

ALASKA LUMBER COMPANY - COST 7100


3568 HRES - HB 428 - HB 440
A A A



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Signature of Camera Operator


Date

H B

4 2 8

HOUSE
COMMITTEE REPORT

(7)
Date referred: 3/12/86
(Referral reversed 3/12/86)

FURTHER REFERRALS: C & RA

DATE: 4/21/86

The RESOURCES Committee has considered HB 428
"An Act relating to grazing districts."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS for HB 428 (Resources) same title
- new title

and recommends do pass

further referral to the Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz Dick Shultz

Miller (N) Miller

Thompson Thompson

Jenkins Jenkins

Cato Cato

Sund

Dick Shultz
Co-Chairman Shultz

Original sponsor: Marrou

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 428 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to controlled livestock districts."

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

8 * Section 1. AS 03.35.010 is amended to read:

9 Sec. 03.35.010. CREATION AND RESTRICTION IN USE OF CONTROLLED
10 LIVESTOCK DISTRICTS. Except as provided in (b) of this section, a
11 borough assembly [A DISTRICT JUDGE] may by ordinance create and
12 establish a controlled livestock district within the [A CITY OR
13 ORGANIZED] borough [,OR IN OTHER SETTLED AREAS OF THE STATE,] as
14 provided in this chapter, to consist of [ONE OR MORE TOWNSHIPS OR
15 PORTIONS THEREOF OR OF] a contiguous area of not less than 1,280
16 acres. It is unlawful for any domestic animal to graze or run at
17 large within a controlled livestock district unless the domestic
18 animal is [HERDED ON OPEN PUBLIC DOMAIN AND] tended by a person and
19 prevented from grazing or running upon private roads or highways and
20 privately owned land.

21 * Sec. 2. AS 03.35.010 is amended by adding a new subsection to read:

22 (b) Each city of any class constitutes a controlled livestock
23 district. The area of a former city of any class within a
24 municipality unified under AS 29.68.240 - 29.68.440 constitutes a
25 controlled livestock district. The area of the state that is not
26 within a controlled livestock district constitutes open public domain.

27 * Sec. 3. AS 03.35.020(a) is amended to read:

28 Sec. 03.35.020. CREATION TO CREATE, ADD, OR ABOLISH. (a) A
29 controlled livestock district may be created upon petition of not

1 fewer [LESS] than 10 [60 PER CENT OF THE] resident owners or [AND]
2 lessees of cultivated or improved land within the area to be included
3 in the district. The petition shall contain a statement of its pur-
4 pose, shall define the boundaries of the area to be included within
5 the district, shall be signed by the 10 [REQUISITE 60 PER CENT OF THE]
6 resident owners or [AND] lessees within the area described, and shall
7 be filed with the borough clerk [DISTRICT JUDGE] for the borough
8 [DISTRICT] within which the land is situated.

9 * Sec. 4. AS 03.35.020(c) is amended to read:

10 (c) Portions of a district or an entire district may be abol-
11 ished or eliminated if 10 [60 PERCENT OF THE] owners or [AND] lessees
12 of cultivated or improved land within the district or the area affect-
13 ed petition for the abolishment, in which event the procedure set out
14 in this section for formation of a controlled livestock district shall
15 be followed for dissolution.

16 * Sec. 5. AS 03.35.030 is amended to read:

17 Sec. 03.35.030. NOTICE, HEARING, AND ORDINANCE [ORDER]. (a)
18 Upon receipt of a petition for the establishment of a controlled
19 livestock district, the borough assembly [DISTRICT JUDGE] shall set a
20 time for hearing the petition not less than 30 days after the receipt
21 of the petition [THEREAFTER]. Notice of the time and place of the
22 hearing and its purpose shall be posted in not less than three con-
23 spicuous public places within the proposed district, including a post
24 office, for a period of at least 30 days before the hearing. If there
25 is no post office within the proposed district, then the notice shall
26 be posted in two conspicuous public places in the proposed district
27 and in the post office nearest the proposed district.

28 (b) If, at the hearing, the borough assembly [DISTRICT JUDGE]
29 finds that the petition is sufficient and that notice of the hearing

1 has been given, it may adop. an ordinance [THE DISTRICT JUDGE SHALL
2 ENTER AN ORDER] creating and establishing the controlled livestock
3 district and describing its boundaries. The borough clerk [DISTRICT
4 JUDGE SHALL CERTIFY TO THE CLERK OF THE SUPERIOR COURT FOR THE
5 JUDICIAL DISTRICT A COPY OF THE FINDINGS AND ORDER. THE DISTRICT
6 JUDGE] shall send a copy of the ordinance [ORDER] to the commissioner
7 of natural resources [DIRECTOR, DIVISION OF AGRICULTURE, DEPARTMENT OF
8 NATURAL RESOURCES].

9 * Sec. 6. AS 03.35.040. is amended to read:

10 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner
11 of land within a controlled livestock district, whether the land is
12 fenced or unfenced,

13 (1) is entitled to recover, from the owner or person having
14 custody and control of a domestic animal, for actual damages or in-
15 juries [ANY INJURY] done or caused by the domestic animal [IT] when
16 grazing or running at large within a controlled livestock district
17 contrary to the provisions of this chapter, and

18 (2) has a lien upon the domestic animal for the amount of
19 the damage done.

20 (b) A [HOWEVER, NO] claim for damages in excess of \$5,000 [\$50]
21 is not allowed against any one animal for any one trespass.

22 * Sec. 7. AS 03.35.070 is amended to read:

23 Sec. 03.35.070. DEFINITIONS. In [AS USED IN] this chapter

24 (1) "domestic animal" includes goats, sheep, cattle,
25 horses, [AND] swine, dogs, and cats;

26 (2) "owner of land" means a [INCLUDES A FREEHOLDER, TENANT,
27 CONTRACT VENDEE OR OTHER] person in actual possession of land.
28
29

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1986

SUBJECT: Controlled livestock districts
 [CSHB 428(Resources)]

TO: Representative Andre Marrou

FROM: Richard A. Bradley
 Legislative Counsel

Jack Sanderson has requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 03.35.010, Creation and Restriction in Use of Controlled Livestock Districts.

Sec. 10(a) transfers from the district court to a borough assembly the power to establish a controlled livestock district; the section limits the power to establish the controlled livestock districts to the areas within a borough. The assembly will adopt a controlled livestock district by ordinance.

The phrase "or in other settled areas of the state" is deleted as inconsistent with the logic of the amendment.

The phrase "one or more townships or portions thereof or of" was deleted because it did not, in fact, establish a limitation; the only legislative limitation is the minimum size of "1,280 acres", an area one mile by two miles.

The phrase "herded on open public domain and" was deleted as essentially inconsistent with the logic of the description of a "controlled livestock district."

Section 2 of the bill adds Sec. 03.35.010(b). It provided that the area of a city of any class constitutes a controlled livestock district. Moreover, the area of any former city of any class within a unified municipality (i.e., Juneau, Sitka, Anchorage) constitutes a controlled livestock district. And the remainder of the state is "open public domain."

Section 3 of the bill amends AS 03.35.020(a). It changes from "60 percent of the resident owners and lessees of cultivated land within the area" to "10 resident owners or lessees of cultivated or improved land within the area" the number of those who are required to petition for the establishment of a controlled livestock district. As amended, sec. 10 would provide that the only areas in which a controlled livestock district may be established within a borough are the areas of the borough that are not within the limits of a city or former city of any class. The petition shall be filed with the borough clerk rather than the district judge.

Section 4 of the bill amends AS 03.35.020(c). The section permits a petition to abolish all or a portion of a controlled livestock district using the same procedures as for its establishment, that is, by ordinance.

Section 5 amends AS 03.35.030, Notice, Hearing, and Ordinance, and conforms the language of the section to the substantive changes already made.

Sec. 30(a) relates to the receipt of the petition and its notice by the borough assembly.

Sec. 30(b) permits the assembly, in its discretion, to establish the controlled livestock district. It directs the borough clerk to send a copy of the ordinance to the commissioner of natural resources.

Section 6 of the bill amends AS 03.35.040, Liability for Damages, and Lien.

Sec. 40(a) permits the owner of land within a controlled livestock district, "whether the land is fenced or

Representative Andre Marrou
Page 3
April 18, 1986

unfenced," to recover for "actual damages or injuries done or caused" in place of the existing law's "any injury done".

Sec. 40(b) provides that no claim may exceed "\$5,000" in place of the existing "\$50").

Section 7 of the bill amends AS 03.35.070, Definitions. Sec. 70(1) adds "cats and dogs" to the definition of "domestic animals".

Sec. 70(2) provides that "owner of land" means a person in actual possession of land and eliminates some extraneous examples.

The bill does not have an affirmative effective date section.

If I may be of further assistance, please advise.

RAB:mkr
m4/142

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 428
 Title : Grazing Districts

 Sponsor : Rep. Marrou
 Requestor : House Resources
 Date of Request : 4/10/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Agriculture Management

 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

Prepared by : Carol Wilson *aw*
 Division : Commissioner's Office
 Approved by Commissioner : Mrs. D. Arnold, Deputy
 Agency : Natural Resources

Phone : 465-2400
 Date : 4/10/86
 Date : 4/10/86

Distribution (by Agency preparing fiscal note) :

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

Alaska State Legislature

COMMITTEES:

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



Andre Marrou
Representative

UNIT 2

Speaker
Deputy Speaker
House
Senate
Judicial
School
County

April 11, 1986

To: Chairpersons & Members of the H. Resources Committee
From: Andre Marrou, Representative

Subject: HB 428, Controlled Grazing Districts

Public feelings on this issue are very strong. On one side, there are small private landowners upset about cattle and horses grazing on their land, and in some cases their gardens and lawns, without accountability of the livestock owners. On the other hand, there are farmers and ranchers whose very livelihood depends upon access to open range, which they have had for decades upon decades here in Alaska.

As a case in point, ranchers are adamant that they need open range in the Fox River Valley at the head of Kachemak Bay, comprising thousands of acres. On the other hand, there have been abuses of the system -- such as a man turning his horses loose at the end of Skyline Drive (a state road), near Homer, where they graze on private land.

Mr. O'Meara, in his lawsuit against the Andersons, claims that the courts have agreed with him that open range is a "myth" in Alaska. As I have advised Mr. O'Meara, I disagree with him and feel that the courts clearly said that the situation is now muddled and should be clarified by the Legislature. I pointed out to Mr. O'Meara that two former Governors, two former Senators, and one incumbent Senator, all have pointed out that open range has been a fact of life in Alaska for decades.

However, times change as more people move into an area, and laws need to be adjusted to current situations. HB 428 is offered as a partial solution-- a compromise. Please refer to the "Sectional Analysis" and the list of "Further Possible Compromises".

Consider what a rancher would feel if he/she were suddenly required to build miles upon miles of fences around a state lease which he/she has been using for 20, 30, or 40 years. I daresay no rancher in the State could afford it. For example, there are now 39 grazing leases on State land, totaling 215,750 acres or about 5,532 acres per lease. Some ranchers have been using these grazing leases for 40 years. Which makes more sense-- asking a relative newcomer to fence in 1 acre, or suddenly requiring ranchers to fence in 5,500 acres (about 8½ square miles) that they've been using for a very long time?

Page 2
House Resources, HB 428
April 11, 1986

Perhaps those few ranchers abusing open range privileges should be taken to task, rather than issuing a blanket condemnation of all livestock owners.

Also, please note that the five letters and affidavits from previous legislators and governors included two from original delegates to the Alaska Constitutional Convention in 1955-56. I included them because of the historical perspective, which I am not able to provide. One of the Constitutional Conventional delegates is current Sen. Jack Coghill. These delegates knew what they meant when they wrote the original Constitution of the State of Alaska, and therefore can provide a unique view of how Alaska has progressed during the last 30 years. Alaska has only had 5 Governors, including the current one, and 2 of these went to the trouble of recently addressing letters to the Alaska Supreme Court in support of open range.

SECTIONAL ANALYSIS HB 428

Section 1 of the bill (copy enclosed) bars a city from having a livestock district within its boundaries. Also, it adds the areas of cities to controlled livestock districts as places where animals must be "tended by a person and prevented from grazing upon... privately owned land".

Section 2 states that every city and unified municipality constitutes a controlled livestock district. This extends considerably the area where people are required to tend their livestock.

Section 3 adds improved land to cultivated land, "the resident owners and lessees" of which can vote to form a livestock district. This increases the number of eligible people, and could simplify a formation of a district by allowing house (or cabin) owners to vote as well as the farmers and ranchers.

Section 4 is the opposite of Section 3 and allows the abolition or elimination of a livestock district, as Section 3 allows it to be created.

Further Possible Compromises

(A)

Allow open range in certain well established areas (such as the Fox River Valley), but require livestock owners to control their animals within, say, one-quarter mile of State roads.

(B)

If a person does not have a State grazing lease, perhaps he/she should not be allowed to utilize open range.

(C)

Allow ranchers to buy the grazing leases that they've been using for decades, and then require them to fence it in. This was part of the reasoning behind HB 248 last year regarding University-grant land--allow the farmer/rancher to own the land.

STATE OF ALASKA
THE LEGISLATURE

APR 02 1985

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 2, 1985

SUBJECT: Open range (Work Order No. 14-0972)
TO: Representative Andre Marrou
FROM: Richard A. Bradley
Legislative Counsel *B*

You have requested an "overview" of the law relating to the responsibilities of owners of cattle.

I gather that there have been at least two cases, both arising in the jurisdiction of the Homer District Court, that have been concerned with these issues. The cases are the C'Meara v. Anderson case that you provided me the pleadings on and In re New Way Agriculture Cooperative, (3HO 83-264 CIV). My information does not suggest which way the latter case was decided since all that I have is the Brief of the state opposing the creation of a controlled livestock district on the real property described in the petition. The decision in the New Way Agriculture Cooperative case is not indicated but the state opposed the establishment of the controlled livestock district because of technical problems in the petition.

Judge Fuld's decision may or may not become a significant precedent for the future. But I have some difficulties with the decision.

He concludes that Alaska law, like the English common law, should "protect the interests of private property over that of the cattle owner." He is unable to distinguish between trespassing cattle and trespassing oil company equipment or trespassing hunters.

He arrives at this conclusion from an essentially pure common law approach, that is, he finds the law under AS 03.30 confused and unhelpful and legislative intent uncertain; he seems unaware of AS 03.35 (or fails to note its existence)

Representative Andre Marrou
April 4, 1985
page 2

and thus he is forced to find a solution in the uncodified, common law.

I think it is fair to state that the law is in a state of disrepair.

Two separate chapters of the law have dealt with the regulation of cattle in this context. See former AS 03.30 ("Fences") and present AS 03.35 ("Grazing Districts"). Both are derived from the compilation of the laws in 1949 (ACLA 1949) though I have not sought to determine which is the more venerable; each is (or was) in its way equally venerable.

The provisions of former AS 03.30 adopted the "fence-out" concept; before that law was largely repealed in 1977 (ch. 55, SLA 1977), it protected the property owner who fenced his property and kept the fence in repair according to statutorily established standards (found in former AS 03.30.010). In such a case, the owner of trespassing cattle was liable for resulting damages if the cattle were to breach the fence. Viewing AS 03.30 as the exclusive law on the subject, the area fenced under former AS 03.30 would therefore have ceased to be open public domain land and been excluded from the application of the so-called Western common law rule.

The difficulty is that there is other law.

The provisions of AS 03.35 permit the establishment of "controlled livestock districts." In my view, a slightly (well, thoroughly) confused statement in AS 03.35.010 may reflect the intention of the legislature:

Sec. 03.35.010. CREATION AND RESTRICTION IN USE OF CONTROLLED LIVESTOCK DISTRICTS. * * * It is unlawful for any domestic animal to graze or run at large within a controlled livestock district unless the domestic animal is herded on open public domain and tended by a person and prevented from grazing upon private roads or highways and privately owned land.

If I were to recast the quoted language into clearer prose, I would delete the phrase "herded upon open public domain and"; it would then read:

It is unlawful for any domestic animal to graze or run at large within a controlled livestock district unless the domestic animal is tended by a person and prevented from grazing upon private roads or highways and privately owned land.

The result in this situation is not different from the situation under AS 03.30 before its amendment in 1977.

I note that Governor Hammond expressed concern in 1977 when the fence-out laws were repealed. See 1977 House Journal at 1484. No useful legislative history (beyond the governor's letter) appears to remain to indicate what was intended. Note, however, that while the amendment to AS 03.30 deleted the option of the individual to erect a fence, AS 03.35 continues to permit the establishment of a controlled livestock area by judicial decree.

In the area outside the controlled livestock area, open range conditions exist. And, under AS 03.30 as it existed before the 1977 amendment, the area outside fences is an area of the "open public domain."

And while there are some suggestions about the status of the "common law" in Alaska at this time (including the decision of Judge Fuld in O'Meara), I believe that that suggestion is not altogether accurate. AS 03.35 has supplanted the "common law" by its enactment of a statutory framework that explicitly recognizes open range conditions except when a controlled livestock district has been established.

The statutory law in the state does not, however, have a fence-out aspect. In my view, that fact has no implications for the common law and does not revive the common law.

Therefore, in my opinion, the law in Alaska is generally that the entire state is open range except to the extent that controlled livestock districts have been established under AS 03.35. There are clear problems with this result in urban areas but the law permits the establishment of controlled livestock districts in these circumstances. Note, moreover, that the legislature apparently intended the controlled livestock district to be the answer in urban areas since it is in these areas that AS 03.35.010 suggests that the districts be established. It is under this situation that I have reservations about the decision suggesting that the English common law rule applies in urban areas.

Representative Andre Marrou
April 4, 1985
page 4

Having said that, I note an existing problem with AS 03.35 that may have been the basis for the state's opposition to the establishment of the controlled livestock district in the New Way Agriculture Cooperative case. The threshold requirement for the establishment of the district is that a certain number of the owners of "cultivated land" join in the petition. The term "cultivated" is not defined in AS 03.35; if it really has its usual meaning, it would not likely be useful in urban areas-- but I suspect that it should be read as "improved" (or as "cultivated or improved"). I confess that I am substantially rewriting the law as I say this and suggest that the legislature may wish to reconsider what was meant by the usage of the term.

And a general review of the law in both AS 03.30 and 03.35 is timely.

If I may be of further assistance, please advise.

RAB:csh
c3/081

IN THE SUPREME COURT FOR THE STATE OF ALASKA

AT ANCHORAGE

ELTON ANDERSON and EDNA)
ANDERSON,)
)
Petitioners,)
)
vs.)
)
MICHAEL s. O'NEARA and)
JANET V. O'NEARA,)
)
Respondents.)

Case No. 3HO-84-276 SC

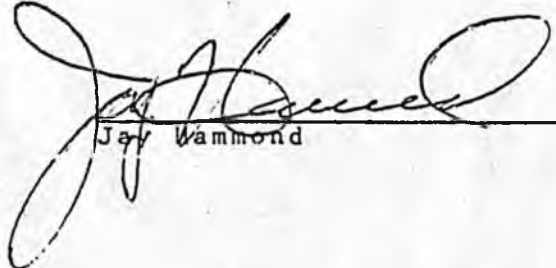
AFFIDAVIT OF JAY HAMMOND

Jay Hammond states as follows:

1. I am a former Governor of the State of Alaska.
2. I recall drafting the attached letter dated May 25, 1977 in which I expressed my concern about the impact that repeal of the fence-out law would have on liability on open range land.
3. It was then, and continues to be my opinion that the "open-range" rule of liability has long applied in Alaska concerning trespass by cattle on unenclosed property not located within the closed grazing district. I believe the trial court in case no. 3HO-84-276 SC erred insofar as it failed to acknowledge the existence of the open-range rule of liability as it has existed in Alaska.

DATED THIS 22nd day of September, 1985.

I, Jay Hammond, represent that there is no notary available in the Lake Clark area where I live, and that I have executed this document. I would sign this document under oath if a notary were available.


Jay Hammond

"May 25, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

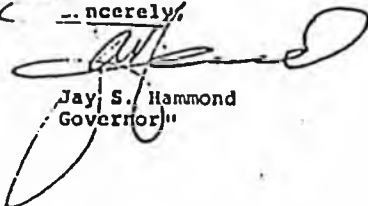
I am allowing to become law without my signature and am transmitting the enrolled and engrossed copies to the Lieutenant Governor's Office for permanent filing:

SCS
CSHB
90

SENATE COMMITTEE SUBSTITUTE
COMMITTEE SUBSTITUTE
HOUSE BILL NO. 90
(Relating to domestic animals)
Chapter 55, SLA 1977

I am concerned about the final provision of the bill repealing certain provisions of the law relating to open range land, specifically, the section defining a legal fence and the section providing that an owner of an animal which enters upon land enclosed by a legal fence shall be liable to the landowner. By repealing these sections, substantial doubt and uncertainty is created concerning the rights of a person owning land in an open range district to protect himself from possible damage caused by another's domestic animals. The present statute clearly provides for liability; its repeal suggests that the owner of animals is no longer to be liable to the landowner. Yet, general principles of tort law, as well as common sense, suggest that a landowner, if he puts up a fence to keep animals off his property, should be entitled to damages if the animals knock down the fence and come upon his property. Repeal of the definition of a legal fence further complicates this issue and leaves in doubt the current law. I am hopeful that the legislature might clarify this next session.

Sincerely,



Jay S. Hammond
Governor

Messages dated May 25, 1977 were read stating the Governor has signed the following bills and is transmitting the enrolled and engrossed copies to the Lieutenant Governor's office for permanent filing:

SB
197
ad H

SENATE BILL NO. 197 amended House
(sale of subsistence salmon roe)
Chapter 56, SLA 1977

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 188
(membership on the Alaska Code Commission and
Criminal Law Revision Subcommittee)
Chapter 57, SLA 1977

HCS
SB
188MESSAGES FROM THE SENATE

A message dated May 24, 1977 was read stating the Senate has passed the following and they are returned:

HOUSE CONCURRENT RESOLUTION NO. 65 amended HCR
(Requesting Governor to preserve the superintendent's 65
quarters at the Alaska Pioneers' Home in Sitka) am

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 193 amended CSHB
(child care; effective date) 193
am

The above were referred to the Chief Clerk for enrollment.

A message dated May 24, 1977 was read stating the Senate has concurred in the House amendment to SENATE BILL NO. 50 amended (utilities and state rights-of-way; effective date), thus adopting (Fin) am H

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 50 (Finance) amended House
(utilities; effective date)

A message dated May 24, 1977 was read stating the Senate has failed to concur in the House amendment to COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 150 (supplemental appropriation, Department of Education; effective date), namely, HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 150 (appropriations to Department of Education; effective date), and respectfully requests the House to recede from its amendment. HCS
CSSB
150

In the event that the House does not recede, the President has appointed the following members to a Conference Committee to meet with a like Committee from the House to consider the above bills:

Senator Hackney, Chairman
Senator Ferguson
Senator Orsini

A message dated May 24, 1977 was read stating the Senate has adopted the Free Conference Committee report on COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 238 amended and HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 238 (oil and gas properties production tax; effective date) thus adopting HCS
CSSB
238

FREE CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 238
(oil and gas taxation; effective date)

Walter J. Hickel

Box 101700
Anchorage, Alaska 99510-1700
907-270-7400

September 20, 1985

Justice Jay A. Rabinowitz
Supreme Court
Box 850
Fairbanks, AK 99707

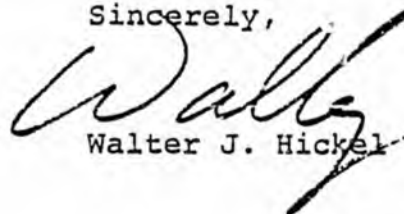
Dear Justice Rabinowitz:

I am writing to you in the hopes that the Supreme Court might hear a case that could have long-range implications for the State of Alaska, specifically Case Number 3H0-84-276 SC.

Attorney David G. Stebing has brought this matter to my attention and, while the statutes are clear and I am very much aware of them as they relate to Alaska's historical open-range, it is my feeling that this whole situation should be adjudicated.

Thank you for your consideration of this matter.

Sincerely,


Walter J. Hickel

bcc: David G. Stebing

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-7332



April 10, 1986

MEMORANDUM

TO: Representative Shultz

FROM: Senator Coghill

RE: HB 428

I am supporting HB 428 as introduced by Representative Marrou. This bill addresses a problem that we are facing as urban development grows and the conflicts over grazing uses increase.

We have always had the concept of open range in Alaska. As a member of the Alaska Constitutional Convention I have a historical perspective to add on the concept of open range within the state. Attached you will find an affidavit that I signed in September of 1985.

cc Representative Marrou

IN THE SUPREME COURT FOR THE STATE OF ALASKA

AT ANCHORAGE

ELTON ANDERSON and EDNA)
 ANDERSON,)
)
 Petitioners,)
)
 vs.)
)
 MICHAEL s. O'MEAPA and)
 JANET V. O'MEARA,)
)
 Respondents.)

RECEIVED
9/20/85 SMCJ

Case No. 3HO-84-276 SC

AFFIDAVIT OF JACK COGHILL

Jack Coghill being duly sworn and under oath, states as follows:

1. I was a delegate to the Alaska Constitutional Convention, a member of the territorial legislature, and am presently a Senator in the Alaska Legislature.

2. I am aware that the fence-out law previously codified at Alaska Stat. §03.30.010 et seq. was repealed in 1977. It is my belief that with the repeal of the fence-out law the "open range" rule of liability applies in situations involving trespass by cattle.

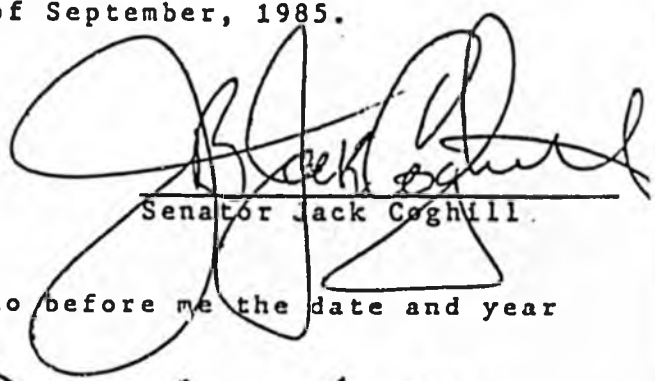
3. In 1957 as a member of the territorial legislature, I assisted in the codification of the original fence-out law. At that time it was my understanding that the "open range" rule of liability had previously been followed in Alaska.

4. I am of the opinion that the 1977 repeal of the fence-out law may have been an oversight insofar as it is determined that the act did away with open range.

5. In the last legislative session, I introduced a bill to effectively reinstate the fence-out law. That bill never made it out of committee.

DAVID G. STEBING
 Attorney at Law
 P. O. BOX 1771
 HOMER, ALASKA 99603
 PHONE: (907) 238-6266

DATED THIS 18 day of September, 1985.


Senator Jack Coghill.

SUBSCRIBED and SWORN to before me the date and year
last above wr'tten.



Carl Jumblos, Postmas
Notary Public for Alaska
My Commission Expires:

IN THE SUPREME COURT FOR THE STATE OF ALASKA

AT ANCHORAGE

ELTON ANDERSON and EDNA)
ANDERSON,)
)
Petitioners,)
)
vs.)
)
MICHAEL s. O'MEARA and)
JANET V. O'MEARA,)
)
Respondents.)

Case No. 3HO-84-276 SC

AFFIDAVIT OF YULE KILCHER

Yule Kilcher, being duly sworn and under oath, states as follows:

1. I was a delegate to the Alaska Constitutional Convention in 1955-56, and was an Alaskan Senator from 1963-66.

2. I have raised cattle in the Kachemak Bay area from 1945 until the present, and was a co-founder of the Fox River Valley Cattlemen's Association which was founded in the early 1950s.

3. The Fox River Valley Cattlemen's Association accepted the Open Range concept as a fundamental precept in the Alaska cattle industry.

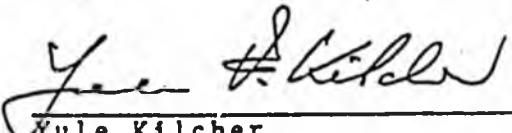
4. While a member of the Alaska Senate, I drafted and introduced the Little Taylor Grazing Act and the Farmers' Preference Act. Both of these pieces of legislation were enacted into law. Both of these laws favored ranching. The concept of "Open Range" was discussed and acknowledged by state legislators at the time as an old-standing rule of liability for Alaska.

5. The Open Range concept was in fact the foundation and starting point for all legislation in Alaska favoring ranching.

6. I believe the failure of the Alaska judicial system to recognize the Open Range rule of liability as it has existed

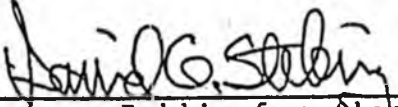
in Alaska for decades will result in numerous family-run cattle ranching operations going out of business because of the inability of these individuals to fence vast acreages of grazing land in order to avoid liability for trespass by their cattle.

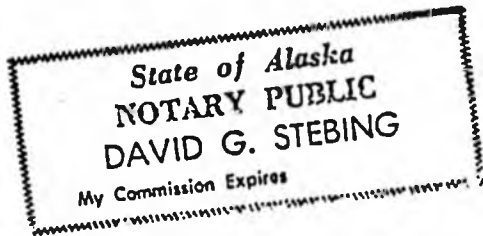
DATED this 16th day of September, 1985.


Yule Kilcher

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

SUBSCRIBED AND SWORN to before me this 16th day of September, 1985.


Notary Public for Alaska
My commission expires



5/1/85

Justice Jay A. Rabinowitz
Supreme Court
Box 850
Fairbanks, Alaska 99707

REC'D
14 FEB 86
FROM
DAVE STESING, ATTY.
Box 1771
Home 99603

Sept. 12, 1985
Halibut Cove

Dear Jay:

I am writing in regard to Case 3HO-84-276 SC.

I feel the Lower Courts have brought in a verdict on the above case that is not in conformance with actual Law.

As the first Bill I worked on as a Freshman Legislator in 1963 was the Open Range issue I introduced legislation repealing the Estray Act as it had been used to impound horses running at large in the Sterling area; it at that time not being included in a Controlled Grazing District and we didn't want a law on the Books that in any way put a burden on the livestock industry.

I was joined in my open range argument by Jacob Stalker, the reindeer herder from the Seward Peninsula, who had a fear that small tract owners up north would impound deer to get free meat and by Art Harris who had a large ranch on the Aleutians and was afraid the small land owners could use impoundment as a harassment tool.

At the time on the House floor argument was made by those who opposed the Act that if Alaska remained truly Open Range then the law would not only effect the private property owners in areas that did not have a Controlled Grazing District but in the absence of highway regulation motorists as well..in other words if you were to hit an animal in an Open Range area the motorist paid for the animal and in areas closed to Open Range the owner of the animal pays the cost.

Some years later the cattlemen were faced with a fence law that made fencing an area once included in a Controlled Grazing district very expensive so I did what was necessary to repeal the fence law.

Dr. Honsinger, the State Veterinarian, asked why I hadn't just modified the fence law but the reasoning at that time was if the people formed a controlled grazing district the live stock owners job was to keep his stock confined and to dictate the kind of fence that was necessary.

Again a few years later then Representative Leo Rhode came to my office on the Senate side and asked if he modified the Controlled Grazing District Law to make it easier to form a Grazing District if I would allow the Bill through the Senate as times were changing. I raised no objection but I think you will find that Alaska is

predominately open range and for a court to award damages to a property owner outside a controlled area is more a case of a Judge writing Law than ruling on it.

The two remedies for a property owner outside a Controlled Grazing District still remain #1. form a Grazing District or #2. go back to the Legislatu~~m~~ and change the Law.

Yours truly,

Clem V. Tillion
Clem V. Tillion

State of Alaska)
City of.....)

On this 14 day of September 1985, personally appeared before me Clem V. Tillion, who acknowledged to me that he signed and sealed the same as his free and voluntary act and deed.

Lucie A. Chamberlain

.....
NOTARY PUBLIC in and for the State of Alaska, residing at

..... 6/29/86
My Commission expires.....

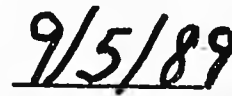


RECORDS CERTIFICATION



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.


Signature of Camera Operator


Date

H B

H B

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HR 3/24/86 8:30 am

10

TO: HOUSE RESOURCES COMMITTEE MEMBERS
REPRESENTATIVES HERRMANN AND SHULTZ, CO-CHAIR
REPRESENTATIVES WALLIS, CATO, JENKINS, M.W.MILLER,
PEARCE, SUND AND THOMPSON

FROM: JACK WOOD, BOX 112, KING SALMON, ALASKA 99613

SUBJ: HB440, BRISTOL BAY RECREATION MANAGEMENT PLAN

I'M IN SUPPORT OF HB440 AND WOULD LIKE IT IMPLEMENTED AS SOON AS POSSIBLE, EVEN EARLIER THAN 2 YEARS IF POSSIBLE. I AM A MEMBER OF THE NAKNEK LAKE AND RIVER SPORT FISHING ASSOCIATION AND REPRESENTING WOODS ALASKA SPORTS FISHING AND GUIDING SERVICE.



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

DRAFT

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

House Resources Committee Letter of Intent for House Bill 440

In order that the recreation management plan is developed comprehensively, it is the intent of House Bill 440 that the plan be developed in two parts. The first would address the Mulchatna/Nushagak River Drainage, where the pressures from recreational uses have been the greatest and the second part of the plan would focus on Iliamna Lake and Naknek/Kvichak River drainage.

While the lead agency is the Department of Natural Resources, the information used to develop the plan should come from a number of sources, including the data from studies in progress. These data should include data from the studies of the Bristol Bay Coastal Resource Service Area, and the Alaska Department of Fish and Game.

As stated in the bill, the advisory committee is the official working group charged with developing the plan. However, it is the intent of the legislature that the state allow and encourage the participation of members of the public in any of the subcommittees or working groups that the advisory committee may establish. The state is also encouraged to allow other major private land holders in the region to participate in these subcommittees and working groups.

With respect to federal and private land, the role of the plan is primarily to provide information, define issues, organize public discussions of these issues, and facilitate cooperative agreements among the various landowners.

Representative Adelheid Herrmann
Co-Chair, House Resources Committee
3/2 /86

ANALYSIS

Bristol Bay Recreation Study (HB 440)

The Bristol Bay region has long been known by sportsmen for its trophy fishing and big game hunting opportunities. A number of guiding operations use the Bristol Bay area, with most of the activity concentrated in the spring, summer, and fall months. Sport fishermen in 1980 harvested about 37,000 salmon, and fishing for trophy rainbow trout and grayling is very popular. Sport hunting for big game species such as brown bear, moose, and caribou occurs throughout much of the area. The Institute of Social and Economic Research estimates that the economic value of recreational hunting, fishing and non-consumptive uses of fish and wildlife resources in the region is between \$20 and \$40 million per year. The rivers described in Section 2 along with the two congressionally designated National Wild and Scenic Rivers in the region and other rivers in adjacent parks have become increasingly popular for river floating. The area contains many commercial lodges catering to hunters and fishermen; recreational cabins and campsites are also spread throughout. Maintained and unmaintained airstrips abound, and floatplanes make use of the lakes and larger rivers. Wood-Tikchik State Park is the largest of Alaska's state parks and provides high quality fishing and boating. Three national parks or monuments (Lake Clark, Katmai, and Aniakchak) and four national wildlife refuges (Togiak, Becharof, Alaska Peninsula and Alaska Maritime) adjoin the planning area. These parks, the several national wildlife refuges and recreational rivers and lakes all attract increasing numbers of recreationists from around the world.

As the Bristol Bay Area Plan was developed as part of a cooperative effort for 31 million acres of land, it was not able to make detailed recommendations regarding management of important rivers on state land. The area plan was signed in September 1984 by the Commissioners of Natural Resources, Fish and Game and Environmental Conservation. The area plan recommends that agencies undertake a regional recreation study for the area. The plan recommends that the study address the following:

1. recreation management of rivers and lakes with high recreation potential;
2. refinement of the primary recreation designations of the BBAP;
3. the numbers and location of future commercial recreation facilities;
4. the concept of setting aside a strip of State and BLM land on both sides of the Nushagak, Myyukuk, Mulchatna, Kokwok, Kuktuli, Swan, King Salmon (off the Nushagak), Chichitna, and Kvichak Rivers and shoreline of Iliamna Lake as special management corridors or public reserve lands that would be managed entirely and exclusively for traditional and public recreational uses;
5. acquisition and marking of public access sites, easements, and campsites and identification of and propose solutions to trespass problems;

6. the need for cooperative land management agreements to ensure maintenance of habitats of fish and wildlife resources used for subsistence and recreation;
7. what is the existing and potential growth in recreation demand and facilities;
8. how compatible is recreation with subsistence and other sectors of the region's economy;
9. how does Bristol Bay recreation contribute to the state's economy;
10. what effect will land disposals and other land uses have on recreation;
11. how do net economic benefits compare with other sectors of the economy; and
12. the disposal (including leasing) of state land for public and private recreation, particularly state land disposals around Iliamna Lake.

The recreation plan outlined in HB 440 would be prepared under the direction of an advisory committee. The local committee members would not receive compensation, but travel and per diem would be paid through this appropriation. The Division of Land and Water Management, Resource Allocation Section, would serve as project staff with assistance from the Division of Parks and Outdoor Recreation.

The plan would be started in the summer of 1986 and would be submitted to the Commissioner by spring of 1988. The final plan would be printed at the end of fiscal year 1988. The budget provides funding for a part-time local coordinator in Dillingham to be hired through the Coastal Resource Service Area Board (CRSA) or Bristol Bay Native Association.

The fiscal note does not identify funds necessary for implementation of the recreation plan.

BUDGET

FY 1987

		Thousands of Dollars
100	Personal Services	
	DNR-DLWM Natural Resource Manager I 12 months	49.0
	DNR-Parks Natural Resource Officer II 4 months	14.8
	Total Personal Services	<u>63.8</u>
200	Travel	
	10 rd.trips Anchorage to Dillingham or King Salmon	4.0
	Travel to villages and rivers	2.2
	Travel of advisory board members	<u>2.0</u>
	Total Travel	8.2

300 Contractual	
Printing - brochure	3.0
Local coordination through CRSA	15.0
Miscellaneous expenses (phone, xerox, maps, etc.)	<u>6.0</u>
Total Contractual	24.0
400 Supplies	4.0
TOTAL FY 87	100.0

FY 1988

100 Personal Services	
DNR-DLWM Natural Resource Manager I 12 mos.	49.0
DNR-Parks Natural Resource Officer II 1.5 mos.	<u>4.8</u>
Total Personal Services	53.8
200 Travel	
10 rd. trips Anchorage to Dillingham or King Salmon	4.0
Travel to villages and rivers	2.2
Travel to advisory boards	<u>2.0</u>
Total Travel	8.2
300 Contractual	
Printing - draft and final plans	15.0
Local coordination through CRSA	15.0
Miscellaneous expenses (phone, xerox, maps, etc.)	<u>6.0</u>
Total Contractual	36.0
400 Supplies	2.0
TOTAL FY 1988	100.0

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

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

OFFICE OF THE COMMISSIONER

March 20, 1986

The Honorable Adelheid Herrmann
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: HB 440

Dear Representative Herrmann:

I have reviewed HB 440. The Department of Natural Resources supports it in concept. However, the department is unable to commit itself to undertaking this project during fiscal year 1987 because it was not included in the Administration's budget request. House Bill 440 calls for me to develop and adopt a recreation management plan for the Bristol Bay area. This management plan was an important recommendation of the Bristol Bay Area Plan, which I adopted in September 1984.

As envisioned in the Bristol Bay Area Plan, the recreation management plan would be a cooperative effort of state land managers and private landowners to address management of rivers and lakes with high recreation potential. The rivers specified in HB 440 have high recreation potential. However, I recommend the addition of the Nuyakuk River to part one of the plan (Section 2, page 1, line 23), and the Newhalen River to part two (Section 2, page 1, line 24). Except for the Mu'atna River, the Nuyakuk River, and the upper reaches of the Nushagak River, the state owns little land adjacent to the rivers mentioned in HB 440. Consequently, while the state could develop specific management guidelines and allocations for state-owned land, in all other areas it will serve primarily to provide information, define issues, organize public discussion of these issues, and facilitate cooperative agreements among various landowners.

There is one section of the bill which I would urge you to change. The second sentence of Section 4 calls for a moratorium on recreational development and disposal of interest in state land in the Bristol Bay region until the recreation management plan has been adopted. I can appreciate the concern which prompted this provision, that is, that

March 20, 1986

land management actions taken prior to adoption of the plan might undermine the intent and force of the plan. However, I would like to allay your fears on this point. All of the department's land management decisions are based on the best available information and a determination that the action is in the public interest. If an area or management plan is in progress, proposed land management actions are frequently reviewed by the planning team so that the land manager has access to the most current information and concerns expressed by the planning team. The land manager can then decide on a case-by-case basis whether it is in the public interest to proceed with the proposed action or whether to defer action until the plan is adopted. A blanket moratorium throughout the region would deprive the department of the discretion it needs to manage state land wisely over the 18 to 24 month period the management plan would be in preparation.

I have enclosed a suggested amendment for Section 4 of the bill for your consideration.

Please let me know if there is further information I might provide.

Sincerely,

Ned Fawcett

for Esther C. Wunnicke
Commissioner

Enclosure

cc: Tom Lawkins, Director
Division of Land and Water Management

March 20, 1936

DEPARTMENT OF NATURAL RESOURCES

Suggested Amendment No. 1

Section 4 shall be amended to read as follows:

Sec. 4. To the maximum extent possible, the commissioner of natural resources shall implement the recommendations of the recreation plan in the management of the land, water, and natural resources of the rivers and land in the Bristol Bay region. Furthermore, prior to adoption of the recreation plan, the commissioner shall consider the impact of proposed actions on the recreational resources of the Bristol Bay region. (THE COMMISSIONER OF NATURAL RESOURCES SHALL DEFER RECREATIONAL DEVELOPMENT OF THE RIVERS AND LAND ADJACENT TO THE RIVERS IN THE BRISTOL BAY REGION AND SHALL DEFER THE DEVELOPMENT OF PERMANENT RECREATIONAL FACILITIES OR DISPOSING OF AN INTEREST IN STATE LAND WITHIN THE BRISTOL BAY REGION UNTIL THE RECREATION MANAGEMENT PLAN HAS BEEN ADOPTED.)

Sept 14, 1983

Dear Rep Herman + Sen Mulcahy:

We the Undersigned participants in the BBN
"Village Government Workshop" hereby support BBN
Executive Committee's Resolution 83-29 "Management
Corridors" + Request your Assistance in implement
this concept

Joe McE - Leetah/Towhee
Dif Sharp Twin Hills
C.T. Seel - Kologonek
Nick Holstrom Jr. So. Makenah
Gerald Fletcher - Nianna
Joseph X. Clark Clatsop Point
Claine J. Holm Port Hood
Karen Carlson Chiswick Bay
Sharon Clark Clatsop Point
Gregory Anelson, Jr Newhalen
Lydia Wilson, Nondalton
Michael Meil
Karen E. Gault - Nondalton
Barbara Jahn Peewee Bay
Kirona Henry Sevelock
Agnes Rychnovsky - Nambahn
Arlin Sharp Twin Hills
Moses Tomukat Sr. - Manskotak

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 189

DILLINGHAM, ALASKA 99576

By Executive Committee

Resolution No. 83-29

WHEREAS, the Nushagak, Nuyakuk, Mulchatna, Kokwok, Koktuli, Swan, King Salmon (off the Nushagak), Chichitna, Kvichak Rivers, and areas around the Iliamna lake are among the last of the wilderness waterways in the public domain; and

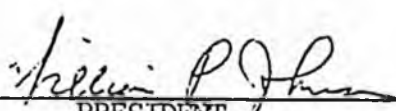
WHEREAS, the setbacks called for in the Bristol Bay Cooperative Management Plan proposals are inadequate to protect these areas; and

WHEREAS, the wilderness waterways and surrounding areas are constantly subject to various pressures from State, land disposals, oil leasing, mineral location, and other uses; and

WHEREAS, the Bristol Bay Native Association is now taking the initiative to impose a legal designation on these lands to protect them for all future generations.

NOW THEREFORE BE IT RESOLVED, that the Executive Committee of BBNA urges the Alaska State Legislature to enact a law that will protect these waterways by setting aside a five mile wide strip on both sides of a center line (i.e., a total ten mile wide strip of land) on the Nushagak, Nuyakuk, Mulchatna, Kokwok, Koktuli, Swan, King Salmon (off the Nushagak), Chichitna, and Kvichak Rivers and an area of land five miles inland from the shoreline of the Iliamna Lake on State lands as special Management Corridors.

BE IT FURTHER RESOLVED, that said lands in these Management Corridors be set aside and managed entirely and exclusively for traditional and recreational uses.

SIGNED: 

PRESIDENT

CERTIFICATION:

I, the undersigned secretary of said Association, do hereby certify that the Executive Committee is composed of ten (10) members, of whom 3 were present at a meeting this 9 day of September, 1983, and that the foregoing resolution was adopted by the affirmative vote of 8 members.

SIGNED: 

ASSISTANT SECRETARY

KOLIGANEK VILLAGE COUNCIL

KOLIGANEK, ALASKA 99576 - VILLAGE TELEPHONE (907) 596-8001

August 31, 1985

Dear Adelheid,

There are a couple of matters that I wanted to bring to your attention at this time, as I am not sure of the time-table that is involved in a final decision concerning them. It may be that there is plenty of time, and these matters could wait until the next session-I don't know.

The first concerns the coastal zone management plan. A concept I have discussed with many people, both local's and sportfishermen alike has met with about one hundred percent approval, but has received no mention in the public hearings, possibly because the local's may have difficulty in articulating their thoughts. It is a concept I have discussed with you here in the house. It is based on two premises, the first being that the locals do not want changes in their life brought about by the disposal/leases of state lands within the river areas they have traditionally utilized, nor do sportfishermen, rafters, and lodge owners want these areas developed. The second premise is that oil/mining is coming to this area sometime down the road. The solution is a "management Corridor" to maintain the status-quo. The corridor would be of a given width, five, ten, fifteen miles or whatever. But the crucial point is that in the center of the corridor would be the Nushagak, Kulchatna, Koktali, Sun, Iyakhok, King Salmon, and Chichitna Rivers. The corridor would be open to traditional and recreational use, but would be closed to leases, disposals, and commercial development. Oil and mining activities would have to take part outside of the corridor and could not use the corridor for industrial transportation. Existing lodges could be grandfathered in, new ones would be restricted to dismantable tent frame camps, and would chose their sites annually by drawing, to avoid "squatters claims" in the future. This not only protects locals, but also the recreational users, including guiding businesses. If you agree with me in this matter, what can be done to get the corridor implemented into the CEM?

The second matter involves the new phone rates and construction being considered by the AFUC. All present rating structures being considered charge villagers a flat rate for their calling area which is limited to their own village per month. In bush Alaska I contend that this is wrong. We all rely on communication in a village by walking, three wheeler, VHF, or CB, without a charge. Any necessary telephone calls are out of the village and therefore considered long distance. At present the single phone system has set a precedent in that a user only pays for the calls made, and not a flat rate. I contend that any phone system put into a village should only charge for the calls made, and not a

That is to, per month plus the long distance calls. The flat rate per month for a "calling area" is an urban concept, that is counter-productive to the bush consumer. I have mentioned this on occasion to the NW, both by letter and by phone, and have received no response. As Kollignek is slated for construction (first this year, now next) I am very concerned that my fellow residents will be stuck with unnecessarily high bills which will include phone service for a calling area that is already adequately served without a telephone.

On a brighter note, I would like to inform you that almost all of our electrical grant distribution work is done. Once the site-control was established (a long process) the construction went very fast. Excellent workmanship was performed as was the planning. We received many extra services not in the contract, help in home wiring problems, extra services (meterbox & hookups), and possibly five street lights yet to come. The firm was Humphrey, P.E. or the P.E. Company (it is listed both ways with the directory services) Tom Humphrey did the engineering. Vinny McLellan did all of the land planning/site control. Kollignek just did not have the expertise for it. Vinny has given us excellent maps of the village that will be useful in future planning and 14(c) reconveyance. The same firm did our bulkfuel storage grant, which involved a lot of red tape to turn the legislative appropriation into a check. Even though Diamond Willow Construction lost in its bid to build our outhouse and councilhouse (Diamond Willow works closely with the P.E. Company) The P.E. Company installed a powerpole, meter, & wire out to where the outhouse is being built, so that the competitors who won the outhouse contract, would be assured of electrical power to build with. By utilizing Tom Humphrey and Vinny McLellan, we got the best deal money can buy, they were a real credit to the use of public funds.

Sincerely,


C.T.

State and Federal Bristol Bay Plans Call for Further Recreation Planning

The Bristol Bay Plan emerged from the Bristol Bay Cooperative Management Plan which was a joint effort of state and federal agencies to plan for the region. Before the cooperative plan was adopted, a decision was made that the plan be adopted by the federal and state governments separately. The state plan was adopted as the Bristol Bay Area Plan and the federal plan was adopted as Bristol Bay Regional Management Plan. Both plans as adopted recognize the need for additional planning for the recreational management of the region.

Excerpt from the State Bristol Bay Area Plan
Guidelines

1. Future Management Plans Should Address Recreation

State agencies should develop management plans that maintain public recreation, scenic areas, wilderness, unique geological features, and fragile or unique ecosystems in areas with significant recreation values.

2. Recreation Facility Siting

Recreation facilities will be sited in a manner to minimize the adverse impact on existing wildlife populations and traditional uses while at the same time providing the recreation facilities needed by the public.

Excerpt from the Federal Bristol Bay Regional Management Plan

Recreation Study: ADNR, ADF&C, BLM, and USFWS should develop a recreation management plan for the study area. The study should specifically address the various issues and concerns missed in the public review of the Draft BBCMP as well as the following:

1. recreation management of rivers and lakes with high recreation potential;
2. refinement of the primary recreation use recommendations of the BBRMP;
3. the location of future commercial recreation facilities;
4. the concept of setting aside a strip of State and BLM land on both sides of the Nushagak, Nuyukuk, Mulchatna, Kokwok, Kuktuli, Swan, King Salmon (off the Nushagak), Chichitna, and Kvichak Rivers, and shoreline of Iliamna Lake as special management corridors that would be managed entirely and exclusively for traditional and public recreational uses;
5. acquisition and marking of public access sites, easements, and campsites;
6. the need for cooperative land management agreements to ensure maintenance of habitats of fish and wildlife resources used for subsistence and recreation.
7. identification and recommended diversification of the entire recreation industry in the study area.

BRISTOL BAY COASTAL RESOURCE SERVICE AREA PROJECTS

I. Nushagak River Basin Mapping Project

This project represents the largest-scale mapping effort done on a river system in Bristol Bay to date and includes:

- three (3) 1:500,000 index sheets showing the location of larger scale 1:63,360 maps; and
- thirty-four (34) maps at a scale of 1 inch to 1 mile showing various sections of the Nushagak River drainage basin's major river and lakes.

These blue-line maps are intended to be used as working maps by the Bristol Bay CRSA Board, various state agencies and village corporations for land and water resource inventory work. These maps were produced at the level of detail necessary for preparing a management plan. The Bristol Bay CRSA Board also has the contact mylars and the negatives for each map sheet and is able to reproduce any portion of the mapping project for the cost of reproduction (blue-line paper).

II. Commercial Recreation Study

Because of the rapidly accelerating use of the Nushagak River drainage by recreation and virtual lack of information on the intensity and location of this use, the CRSA Board received a \$30,000 special appropriation to do a study on commercial recreation use of the Nushagak/Mulchatna River drainages. Due to funding limitations, the study focused on the Nushagak/Mulchatna area (study area) and does not reflect the substantial amount of recreation use in the Iliamna subregion or other areas experiencing significant use.

Phase I of the study has been completed and resulted in a directory of commercial service providers - lodges, guides and air taxis - that operate in the study area. A total of 128 lodges, guides and air taxis were found to operate full-time or part-time in the Nushagak/Mulchatna area alone, representing a significant indication of the amount of recreational use this river system currently receives. The value of the directory was both to define the number of operators using the area, and to establish a current population base from which to administer a detailed survey.

Phase II of the study involved developing and administering three separate survey questionnaires for the three broad categories of commercial service providers. The survey questionnaires were designed to collect specific information on the location, timing and other use characteristics in the study area for sport fishing, hunting and recreational rafters, as well as information on the types and costs of services provided by lodges, guides and air taxis. Commercial service providers were also asked to map regularly used areas for these activities, locations of permanent and non-permanent facilities (lodges, campsites, tents, cabins) and commonly used access points.

A total of 71 surveys have been completed representing 55% of the recreation businesses that operate in the study area. 52 of the 71 surveys were done by personal interview (averaging two hours per interview). Mail out questionnaires were sent to those operators not available for interview and a total of 19 questionnaires have been received. The information from these surveys is presently being analyzed, and a final report on the study summarizing the results of the survey will be published by the end of April 1986.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 3-20-86

REQUEST

Bill/Resolution No. : HB 440
 Title : An Act relating to a recreation management plan for Bristol Bay
 Sponsor : Representative Hennmann
 Requestor : House Resources
 Date of Request : 3-20-86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land & Water Management - Public Use
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		63.8	53.8			
TRAVEL		8.2	8.2			
CONTRACTUAL		24.0	16.0			
SUPPLIES		4.0	2.0			
EQUIPMENT		0.0	0.0			
LAND & STRUCTURES		0.0	0.0			
GRANTS, CLAIMS		0.0	0.0			
MISCELLANEOUS		0.0	0.0			
TOTAL OPERATING		100.0	100.0			

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND		100.0	100.0			
FEDERAL FUNDS						
OTHER						
TOTAL		100.0	100.0			

POSITIONS :

FULL-TIME		1	1			
PART-TIME		1	1			
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached.

Prepared by : Richard H. Mvlius
 Division : Land and Water Management

Phone : 762-4413
 Date : March 20, 1986

Approved by Commissioner : Ned Frazier
 Agency : Natural Resources

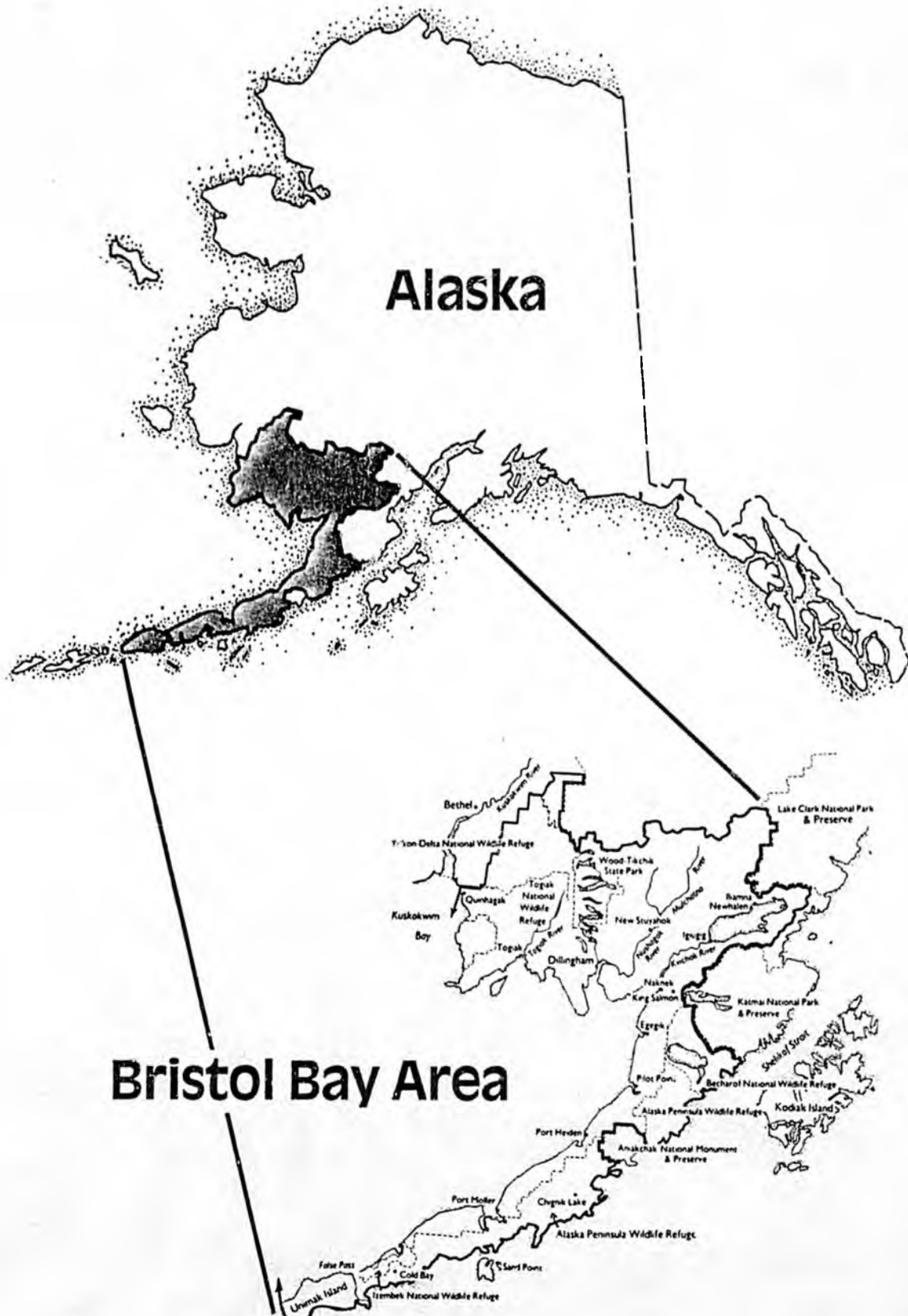
Date : 3/20/86

Distribution (by Agency preparing fiscal note) :

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

Bristol Bay Area Plan Study Area

Map 1



BRISTOL BAY NATIVE CONVENTION

RECREATIONAL RIVERS

Resolution No. 85-31

- WHEREAS Bristol Bay's Native community has lived upon and in harmony with the region's lands for many centuries, and
- WHEREAS the land management programs and policies of the region's public land owners are of great interest and importance to the Native community because these lands are part of its traditional land base, and
- WHEREAS the Native community has expressed the desire in past resolutions for special land management for the region's important rivers and adjacent lakes, and
- WHEREAS Alaska's Governor Sheffield and the Legislature are studying different proposals to establish protective land management programs for certain important rivers, and
- WHEREAS the Bristol Bay Native community supports efforts to create special river corridors if these programs recognize the habitat protection and traditional use patterns crucial to people of the region and their cultural, economic, and subsistence values.

NOW THEREFORE BE IT RESOLVED By the Delegates to the 1985 Bristol Bay Native Convention in convention assembled that:

- 1) Bristol Bay Native Association and Coastal Resource Management Boards study the proposals now pending and participate to shape a program that addresses regional values and requirements, and
- 2) Our legislative representatives (Sen. Zharoff and Rep. Herrmann) work to insure a river management program that requires local participation in its planning and management programs, and
- 3) BBNA express the region's support for the efforts of the Governor and Legislature to address the important issues of river corridor management.

CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the Delegates to the 1985 Bristol Bay Native Convention, February 25, 26, 26, 1985, Dillingham, Alaska, at which a quorum was present.

WITNESS My hand and seal this 27th day of February, 1985.

Thelma P. Johnson
Chairman, Bristol Bay Native Convention

WITNESSED:

H. Sally Smith
Chairperson, Resolutions Committee

BRISTOL BAY NATIVE CONVENTION
Resolution 86-08

- WHEREAS: the State of Alaska adopted the Bristol Bay Area Plan (BBAP) in 1984 as policy for management of state lands and resources within the Bristol Bay/Alaska Peninsula regions; and
- WHEREAS: the management of recreation in upper Bristol Bay is practically non-existent, and both the BBAP and Bristol Bay Coastal Management Program acknowledged the lack of information available on the location and intensity of recreational use of upper Bristol Bay waterbodies; and
- WHEREAS: over the last five to ten years the region has experienced a dramatic increase in recreational use of these waterbodies resulting in increasing conflicts between commercial recreation users and traditional users of fish and wildlife; and
- WHEREAS: implementation of the BBAP calls for a recreation management plan to be developed based on a recreation study to address twelve specific topics; and
- WHEREAS: this recreation study was to be initiated within two years of adoption of the BBAP by State and Federal agencies in coordination with private landholders (particularly Native Corporations), lodges, guides, sport fish organizations, and other interested parties; and
- WHEREAS: Representative Herrmann has introduced HB 440 last year relating to a recreation management plan implementing the BBAP which will come up for consideration this Legislative session;

NOW THEREFORE BE IT RESOLVED that the Bristol Bay Native Convention supports HB 440 that would enact a Recreation Management Planning process for upper Bristol Bay.

BE IT FURTHER RESOLVED that the Bristol Bay Native Convention urges the Department of Natural Resources and Alaska Department of Fish and Game to assume their responsibility for undertaking the recreation study mandated by the Bristol Bay Area Plan.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the resolution adopted by the delegates of the 1986 Bristol Bay Native Convention February 23, 24, 25, & 26, Dillingham, Alaska, at which a quorum was present.

Resolution 86-08
Page 2

WITNESS My hand and seal this 26th day of February, 1986.

William P. Johnson
Chairman, Bristol Bay Native Convention

WITNESS:

J. Sally Smith
Chairperson, Resolutions Committee

A RESOLUTION IN SUPPORT OF HOUSE BILL #440

WHEREAS, the State of Alaska has implemented the Bristol Bay Area Plan, and

WHEREAS, further study is required relating to the Recreational Management Plan of Bristol Bay River Systems.

NOW, THEREFORE BE IT RESOLVED, that the Southwest Alaska Municipal Conference support the concept of H.B. #440.

October 10, 1985

Adelheid,

Enclosed are copies of the letters between the CRSA and Richard Logan (ADF&G) as you requested.

It was our understanding that the Division of Sport Fish was directed to do a "comprehensive sport fish plan" for the area between Cape Newenham and Port Heiden. I believe the directive to prepare such a plan was made by the Board of Fisheries.

Please let me know if there is any additional information our office can provide.

Sue Flensburg ^{SUF}
Bristol Bay CRSA



Coastal Resource Service Area

P.O. Box 189, Dillingham, Alaska 99576

(907) 842-5257 - 842-5258

May 6, 1985

Richard Logan, Director
Division of Sport Fisheries
Department of Fish and Game
P.O. Box 3-2000
Juneau, Alaska 99802

Dear Richard,

The need for further research and planning in regard to recreational management has been a long-standing concern of the Bristol Bay CRSA Board. The Bristol Bay Coastal Management Program (BBCMP) identified the Nushagak/Mulchatna area as a suggested Area Meriting Special Attention (ASMA) because of the increase in land and water use, and growing conflict between recreational and traditional subsistence user groups. The Bristol Bay Area Plan, signed by the Department of Natural Resources, Department of Fish and Game, and, Department of Environmental Conservation also acknowledged the lack of information on recreation use and called for further planning.

Enclosed is a resolution requesting that funds be allocated or diverted for a Division of Sport Fisheries staff person for the the Dillingham ADF&G Offices. The Bristol Bay CRSA Board feels this staff person would be able to monitor some of the more immediate recreation management concerns, and generate specific resource and recreational use information needed for long-range planning purposes. The CRSA Board recognizes that a comprehensive management plan is a major undertaking and will require the cooperative efforts of many organizations and agencies. The CRSA Board is currently looking at using some of it's coastal program monies for a mapping project for the Nushagak/Mulchatna, and a lodge owner survey.

Unfortunately, our resolution for a Sport Fisheries staff person is probably too late to be considered in the budget process for next year. However, we would appreciate consideration of our request for fiscal year 1987.

Thank you.

Sincerely,

Tim Hostetler

Tim Hostetler, Director
Bristol Bay Coastal Management Program

cc: Don Collinsworth, Commissioner
Representative Adelheid Harrmann
Senator Fred Zharoff.

Bristol Bay Coastal Resource Service Area Board

P.O. Box 189

Dillingham, Alaska 99576

RESOLUTION NO. 85-05

- WHEREAS, The Bristol Bay Coastal Resource Service Area (CRSA) Board was organized in October, 1981 for the purpose of developing a coastal management program for the Bristol Bay Region; and
- WHEREAS, The CRSA Board used a wide range of public and private input, and the best available resource information, to formulate land and water use policies in the coastal area of Bristol Bay; and
- WHEREAS, The CRSA Board's coastal management program, as well as the area planning effort undertaken concurrently by the State of Alaska, acknowledged the lack of resource information on the issue of recreational use of upper Bristol Bay's waterbodies; and
- WHEREAS, The dramatic increase in the last five years in the recreational use of the waterbodies of the upper Bristol Bay subregion is the contributing factor to the growing conflict between recreational and traditional subsistence uses, and friction between both user groups; and
- WHEREAS, There is little information available on the location and intensity of recreational use of the region's waterbodies or on specific recreational user groups, particularly in regard to sport fishing; and
- WHEREAS, There is a need to address and monitor immediate recreation management concerns as well as pursue further research and planning in regard to recreational management; and
- WHEREAS, The Alaska Department of Fish and Game (ADF&G) is the appropriate agency to provide some of these needed services through their Division of Sport Fish; and

NOW THEREFORE BE IT RESOLVED that the Bristol Bay CRSA Board urges the ADF&G to use whatever means is at their disposal to include funds in their budget for a Division of Sport Fish staff person for the Dillingham ADF&G Offices.

SIGNED: Perry Johnson
Chairman

CERTIFICATION:

I, the undersigned Secretary of said Board, do hereby certify that the full Bristol Bay Coastal Resource Service Area Board composed of seven (7) members, of whom 6 were present at a meeting on the 3rd of May, 1985, adopt the following resolution by the affirmative vote of 6 members.

SIGNED: Ronald N. Oaberg

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4180

DIVISION OF SPORT FISH

July 3, 1985

Tim Hostetler, Director
Bristol Bay Coastal Management Program
Coastal Resource Service Area
P.O. Box 189
Dillingham, AK 99576

RECEIVED JUL 9 1985

Dear Tim:

I held off answering your letter of May 6 concerning Bristol Bay recreational management until the budget mad house spit out our final numbers. As expected, each of our budgets were less than requested, complicating our decision process. Consequently, your assumption is correct that FY86 budgeting for a Dillingham position is not possible.

Let me describe to you what our plans are for the Bristol Bay sport fishery in the near term and what I would like to see happen in the future. The sport fishery in your area is becoming immensely popular in a number of forums around the United States, and for that matter internationally. With the number of proposed industrial and local planning efforts blossoming it is, as you suggest, encumbant on us to be in a position to provide the most up-to-date information possible for those efforts. This year we initiated a voluntary census creel with lodge owners to assess the effort levels of that portion of the sport fishing industry. This summer we also intend to initiate a sport fish assessment and planning effort for the entire area to evaluate the impact of the sport fishery and what actions we need to take to identify the key issues and solutions. This effort is designed and weighted heavily on local input. We would like to visit with as many individuals as we can to describe opportunities and listen to their concerns.

The ultimate end product will serve as guidance to the Board of Fisheries as to how they address sport fisheries in the bay in the future.

Options available to implement the program include staffing in new areas, research, more intense management, joint projects, and other ideas that will help us adequately address these fisheries. I appreciate your interest in the recreational fisheries and request that we stay in close touch over the next year as we jointly try to solve these problems.

Sincerely,



Richard Logan
Director

cc: Representative Adelheid Hermann
Senator Fred Zharoff

ROBERT F. WILLIAMS

Drawer F-

Kenai, AK 99611

4-8-85

DEAR ADELHEID,

I WANTED TO WRITE A SHORT NOTE AND PASS ON SOME INFORMATION YOU MIGHT WANT TO BE AWARE OF.

A LOCAL SPORTS SHOP OWNER IN KENAI COMMENTED TO ME LAST WEEK HOW MORE AND MORE GUIDES ARE LEAVING THE KENAI AREA AND MOVING THEIR OPERATION TO KING SALMON ON THE NARNER RIVER. HE SUGGESTED THAT PEOPLE SHOULD KEEP AN EYE ON THAT RIVER SO IT DOES NOT GROW INTO THE KIND OF PROBLEMS PEOPLE FACE ON THE KENAI RIVER.

I THOUGHT YOU MIGHT WANT THIS INPUT SO YOU CAN KEEP INFORMED ABOUT THIS AREA OF GROWTH IN THE AREA.

Hope THE WINTER IS TURNING INTO SPRING IN SE. Good luck with the rest of the season. I should be down on university business APRIL 24 + 25.

Bob W

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 189
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257 -- 842-5258

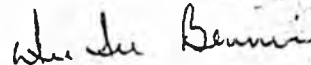
October 7, 1983

Representative Adelheid Herrmann
P.O. Box 63
Naknek, Alaska 99633

Dear Adelheid:

Attached are two letters of support received in reference to Resolution No. 83-29, that the Bristol Bay Native Association passed.

Sincerely,
BRISTOL BAY NATIVE ASSOCIATION, INC.



Dee Dee Bennis
Office Manager

DB/mn

Attachment:

RECEIVED SEP 27 1983

Dillingham Village Council
P.O. Box 216
Dillingham, Alaska 99576
Phone (907)842-5933/5257

September 27, 1983

Kay E. Larson, Executive Director
Bristol Bay Native Association
P.O. Box 189
Dillingham, Alaska 99576

Dear Kay:

At a recent Dillingham Village Council Board of Directors meeting held September 19, 1983 the Board passed a motion supporting BBNA's resolution numbered 83-29 urging the Alaska State Legislature to enact a law that will protect waterways by setting aside a five mile wide strip on both sides of a center line on the Nushagak, Nuyakuk, Mulchatna, Kokwok, Kuktuli, Swan, King Salmon (off the Nushagak), Chickitna, and Kvichak rivers and an area of land five miles inland from the shoreline of the Liamna Lake on State lands as special Management Corridors.

Sincerely,

DILLINGHAM VILLAGE COUNCIL

Herman Schroeder
President

HS:ls

William McKinley 

RECEIVED SEP 23 1983

TO: B.B.N.A. Board Members

FROM: New Stuyahok City Council

DATE: September 20, 1983

This letter is in response to resolution 83-29 concerning the ten mile wide strips of land along the rivers as mentioned in the resolution;

We are greatly in favor of this resolution because we use the river waves for both traditional and recreational use.

With this resolution we can protect our water waves and use them for our use.

Sincerely,

Juan Blunka

New Stuyahok City Council

October 31, 1984

Representative
House District 26
P.O. Box V
Juneau, Ak. 99811

Dear District 26 Representative:

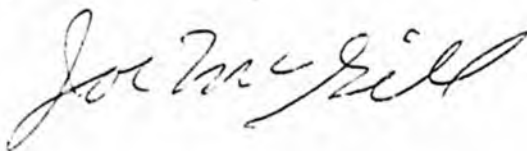
In a recent meeting of the Nushagak Fish and Game Local Advisory Committee (10/30/84), it was noted that increasing sport fishing pressure is being exerted on virtually all stocks in western Bristol Bay and particularly the chinook (king) and coho (silver) salmon. The lack of sound biological information concerning sport fish effort and catch was found to be decidedly lacking.

It was further noted that the increased commercial fishing effort was being directed toward king and coho salmon, making the issue of sport fish harvest more important to the actions of the Board.

The committee therefore resolved that letters to the Office of the Governor and Legislature be sent, requesting additional funds be appropriated to provide for sport fish research and management activities in western Bristol Bay. In the view of this committee, this is a pressing matter that deserves your attention.

Very truly yours,

Joseph McGill,
Nushagak Advisory Committee

A handwritten signature in cursive script that reads "Joe McGill".