, State and federal disagreement, litigation and negotiation. Since that time, the parties have worked together closely and diligently to fairly implement the provisions of that very complicated legislation.

During the past 30 months, the Department of Natural Resources, with cooperation from other State agencies, has worked with Cook Inlet Region, Inc. (CIRI) and other interested parties to finalize one of the last major aspects of the Terms and Conditions document. This aspect is most logically described in two parts, as follows below.

First, at the end of 1982, the State and CIRI signed an agreement concerning their respective rights to select and receive certain federal land outside the boundaries of the Cook Inlet Region. Essentially, the agreement identified a pool of approximately 30 townships of State-selected land which CIRI could select to fulfill its remaining out-of-region land entitlement. In return, CIRI waived its blanket priority right of nomination over existing State-selected lands, thus allowing the State to prioritize and receive the remainder of its previous selections in an orderly and expedited manner. This agreement obviated the possibility that the parties might resort unnecessarily to the complex and unknown results of the "strike and select mechanism" set out in the Terms and Conditions document.

The second area of agreement, and the primary subject of this letter, concerns a proposal by CIRI that approximately 43,000 acres of its remaining out-of-region selection entitlement be fulfilled with State land located near Illinois Creek, approximately 50 miles southwest of the village of Galena, and 20 miles east of the Yukon River. However, because these lands are already patented to the State, and the transfer includes the subsurface estate (as authorized by federal law), I believe legislative authorization of this proposal would be appropriate. Therefore, in anticipation of legislative consideration of this proposal during the 1985 session, I would like to explain the key components of this proposal.

If authorized by enabling legislation, the State will transfer to CIRI approximately 43,000 acres of land in partial fulfillment of CIRI's out-of-region land entitlement. In return, the State will receive a full acre-for-acre recoupment of the lands through additional selection rights to be applied to other available federal lands. Also, CIRI will waive its priority rights over the State to nominate for its own selection any future State land selections, thus precluding the need for the State to subject itself to the aforementioned "strike and select" mechanism.

I believe legislative approval of this proposal is in the best interests of the State for the following reasons:

1. This land is already included in the 30-township pool of land which CIRI may select to fulfill its out-of-region entitlement as provided in the November 18, 1982, State/CIRI Out-of-Region Agreement. This means that these lands have already been reviewed for transfer to CIRI by appropriate State agencies, and the requisite access and other public interests have been addressed and protected. Other than hard-rock mineral values (lead, zinc, silver, gold) the Illinois Creek area is not known to possess any significant resource values.

2. The hard-rock mineral rights (which are CIRI's major interest) have already been completely alienated from State ownership by claims filed by Anaconda Mining Company. CIRI and Anaconda have a working agreement which will significantly increase the changes for development of the resource. Anaconda has already stated its support for the proposal in writing, and there are no other mining claimants in the area. The State's sovereign authority to levy severance, income or other taxes on mineral production would not be affected by implementation of the proposal.

3. CIRI's waiver of its nomination priority over future State land selections will ensure that State selections are not subject to competition from CIRI for fulfillment of the State's remaining statehood land entitlement.

4. CIRI will waive any claim to lands within the TAPS Corridor between the North Slope Borough and the Yukon River. This will enable the State to be the sole entity able to select land within this important interior transportation corridor.

5. The interests of the local people will be fully considered. By terms of the original exchange legislation, CIRI must obtain certain approvals from local Native corporations before they may obtain title to any lands outside of their region. Gana-a'Yoo, Ltd., the Galena village corporation closest to the Illinois Creek area, has already indicated in writing its support of this proposal.

6. It will move the State and CIRI near the end of the major implementation issues of the Terms and Conditions document.

In advocating legislative approval of this proposal, I wish to point out that it is doubtful that this land would be selected today by the State, given our more sophisticated natural resource information base and selection processes, and that the only known resource value (hard-rock minerals) has already been alienated from State ownership.

Legislative approval of the proposal will put behind us the vast majority of the many difficult implementation issues raised by the Terms and Conditions. Your timely and thoughtful consideration of the proposal is therefore appropriate and encouraged.

Sincerely,

Esther C. Wunnicke
Commissioner

cc: George Kriste, CIRI
John Shively, Governor's Office

bcc: Tom Hawkins, DLWM
Gary Gustafson, DLWM
Pedro Denton, Mining
Jim Barnett, Deputy Commissioner
Marlyn Twitchell, Governor's Office

Alaska State Legislature
HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

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

MEMORANDUM MAY 1, 1985

TO: REP. DICK SHULTZ, CO-CHAIR
HOUSE RESOURCES

FROM: COMMITTEE STAFF

RE: HB 383 ILLINOIS CREEK

At your request I have reviewed HB 383 and offer the following comments.

The subject of HB 393 involves the relinquishment of 43,000 acres of State land to the Federal Government for their conveyance to Cook Inlet Regional Corporation.

In return via an "Out of Region Agreement", the state could select an equivalent acreage from the Federal Government elsewhere in the state.

The following questions regarding this transaction would seem appropriate;

1. What are the resource values of the land being relinquished by the state? (surface and sub-surface)

2. Why did the state select the lands originally if they "do not possess any significant resource values presently"? (see fact sheet, page 1, paragraph 3)

3. What lands are available to the state in return, and why wouldn't these lands be available otherwise ?

4. What factors in the original Cook Inlet Land Trade caused the Out of Region Agreement between Cook Inlet Region and the State?

5. What types of land did Cook Inlet Region and the State trade originally?

6. Why does Cook Inlet Corporation presently have a "nomination priority over future state land selections outside Cook Inlet Region"? (see fact sheet, page 1, last paragraph)

7. Why is there a waiver in this bill of AS 38.50 which requires legislative approval of land exchanges involving values over 5 million dollars in?

8. Why are there no legal descriptions of the lands being relinquished by this legislation?

9. What aspects of the "Out of Region Agreement" will Cook Inlet be legally required to carry out if this legislation is enacted?

10. DNR records show that at the time of State selection there were 457 unpatented federal lode claims filed within the 43,000 acres cited in this bill. What information is known about these claims and the resource value of this land?

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 383

Title: Illinois Creek

Sponsor: Szymanski

Requestor:

Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources

Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Mike Vediner

Phone: 465-2400

Division: Land and Water Management

Date: April 30, 1985

Approved by Commissioner: Norm D Arnold, Deputy

Date: April 30, 1985

Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

ILLINOIS CREEK DESCRIPTION

T 16 S, R 4 E Kateel River Meridian

Section 1: ALL
Section 2: ALL
Section 11: ALL
Section 12: ALL
Section 13: ALL
Section 14: ALL
Section 23: ALL
Section 24: ALL
Section 25: ALL
Section 26: ALL
Section 27: ALL
Section 34: ALL
Section 35: ALL
Section 36: ALL

± 8,960 acres

T 17 S, R 4 E Kateel River Meridian

Section 1: ALL
Section 2: ALL
Section 3: ALL
Section 12: ALL

± 2,560 acres

T 16 S, R 5 E Kateel River Meridian

Section 6: ALL
Section 7: ALL
Section 8: ALL
Section 9: ALL
Section 16: ALL
Section 17: ALL
Section 18: ALL
Section 19: ALL
Section 20: ALL
Section 21: ALL
Section 22: ALL
Section 23: ALL
Section 24: ALL
Section 25: ALL
Section 26: ALL
Section 27: ALL
Section 28: ALL
Section 29: ALL
Section 30: ALL
Section 31: ALL
Section 32: ALL
Section 33: ALL
Section 34: ALL
Section 35: ALL
Section 36: ALL

± 16,000 acres

T 17 S, R 5 E Kateel River Meridian

Section 1: ALL
Section 2: ALL
Section 3: ALL
Section 4: ALL
Section 5: ALL
Section 6: ALL
Section 7: ALL
Section 8: ALL
Section 9: ALL
Section 10: ALL
Section 11: ALL
Section 12: ALL

± 7,590 acres

T 15 S, R 6 E Kateel River Meridian

Section 11: ALL
Section 12: ALL
Section 13: ALL
Section 14: ALL
Section 23: ALL
Section 24: ALL
Section 25: ALL

± 4,480 acres

T 15 S, R 7 E Kateel River Meridian

Section 17: ALL
Section 18: ALL
Section 19: ALL
Section 20: ALL
Section 29: ALL
Section 30: ALL

± 3,840 acres

KAH:cif/185:6

CIRI

COOK INLET REGION, INC.

April 30, 1985

The Honorable Richard Schultz
House of Represe...atives
State of Alaska
Juneau, Alaska 99811

Re: House Bill No. 383

Dear Representative Schultz:

We have been asked to provide the House Resources Committee with background information about H.B. 383 (Illinois Creek Recoupment Conveyance). More specifically, it is our understanding that the Committee has requested answers to eight questions. In the very short time available to us we have attempted to assemble this information and it is presented below on a question-by-question basis.

Several of the questions concern aspects of the Cook Inlet Land Exchange which was passed by the Alaska Legislature in March of 1976, over nine years ago. While we are happy to provide this information for the Committee's review, I would like to point out that the land exchange was very complicated in nature and received more public, legislative, and judicial scrutiny than any land exchange in Alaska's history.

1. Identify all lands CIRI received in the Cook Inlet Land Exchange (including maps).

The Cook Inlet land exchange was a three-way exchange among the State, Federal Government, and Cook Inlet Region, Inc. (CIRI). Maps showing the locations of the lands involved, and a specific list of the acreages involved, are found on pages 2-4 of Attachment A. This attachment, entitled "A Report to the Senate and House of Representatives Resources Committees of the Alaska State Legislature on the Proposed Cook Inlet Land Trade (March 6, 1976)" was prepared by the Joint Federal-State Land Use Planning Commission for Alaska. This report was prepared by the Planning Commission at the specific request of the House and Senate Resources Committees during their deliberations on the Cook Inlet land exchange. The report

CIRI BUILDING 2525 "C" STREET P.O. DRAWER 4-N ANCHORAGE, ALASKA 99509
(907) 274-8638 TELECOPIER (907) 279-8836

represents the most unbiased and professional review of the merits of the land exchange that was done at that time.

II. What is the value of the lands involved in the Cook Inlet Land Exchange for both the State and CIRI?

Economic evaluation of resources covering an area as large as that included in the Cook Inlet land exchange is difficult at best. The values used during debate on the land exchange are shown in Table 1 of Appendix E to the Land Use Planning Commission Report cited above.

III. What is the value of the mineral resources involved at Illinois Creek?

As the result of valid mining claims previously filed under state law by Anaconda Mining Company, title to the mineral estate in these lands already has passed into private hands. As the Committee may appreciate, a mining company's assessments of value are derived at the cost of substantial investments in exploration, and are therefore considered proprietary in nature. However, like virtually all mineral prospects in Alaska, the present value of mineral resources on these lands is subject to the extreme variables of future development costs and world market conditions. CIRI and Anaconda have a working agreement which they believe will significantly increase the chances for development of this resource. The State, of course, will retain its full sovereign authority to regulate and to impose severance or other taxes upon the mineral resources in these lands.

IV. What is the number of total acres nominated under the original agreement?

The exact meaning of this question is not clear to us. However, it appears to address the acreage nominated by CIRI under its out-of-region selection entitlement. While the formal nomination process for out-of-region lands did not occur because the State and CIRI consummated an Out-of-Region Selection Agreement, had CIRI nominated lands they would have totaled 180 townships. While some of these lands would have been federal lands not selected by the State, probably in excess of 70%, or 126 townships, would have been lands already selected by the State. These State-selected lands would have been clouded with a potential priority of CIRI's selection rights. Implementation of the Out-of-Region Agreement, of which the present legislation is a part, will virtually eliminate this nomination process as a cloud on State selection of federal lands.

V. What is the nature of public easements along rivers and lakes on CIRI lands?

CIRI has taken the lead among Native Corporations in promoting use of all its land for public recreational purposes, not just along lakes and streams. Attachment B shows an example of CIRI's newspaper ads soliciting public use of CIRI lands. Moreover, CIRI also has entered into land exchanges with the federal government which would ensure public ownership of important recreational lands (e.g., the public fishing site at the confluence of the Kenai and Russian Rivers). Finally, public easements under ANSCA also have been placed on all CIRI lands, as has been done on all Native conveyances.

VI. Why was AS 38.50 waived in the Illinois Creek Recoupment Legislation?

Because H.B. 383 is not a land exchange. The values received by the State include nonquantifiable values which would not fit A.S. 38.50 procedures. For example A.S. 38.50 applies to land exchanges where the lands to be exchanged have been specifically identified. In this situation, the State will recoup an equivalent acreage of selections, but exactly which lands it will select are unknown at this time. To ensure that the State receives at least equal value, this matter has been presented to the Legislature for its review of all values involved.

VII. Why did Cook Inlet select petroleum-producing lands?

In fulfilling its selection entitlement CIRI selected lands having a multitude of resource capabilities including timber, agriculture, grazing, gravel, and hardrock minerals as well as lands with oil and gas potential. Any entity selecting lands for management of a broad resource base would logically include lands with oil and gas potential.

VIII. What is the total resource value of CIRI vs. state lands?

The exact nature of this question is unclear. If it refers to the resource values of lands involved in the Cook Inlet land exchange, the information may be found as described in the response to question #2 above. If it refers to the resource values of the Illinois Creek lands vs. lands the State will recoup through additional selection of equal acreage, the answer can not be given because the recoupment acreage has not yet been identified. However, since the mineral values have already been alienated from state ownership at Illinois Creek, and since the surface values are generally considered to be low, the recoupment lands would likely be at least as valuable, and probably of greater value, than the resource value the State presently retains at Illinois Creek. It should be noted

that much of the value the State will receive in exchange for the Illinois Creek lands are not direct resource values, but other values such as the ability to obtain title to other state selected lands, which could otherwise be selected by CIRI, in an orderly and expioited manner.

As many of the questions are related to the "Out-of-Region Agreement" signed by the State and CIRI, I am including a copy of that agreement as Attachment C for your information.

The information we have supplied above is a good faith attempt to answer the eight questions as we understand them. If there is any additional information which we can provide, we will do our best to make it available to the Committee as soon as possible. To ensure that the Committee has as much time as possible to review this information, we are supplying copies of this letter, and attachments, to all Committee members.

Your consideration of the legislation is very much appreciated.

Yours truly,

COOK INLET REGION, INC.

Roy M. Huhndorf
President

RMH:cif/213:6

cc: House Resources Committee Members

Attachments

A. Joint Federal-State Land Use Planning Commission Report to the Senate and House of Representatives Resources Committees of the Alaska State Legislature on the Proposed Cook Inlet Land Trade (March 6, 1976).

B. CIRI's Public Use and Access Program

C. State-CIRI Out-of-Region Agreement

Land Dept

ATTACHMENT A

"COOK INLET" REPORT

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

A REPORT TO THE SENATE AND HOUSE OF REPRESENTATIVES
RESOURCES COMMITTEES OF THE ALASKA STATE LEGISLATURE
ON THE PROPOSED COOK INLET LAND TRADE

MARCH 6, 1976

The Joint Federal–State Land Use Planning Commission for Alaska was created by Congress and the Alaska Legislature to provide a statewide land use planning process that will insure the economic development of the State in a manner that is compatible with the social and economic well-being of the public, their interests, and the environment.

The Commission also is to improve coordination and resolve conflicts between the State, Federal government, and private landowners in the State, and recommend laws, policies and programs to the President, Congress and the Governor of Alaska for a coordinated comprehensive statewide land use planning process.

The Commission, created by the Alaska Native Claims Settlement Act of 1971, is headed by the Governor of Alaska or his full time Co-Chairman, and by a Federal Co-Chairman appointed by the President of the United States. Four Commissioners are appointed by the Secretary of the Interior, and four by the Governor of Alaska.