

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4278 SRES SB 353 - SB 375 158

2. Appeal in writing to the Commissioner, Department of Administration, Pouch C, Juneau, Alaska 99811. The appeal must be received within five (5) working days of the date of issue of the Notice of Award.
3. Explain in detail the reasons for the appeal.
4. Send a copy of the appeal to all other respondents.

The appeal will be reviewed by the Commissioner of Administration, and the respondent will be advised within 15 working days whether his appeal was accepted or rejected and, if rejected, the reason for the action.

If necessary, a hearing will be held to determine whether the award of the contested contract was made in accordance with statutes and prescribed procedures. The hearing will be limited to the evaluation and solicitation process used in this Request for Proposals.

13. Use of Proposal Contents

The State reserves the right to use any of the ideas presented in any reply to this RFP. Selection or rejection of the proposal does not affect that right.

14. Joint Ventures

Any proposal submitted as a joint venture must also include the terms of the joint venture agreement.

III. GENERAL CONTRACT INFORMATION

1. Contract Approval

Any contract resulting from this RFP will be submitted to the Commissioner of the Department of Administration for approval. If approved, it is effective from the date of approval. The State assumes no responsibility for work done, even in good faith, prior to approval of the contract by the Department of Administration.

2. Proposal Contents as Part of the Contract

The contents of the proposal of the successful contractor may become contractual obligations. If a contract ensues, failure of the successful contractor to accept these obligations may result in cancellation of the award and issuance of the award to the next most qualified contractor.

3. Additional Terms and Conditions

The State reserves the right to include additional terms and conditions during the process of contract negotiations. These terms and conditions must be within the scope of this RFP and will be limited to clarification, definition, and administrative and legal requirements.

4. Standard Contract Provisions

The successful contractor will be required to sign the standard contract form for professional services, Form 02-093 (Exhibit 1). The contractor will comply with the applicable provisions of Appendix A of this form. Any alteration of these general provisions must be approved by the Department of Law before the contract can be accepted by the Issuing Office.

5. Insurance Requirements

The successful contractor must secure satisfactory insurance coverage as required by the Department of Administration, Division of Risk Management. Please review Appendix B of Form 02-093A, State Saved Harmless and Insurance Provisions, for details on required coverages. A copy is included in this RFP for your reference (Exhibit 2). Professional Liability Insurance (Article 2.4) is not required.

6. Reproduction Rights

The contractor agrees that the department will retain all reproduction rights to the selected design. Under the terms of the awarded contract, however, the successful contractor will have the right to sell art print reproductions from one (1) printing of limited editions and any supplemental products authorized by the department.

7. Liquidated Damages

The State reserves the right to include liquidated damages in the contract to ensure the contractor's performance of all contract provisions in a timely manner.

8. Changes of Key Members

After award of the contract, the State reserves the right to approve any change in the personnel whose participation in the project is specifically offered in the contractor's proposal. This is to ensure that persons with vital experience and skill are not arbitrarily removed from the project by the prime contractor.

9. Termination

The state, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. The State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

IV. BACKGROUND

Unlike many other states that rely on migrant waterfowl from northern breeding areas, Alaska is a major waterfowl producer. Alaska annually produces a fall flight of about 10 million ducks and one million geese to all four North American flyways and neighboring countries. Most of this waterfowl production can be attributed to a few large wetlands districts (i.e., Copper River Delta, Yukon-Kuskokwim Delta, Yukon Flats) and the sheer geographic expanse of wetlands throughout the state.

Waterfowl habitat in Alaska becomes especially important to continental populations when drought in the prairies pushes birds north to breed. Most of Alaska's wetlands, however, are only marginally productive in comparison with the prairies and parklands of the mid-continent, and little is known about the ecological requirements of waterfowl in our coastal, subarctic and arctic regions.

Waterfowl management in Alaska provides both opportunities to evaluate and enhance waterfowl production, and responsibilities to conserve and maintain management plans for the benefit of other states and countries. Waterfowl conservation stamp programs in other states have been profitable and effective in raising funds to meet these opportunities and responsibilities.

The Alaska Waterfowl Conservation Stamp program was authorized by the 1984 Alaska State Legislature (Ch. 71 SLA 1984). Revenue from the stamp program will be used for (1) the conservation and enhancement of waterfowl; (2) the acquisition, by lease or otherwise of wetlands that are important for waterfowl and public use of waterfowl in the state; (3) waterfowl related projects approved by the Commissioner; (4) the administration of the waterfowl conservation program; and (5) emergencies in the state as determined by the governor.

The primary objectives of the waterfowl conservation stamp program are to benefit waterfowl and their habitats within the state and provide a nationwide opportunity for waterfowl hunters, waterfowl viewers, and art and stamp collectors to contribute financial support to the Alaska waterfowl management program, thereby benefiting an international resource.

In 1985, the first year of Alaska's Waterfowl Conservation Stamp Program, the department received ten business proposals and 35 associated paintings. The number and quality of original designs was exceptional. A six-member evaluation panel judged both artwork and business proposals. The panel unanimously recommended that Voyageur Art of Minneapolis, Minnesota be selected as the publisher for Alaska's first-of-state waterfowl stamp and print, and that the design be their submission from Daniel Smith, a depiction of three emperor geese on a snowy shore.

Additional information about Alaska's 1985 program, waterfowl conservation programs in other states and, more specifically, the goals of the department for this project is available from the Issuing Office upon request.

V. SCOPE OF WORK

All prospective contractors are required to carefully review the following minimum requirements for design, production, marketing, and project administration for the 1986 Alaska Waterfowl Conservation Stamp and Art Print Program.

A. Artist and Design Requirements

The subject of the 1986 Alaska Waterfowl Conservation Stamp and Art Print will be the Steller's eider (Polysticta stelleri). The design must be a full-color realistic rendering of a Steller's eider(s) in an identifiable setting of Alaskan habitat. To establish a uniform basis for selection, all artwork must be between 13" X 18" and 19½" X 27" in size. Designs must be original, never have been reproduced, and not have been entered in competition for or used in any Federal or State waterfowl stamp or print program. Each artist may submit only one design for the 1986 competition, and each publisher may submit no more than one proposal. Each publisher may include no more than ten (10) designs by artists who reside outside of Alaska, and should include at least two (2) designs by Alaskan artists. The Issuing Office will maintain a list of Alaska artists who have expressed interest in the program.

Professional experience is not a requirement for entrant artists, but reputation of the artist and prior awards will be criteria for judging marketability of the design. The chosen original artwork and all reproduction rights will become the property of the Alaska Department of Fish and Game. The Department intends to exhibit the 35 most highly regarded works at public displays in Anchorage and Juneau.

B. Publisher's Responsibilities

1. Design Arrangements

Prior to submission of proposals and artwork, publishers and artists must come to terms on the amount and form of payments to the artist. Artist payment is solely the responsibility of the selected Contractor. On or about February 15, 1986 the Contractor is required to provide the Department, for review, camera-ready copy of the selected design in a proportional size format for the printing of the waterfowl stamp. Overlays shall be included, with artwork and wording as in Exhibit 3. The Contractor shall ensure that, prior to the printing of the waterfowl stamp and the art print, the artist will proof the products and participate in quality control of production processes.

2. Production of Stamps

On or before May 1, 1986 the contractor will be required to deliver to the department WITHOUT CHARGE a

minimum of 81,000 stamps, produced, printed and packaged according to the following specifications:

- a. A minimum of 81,000 stamps, to consist of 2700 sheets of 30 stamps each, is required. Any overage or misprinted stamps must be destroyed by shredding. An affidavit by the Printer as to disposition of stamps shall be provided to the department.
- b. Printing will be two sides, head to head. Four (4) full size final press sheets will be provided to the department. Press sheets will not be gummed, numbered or perforated.
- c. Stamp size will be 1-3/8" X 2" as set forth in Exhibit 4. Each sheet will consist of thirty (30) stamps perforated on all four sides of each stamp. Perforations will be pinhole with fourteen (14) pinholes per inch.
- d. Each sheet is to be serially numbered (from 0001 to 2700) in each corner of the selvage area, to form plate blocks (Exhibit 4). Each stamp is to be consecutively numbered from 00001 to 81000 with numbers printed on the back in black ink.
- e. Kromalin proofs shall be sent to the department.
- f. Stock should be 70# White S.D. Warren "Waterflo" gloss or an equivalent quality stock specified by the department. Printing ink should be 4-color process on the front side and PMS 421 (gray) on the back side. Printing should be high quality -- 133 line press or better.

3. Packing and Shipping

Sheets of 30 stamps will be packaged or boxed in 100s, slip-sheeted to prevent sticking, with the lowest sheet number at the top of the package. All packages will be marked to show the sheet numbers and stamp numbers. All shipping and insurance charges are the responsibility of the contractor. Shipping must be by a qualified shipper to ensure against loss or delays in delivery.

4. Additional Terms and Conditions

Except as provided, it is the intention of the State of Alaska to have exclusive rights for the sale of all stamps, and no more stamps than are specified in the negotiated contract shall be printed except upon written order from the department.

The State of Alaska will reserve a number of serial stamps specifically for the purpose of accompanying the

limited edition prints. The contractor must state in the proposal the quantity of stamps and the serial numbers desired.

Stamps are to be sold by the contractor with all art prints, and also sold separately to collectors. Stamps will be purchased from the state by the contractor for the sum of five dollars (\$5.00) each, payable in accordance with the terms of the negotiated contract.

The printing process may be monitored by a representative of the department. Delivery of the printing plates is to be made by the printer directly to the Issuing Office of the department upon completion of press run and acceptance of stamps by the department.

5. Production of Prints

The contractor will have exclusive rights to reproduce the design submitted, as allowed by the contract, and to market prints in the following series of editions:

- a. Regular Edition -- numbered, signed by artist;
- b. Medallion Edition -- numbered, signed by artist, with gold-plated medallion;
- c. Executive Edition -- numbered, signed by artist, artist remarque, with gold-plated medallion.
- d. Conservation Edition -- numbered separately, signed by artist, labeled as "Conservation Edition." The series will be provided at no cost to the department for promotional purposes.

Edition sizes will be the same as those in 1985 unless otherwise specified in the contract. The department will retain all other reproduction rights. Any other proposed editions or use of the image on products to be sold to the public must be specified in the proposal.

The overall size of the print must be at least 12 inches by 14 inches with an image size of at least 6½ inches by 9 inches.

The contractor will purchase a stamp from the department to accompany each print. The lowest numbered prints will be provided to Alaska dealers. The contractor will be provided with a registry list of purchasers of 1985 stamps and prints to which to offer a continuing series. The contractor will provide the department with a registry of purchasers of the 1986 stamps and prints.

6. Advertising and Marketing

This section addresses the responsibilities of the contractor only as a publisher for the program and the contractors interactions with distributors. If the contractor will act also as a distributor, products,

services, and costs as a distributor should be clearly separated and described as outlined in the following section on Distributor Responsibilities and Exhibit 6.

The contractor will be responsible for conducting an aggressive nation-wide advertising and marketing campaign for the prints and stamps. All costs associated with the campaign will be the responsibility of the contractor. The contractor will establish a common release date for the first release of advertising material by all distributors. The campaign should include:

a. Advertising

i. Direct Nationwide Magazine Advertising

The contractor will advertise prints and stamps nationally and regionally in magazines to include, but not be limited to:

Ducks Unlimited Magazine, Wildlife Art News, Prints Magazine, Waterfowler's World, Wildfowl, Alaska Magazine, and Alaska Outdoors.

An advertising schedule, including magazine and issue, size of ads, and costs must be included with the proposal (Exhibit 5). The schedule will be a part of the negotiated contract. The ads will be professionally designed, and proof of advertising must be submitted as part of the contractor's monthly reports to the department.

ii. Direct Local Newspaper Advertising

The contractor will advertise locally in Alaskan newspapers. An advertising schedule, including anticipated size of ads, name of newspaper and frequency of advertising should be included with the proposal. The schedule will be a part of the negotiated contract. Publications will include, but not be limited to:

The Juneau Empire, Anchorage Daily News, Anchorage Times, Fairbanks Daily News Miner, Homer News, Ketchikan News, The Tundra Times, Southeast Log, and Lome Nugget.

These advertisements will identify dealers whenever dealer information is provided to the contractor, and ads will be aimed at educating collectors and directing them to their local source of prints.

b. Marketing Plan

The contractor will develop and describe a detailed marketing plan in the proposal that includes a list of proposed distributors, a copy of the publisher/distributor agreement, cost distribution of products, distributor discounts, and advertising incentive programs, as well as a description of the contractor's proposed mail order promotions, press releases, trade and art show promotions, public appearance schedule of artist, and other marketing approaches. The proposal should also describe special provisions for marketing within Alaska and service to local distributors.

- i. List of Proposed Distributors -- the proposal should list all national and Alaska distributors expected to market prints and stamps, as well as describe the criteria for qualification as a distributor.
- ii. Publisher/Distributor Agreement -- provisions of this agreement should ensure that the distributor:
 - (a) make timely payments
 - (b) advertise and provide verification
 - (c) provide dealer incentives
- iii. Cost Distribution of Products -- the proposal should include a schedule of retail, wholesale, and distributor costs for each edition of prints, posters, or other products to be sold to the public.
- iv. Distributor Discounts and Incentives -- the proposal should describe any volume discounts and advertising credits to distributors that would escalate according to the number of prints ordered. In addition, the proposal should describe a cooperative program with participating Alaskan dealers that would provide them with national advertising at no cost. Such a program would encourage greater dealer participation in marketing the Alaska waterfowl stamp and print.
- v. Mailing and Press Releases - the contractor will produce press releases for national media and conduct periodic mailing to distributors to provide promotional support, transmit news on the status of sales, and inform dealers of the purpose of the program, the nature of the design subject, and artist's background.

- vi. Artist Appearances and Trade Shows -- the proposal should list a schedule of artist appearances, in Alaska and elsewhere, as well as any trade shows where the design and program will be promoted.
- vii. Other Marketing Methods -- the proposal should describe any innovative or expanded marketing approaches (e.g. telemarketing, catalog sales) that will be used to promote sales and the program.
- viii. Alaska Marketing Program -- the contractor should describe any special marketing approaches and materials that are tailored to meet the broad geographical, cultural and communications circumstances of Alaska. Special marketing support for Alaska distributors and dealers should be proposed. These facets of the program are important to maintain and expand the number of Alaska print and stamp collectors and dealers.

c. Marketing Aids

The contractor will produce marketing aids, available to distributors at cost and, as specified, to the department at no charge, including:

- i. Press proofs -- full-size color prints (stamped "Sample Not for Sale") with facsimile of stamp; 20 for the department.
- ii. Full-color mailers -- to be 8½" x 11" in size with information about the print, department program, and artist; 200 for the department.
- iii. Black and white glossy photos -- for use in advertising campaigns and press releases.
- iv. Posters
 - (1) 1200 posters specifically designed for license vendors of the state "duck stamp" and to be distributed by the department.
 - (2) Quality art posters designed to promote the print and stamp program; 50 to the department. Posters may be given to distributors and dealers free of charge for promotional purposes. The State will receive a royalty on each poster sold.
- v. Artist information flyer.

7. Administration

The publisher must be able to cover all expenses up front for advertising, printing, and other financial obligations; to meet the proposed time table for the project; and to fulfill all other conditions and terms of the negotiated contract. Any anticipated support from the department must be detailed in the proposal and agreed to in negotiations.

The department expects to receive a royalty on each print sold at the wholesale price and on the sale of any full-color posters and supplemental products.

The proposal should include a complete accounting of Publisher Costs (see Exhibit 6). If the Publisher will also act as a distributor, the proposal should differentiate between "publisher" and "distributor" costs.

The contractor will be required to provide the department with an accounting of all expenses related to this project, as well as production and disposition of products. The accounting will be in the form of an audit report. The audit report will be from an independent Certified Public Accountant and will include the auditor's opinion as to the fairness of the financial statements presented therein. The audit will disclose whether expenses and payments were in accordance with the provisions of the negotiated contract.

If underpayments are made, the contractor shall be required to remit the underpayment to the department together with penalty at a rate of EIGHTEEN PERCENT (18%) PER ANNUM from the date of the underpayment through the date of the final payment. The audit report may be reviewed by the State of Alaska Division of Finance.

All payments will be remitted to the department no later than March 1, 1987. A proposed schedule of payments must be included in the proposal.

C. Distributor Responsibilities

The success of the stamp and print program depends on a broad, effective network of distributors and dealers to maintain and increase sales. Proposals should describe the expected relationship between publisher and distributors, anticipated responsibilities of distributors, and any marketing strategies proposed by distributors. If the publisher will act as a distributor, the proposal should detail the contractor's services in that capacity, including:

- a. Cooperative advertising and dealer incentives,
- b. Distributor-Dealer Marketing Plan,
- c. Pricing and volume discounts, and
- d. Marketing aids for dealers (e.g., counter display cards, ads.).

Although the department has no desire to exercise control over distributors or urge divulgence of their competitive strategies, the department is interested in the effort publishers propose to make on their own behalf to promote the program as distributors.

D. Time Schedule

The following is a proposed time line for this contract including due dates of deliverables. Asterisks mark dates that are not negotiable. All other dates may be negotiated and should be specified in proposals.

	DATE
*Deadline for receipt of proposals	12/06/85
Award of contract	1/01/86
Provide advertising schedule	2/01/86
Delivery of camera-ready copy of-	
stamp design to department	2/15/86
Beginning of advertising campaign	3/01/86
Delivery of kromalin proofs	4/01/86
Delivery of final press sheets	4/01/86
*Delivery of all stamps and	
printing plates	5/01/86
End of sale of art prints	8/31/86
Printing date for art prints	9/01/86
*Waterfowl hunting season begins	9/01/86
Delivery of Conservation Edition prints	9/30/86
Distribution date of art prints	9/30/86
Return of original artwork and	
delivery of printing plates	9/30/86
Final payments to department	3/01/87
Submission of audit and final report	3/01/87
Submission of progress reports	monthly

E. Artwork and Proposal Content

1. ARTWORK

- a. The design shall be an original full-color rendering of a Steller's eider(s), minimum size 13" X 18", maximum size 19½" X 27".
 - i. All artwork shall be mounted and matted, with plain white matte board (2½" wide on top and sides and 3" wide on bottom) and covered with an acetate overleaf but not framed or under glass.
 - ii. Artist's name, publisher affiliation, mailing address, telephone number, summary of artist background, and credits or awards should be enclosed with the artwork.
 - iii. Artist's will assign, and state in the proposal, a dollar value to their work.

b. To promote the Alaska Waterfowl Conservation Program, the 35 most highly regarded entries, as judged by the evaluation committee, will be publicly displayed for one week each at the Anchorage Historical and Fine Arts Museum and at the Alaska State Museum in Juneau, Alaska. Artists who do not want their paintings displayed must so specify in the publisher's proposal, or in a letter accompanying the artwork.

c. Shipping

i. Artwork may be shipped either by the publisher or directly by artists to the mailing address specified on page 4, item 4. All artwork must be shipped in a reuseable protective carton. Both cartons and the reverse side of paintings should contain the name and address of both artist and publisher.

ii. Artwork on public display will be shipped for return no later than February 1, 1986. All other entries will be shipped by January 10, 1986. Shipment will be in the original container and be sent to the point of origin. Return shipping charges will be borne by the department; however, charges for insurance or special handling will be the responsibility of the artist or publisher and must be requested at the time the artwork is submitted.

iii. The department will be held harmless for loss or damage to artwork during shipment.

2. PROPOSALS

Proposals should be complete without being unnecessarily costly or lengthy. Failure to provide necessary information could result in rejection of the proposal; supplemental information will not necessarily be requested prior to issuance of the Notice of Award. The format and content should closely reflect the following outline:

a. A letter of transmittal containing the complete name and address of the firm; name, mailing address, and telephone number of the contact for the proposal; a statement of corporate commitment to the project; names of the artist(s) and other subcontractors; and a statement confirming that the proposal will remain valid for at least 90 days.

b. A title page showing:

1986 Alaska Waterfowl Conservation Stamp
and Art Print Program
ATN# 86-0262
(Firm Name)
(date)

c. Table of Contents

d. Summary

Proposer's understanding of the Waterfowl Stamp Program and a statement explaining why your proposal should be selected.

e. Synopsis of artworks submitted, artists' background and awards, and other pertinent information on the designs.

f. Methodology

A detailed description of the proposer's approach to accomplishing the tasks described in the Scope of Work in this RFP. At a minimum, the description should include:

- i. Stamp production information, including processes, materials and specifications of the stamp, and proposed delivery dates of the camera-ready design, kromalin proofs and completed stamp.
- ii. Print production information, including processes, materials and specifications of the print, packaging and handling methods, and proposed delivery dates of all editions.
- iii. Description, specifications and production information on any supplemental products to be sold, such as posters, knives, note cards, etc.
- iv. Advertising information, including the proposed outlets and time schedule for advertising (Exhibit 5), examples of advertisements and promotional materials to be used, and marketing programs to be developed specifically for this contract.
- v. Marketing Plan, including list of distributors, distributor agreement, pricing structure, volume and advertising discounts, mailings and press releases, artist appearances and trade shows, and special marketing efforts in Alaska.

- vi. Marketing aids available to distributors, including exhibits of flyers, counter display cards, press proofs, posters and ads.
- vii. Proposed project schedule, as in Time Schedule under Scope of Work, and dates for deliverables to the department.

g. Personnel and Organization

- i. Organizational chart of all persons, joint contractors, and subcontractors involved in the project, showing lines of authority and categories of responsibilities.
- ii. Resumes of the contractor's key personnel, reflecting their experience in similar projects, duties in regard to this project, and commitments to other projects during the performance period of this project.
- iii. Summaries of subcontractor's capabilities, experience in similar projects, and their expected commitment of time and facilities to this project.
- iv. Summary of the contractor's corporate experience and performance record, including samples of previous work, participation and role in other stamp/print programs (e.g. publisher, distributor, dealer), references, and other materials relevant to evaluating the contractor's ability to perform.
- v. A current corporate financial report, statement on proposed financing for this program, if applicable, and proposed source and methods of accounting and independent audit.

h. Budget

- i. Summary of all anticipated costs (complete Exhibit 6) and a description of expenses considered as administration, overhead and indirect costs. Any distributor discounts or incentives should be clearly identified. If the publisher will also act as a distributor, a separate accounting of anticipated distributor costs must be submitted.
- ii. Summary of all income, including gross income from projected wholesale sales, cost recovery from distributors on promotional aids, and any other income or subsidies.
- iii. Projected revenues to the artist, the department and others, describing how revenues are

calculated, forms of payment and critical assumptions.

iv. Schedule of payments and circumstances affecting the schedule.

VI. EVALUATION CRITERIA

All proposals will be evaluated according to general criteria in the following weighted categories by a committee selected by the Alaska Department of Fish and Game.

<u>Weight</u>	<u>Criteria</u>
30%	Artwork-- Technical accuracy, composition, quality of design, marketability, and artist credentials.
20%	Methodology-- How the contractor will manage the project, stamp and print specifications, advertising campaign, marketing plan and work schedule.
25%	Personnel and Organization-- Qualifications of the firm or firms, organization, prior experience and performance record, commitment to the project.
25%	Budget-- Reasonableness of expenses, reasonableness of projected income, and potential revenue to the state.



EXHIBIT 1
STATE OF ALASKA

STANDARD AGREEMENT FORM
FOR PROFESSIONAL SERVICES CONTRACT

State Contract No.
Contract Type
Encumbrance Reference No.
Contract Authority No.

This contract is between the State of Alaska,

Department of _____ hereafter, *the State, and*

Contractor _____ hereafter, *the Contractor*

Mailing Address _____ Street or P.O. Box _____ City _____ State _____ Zip Code _____

ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.

ARTICLE 2. Performance of Services:

2.1. Appendix A (General Provisions), Articles 1 through 14, governs the performance of services under this contract.

2.2. Appendix B sets forth the liability and insurance provisions of this contract.

2.3. Appendix C sets forth the services to be performed by the contractor.

ARTICLE 3. Period of Performance: The period of performance this contract begins _____, 19____, and ends _____, 19____. Performance may be extended for additional periods by the written agreement of the parties.

ARTICLE 4. Consideration:

4.1. In full consideration of the Contractor's performance under this contract, the State shall pay the Contractor a sum not to exceed \$ _____ in accordance with the provisions of Appendix D.

4.2. When billing the State, the Contractor shall refer to the State Contract Number and send the billing to:

Department of _____	Attn: Division of _____
Mailing Address _____	
CONTRACTOR	
STATE	
Name of Firm _____	Department or Agency/Division _____
Signature of Authorized Representative _____	Signature of Project Director _____
Typed or Printed Name of Authorized Representative _____	Typed or Printed Name of Project Director _____
Title _____	Title _____

APPROVAL BY THE CONTRACTING AGENCY	APPROVAL BY THE DEPARTMENT OF ADMINISTRATION
<i>NOTICE! This certifies availability of funds.</i>	
Signature of Head of Contracting Agency or Designee _____	
Typed or Printed Name of Authorizing Official _____	
Title _____	
Date _____	

NOTICE! This contract has no effect except as an offer by the Contractor until it is approved by the Department of Administration.

**APPENDIX A
GENERAL PROVISIONS**

Article 1. Definitions.

1.1. In this contract and appendices, "Project Director" means the person who signs this contract on behalf of the Department and includes a successor or authorized representative.

1.2. "Department" means the agency for which this contract is to be performed and for which the Project Director acted in signing this contract.

Article 2. Inspection and Reports.

2.1. The Department may inspect, in the manner and at reasonable times it considers appropriate, all the Contractor's facilities and activities under this contract.

2.2. The Contractor shall make progress and other reports in the manner and at the times the Department reasonably requires.

Article 3. Disputes.

3.1. Any dispute concerning a question of fact arising under this contract which is not disposed of by mutual agreement shall be decided without bias by the Director of the Department's Division of Administrative Services (or, if none, the Department's Administrative Officer), who shall reduce his decision to writing and mail or otherwise furnish a copy of it to the Contractor. The decision of the Director is final and conclusive unless, within 30 days from the date of receipt of that copy, the Contractor mails or otherwise furnishes to the Project Director a written appeal addressed to the Commissioner of the Department. The Commissioner shall appoint a three-person board from the Department to hear the appeal, none of whom may be from the Division of Administrative Services. The decision of the board is final and conclusive, unless it is fraudulent or not supported by substantial evidence. In any proceeding under this article, the Contractor has a right to be heard by an unbiased panel and to offer evidence in support of his appeal. Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Director of the Division of Administrative Services decision.

3.2. This disputes article does not preclude consideration of questions of law in connection with decisions provided for in paragraph 3.1 above. However, this article does not make the decision of any administrative official, representative or board on a question of law final or conclusive.

Article 4. Equal Employment Opportunity.

4.1. The Contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, physical handicap, sex, or marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, or marital status, changes in marital status, pregnancy, or parenthood. The Contractor shall take affirmative action to insure that the applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, ancestry, age, sex, or marital status. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.

4.2. The Contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical handicap, sex, or marital status.

4.3. The Contractor shall send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.

4.4. The Contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any construction, maintenance, or service contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.

4.5. The Contractor shall cooperate fully with the office or agency of the State of Alaska which seeks to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.

4.6. Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the Contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting in inspection of the Contractor's facilities; and promptly complying with all state directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and state laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.

4.7. Failure to perform under this article constitutes a material breach of the contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. The State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

This contract is personal and the Contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Department of Administration, Division of Finance.

Article 7. No Additional Work or Material

No claim for additional services not specifically provided in this contract, performed or furnished by the Contractor, will be allowed, nor may the Contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Department of Administration.

Article 8. Independent Contractor.

The Contractor and any agents and employees of the Contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the Contractor shall pay all federal, state, and local taxes incurred by the Contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, and other work developed in the performance of this agreement are and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the Contractor. The Contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. The Contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the Contractor may retain copies of all the materials.

Article 11. Governing Law.

This contract is governed by the laws of the State of Alaska.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law the General Provisions of this contract supersede any provisions in other appendices.

Article 13. Officials not to Benefit.*

No member of or delegate to Congress, United States Commissioner, or officials of the state or federal government may be admitted to any share or part of this contract or to any benefit to arise therefrom.

Article 14. Covenant Against Contingent Fees.*

The Contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, contingent fee, or brokerage except employees or agencies maintained by the Contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage, or contingent fee.

* Articles 13 and 14 are to be used only if the professional services contract is federally funded.

EXHIBIT 2

APPENDIX B

STATE SAVED HARMLESS & INSURANCE PROVISIONS

Article 1. State Saved Harmless.

The Contractor shall indemnify, save harmless, and defend the State, its officers, agents and employees from liability of any nature or kind, including costs and expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission or negligent act of the Contractor relating to its performance of this contract.

All legal actions or claims including defense costs resulting from injuries or damages sustained by any person(s) or property arising from the Contractor's performance of this contract which will result in joint liability of the State and Contractor shall be apportioned on a comparative fault basis. Any such joint liability on the part of the State must be due to active negligence on the part of the State.

Article 2. Insurance.

During the life of this contract, the Contractor shall purchase and maintain insurance with a carrier or carriers satisfactory to Department of Administration, Division of Risk Management covering injury to persons or property suffered by the State of Alaska or a third party, as a result of errors or omissions or operations which arise both out of and during the course of this contract by the Contractor or by any subcontractor or anyone directly, or indirectly employed by them. The coverage will also provide protection against injuries by all employees of the Contractor and the employees of any subcontractor engaged in work under this contract. A Certificate of Insurance will be furnished to the Contracting Officer prior to beginning work under this contract. This certificate will show evidence of coverage and provide a written thirty (30) day prior notice to the Contracting Officer, of cancellation, non-renewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Contractor's services.

Before performing under this contract, evidence of the following coverages will be provided:

2.1. Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees of the Contractor engaged in work under this contract, workers' compensation insurance as required by A.S. § 07.05. The Contractor shall be responsible for workers' compensation insurance for any Subcontractor who directly, or indirectly provides services under this contract, to include:

- 2.1.1. Statutory coverage for states in which employees are engaging in work.
- 2.1.2. Employer's Liability Protection in the amount of \$500,000 per person/\$500,000 per occurrence.
- 2.1.3. Broad Form All State's Endorsement.
- 2.1.4. All State and Federal Acts where applicable.
- 2.1.5. Voluntary compensation endorsement.

2.2. Comprehensive General Liability with coverage limits per contract schedule.*

- 2.2.1. Premises Operations.
- 2.2.2. Independent Contractors.
- 2.2.3. Products/Completed Operations.
- 2.2.4. Blanket Contractual.
- 2.2.5. Personal Injury.

2.3. Comprehensive Automobile Liability with coverage limits per contract schedule.*

- 2.3.1. All Owned Vehicles.
- 2.3.2. All Hired Vehicles.
- 2.3.3. All Non-owned Vehicles.
- 2.3.4. Uninsured Motorists.

2.4 Professional Liability with coverage limits per contract schedule.*

2.4.1. Coverage for all errors, omissions or negligent acts which the Contractor, employees, or the subcontractors may make which result in financial loss to the State of Alaska.

2.4.2. The Contractor is responsible for providing professional liability insurance at the Contractor's own expense. At the Contractor's option, this coverage may be obtained through the State's blanket professional liability policy at rates commensurate with the professional liability coverage and limits which are provided. If the Contractor elects to purchase the State's insurance, the reasons for not providing his own coverage must be stated in writing.

The coverage will apply only to those contractor operations which arise out of the State contract. If the Contractor has more than one State contract, separate insurance must be purchased for each contract.

If the Contractor is providing professional liability insurance for any active State contract, he is ineligible to purchase the State professional liability insurance.

*LIMITS FOR ALL INSURANCE ARE PER THE FOLLOWING SCHEDULE

Contract Amount	Minimum Required Limits
Under \$50,000	\$ 250,000 per Occurrence/Annual Aggregate
\$ 50,000 - \$ 99,999	\$ 500,000 per Occurrence/Annual Aggregate
\$ 100,000 - \$ 749,999	\$1,000,000 per Occurrence/Annual Aggregate
\$ 750,000 - \$1,499,999	\$2,000,000 per Occurrence/Annual Aggregate
\$1,500,000 - \$4,999,999	\$5,000,000 per Occurrence/Annual Aggregate
\$5,000,000 or over	Negotiable - Refer to Risk Management

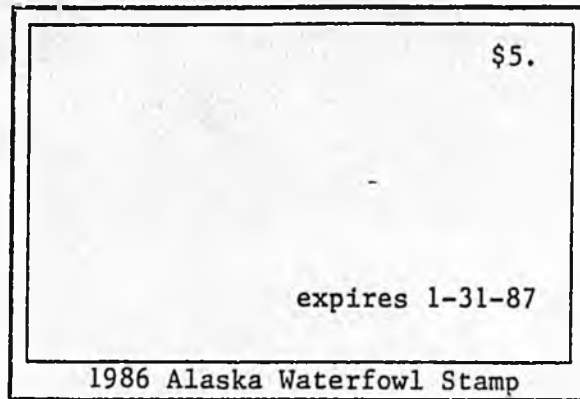
Deductible per loss may not exceed 2% of Contractor's annual gross receipts.

EXHIBIT 3

Front to show with artwork:

1. 1986 Alaska Waterfowl Stamp
2. Price of \$5.00
3. Expiration date

(FRONT)



Reverse to show:

1. Number of stamp
2. This Stamp is Invalid Unless Signed on Face in Ink
3. Alaska Department of Fish and Game

(REVERSE)

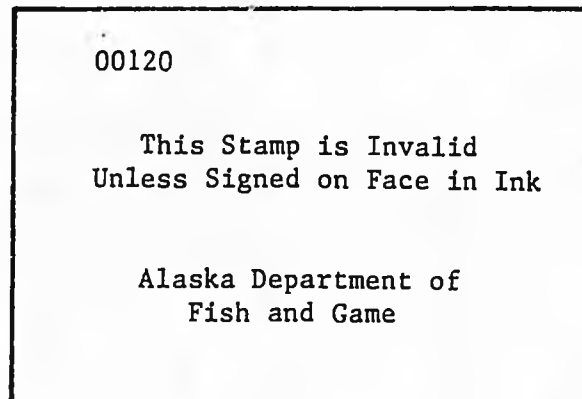


EXHIBIT 4

Stamp sheet layout (not to scale) showing copy, dimensions, perforations and numbering.

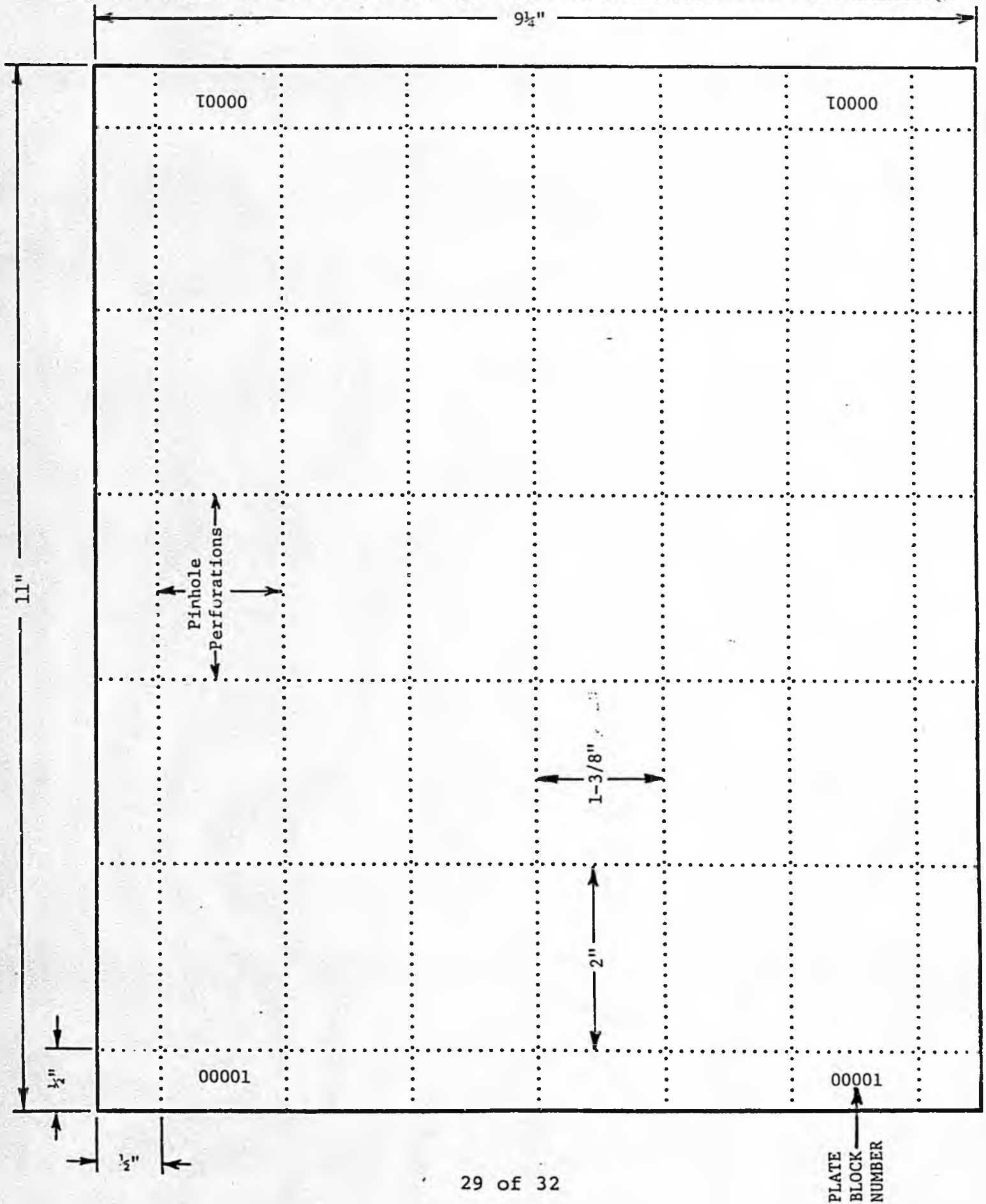


PLATE
BLOCK
NUMBER

EXHIBIT 5

ADVERTISEMENT SCHEDULE FORM

Names of Publications	Date of Issue	Size of Ad	Color or B&W	Estimated Costs
Feb				
Mar				
Apr				
May				

Advertisement Schedule Form (continued)

Names of Publications	Date of Issue	Size of Ad	Color or B&W	Estimated Costs
Jun
Jul
Aug
Sep

Use additional sheets, as necessary. Use separate forms for newspapers and magazines.

EXHIBIT 6

PUBLISHER/DISTRIBUTOR COSTS

Direct Publisher Costs	Costs per number of Limited Edition Prints			
	3000	5000	7000	10000
Print Production	-----	-----	-----	-----
Stamp Production	-----	-----	-----	-----
Poster Production	-----	-----	-----	-----
Flyer Production	-----	-----	-----	-----
Shipping/Handling	-----	-----	-----	-----
Medallion Production	-----	-----	-----	-----
Magazine Ads	-----	-----	-----	-----
Newspaper Ads	-----	-----	-----	-----
Indirect Expenses	-----	-----	-----	-----
Travel	-----	-----	-----	-----
Administration	-----	-----	-----	-----
Other Marketing Aids (Specify)	-----	-----	-----	-----
	-----	-----	-----	-----
TOTAL	-----			
Distributor Costs*	500	1000	2000	3000
Magazine Ads	-----	-----	-----	-----
Newspaper Ads	-----	-----	-----	-----
Local Advertising	-----	-----	-----	-----
Dealer Incentives	-----	-----	-----	-----
Overhead	-----	-----	-----	-----
Travel	-----	-----	-----	-----
Other (Specify)	-----	-----	-----	-----
TOTAL	-----			

*Note: refer to p. 18, under "Distributor Responsibilities."



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James O. Smith
Signature of Camera Operator

11/24/89
Date

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Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4907

Senate Committee on Resources

TO: Senate Resource Committee Members

February 23, 1986

FROM: Senate Resource Committee Staff

MEL

RE: SB 368 "An Act relating to the sale of inherited remote parcels."

This bill would allow persons who inherit remote parcels leased from the state to sell their interest. The original prohibition against sale was designed to prevent real estate speculation. That does not appear to be a problem with this bill.

Attached are copies of a letter from Doris Loennig to Senator Bennett explaining the need for the legislation, a zero fiscal note from the Department of Natural Resources and a letter from DNR suggesting an amendment.

*see
Comm. comment*

DORIS LOENNIG

A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 120, 515 SEVENTH AVENUE - FAIRBANKS, ALASKA 99701
907 452-2005

December 16, 1985
(Dictated 12-9-85)

Sen. Don Bennett
P.O. Box 2801
Fairbanks, Alaska 99707

Recently I have been probating estates for persons in Manley Hot Springs, Alaska. The man and wife had each applied under the remote parcel provisions for land and had been awarded leases by the State. Tragically they both died in a more or less simultaneous accident leaving the husband's interest to his parents and the wife's interest to her parents. The parents do not reside in the State of Alaska, and have no means of actually proving up on the property. However, each is a valuable asset of the estates since there have been improvements placed on the property by the parties before their death and the remote parcel provisions have been withdrawn by the State so those parcels are no longer available to the public.

I make reference to A.S. 38.05.077(e):

"A remote parcel lease may not be assigned, conveyed, or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey, or otherwise transfer the lease is void and terminates the lease."

Likewise, under A.S. 38.05.078(d):

"In addition to the terms specified in A.S. 38.05.065(b) a contract of sale for land in a remote parcel shall contain the following conditions: 1) the land may not be sold, leased, or otherwise conveyed before ten years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession."

Interior Delagation
Re: Remote Parcel

Dec. 16, 1985
Page two

My problem is, and one that I have discussed with the Department of Natural Resources, is whether once the property becomes vested in heirs or has devolved by testate or intestate succession, can those heirs then proceed to dispose of their interest? It appears to me that if the answer is otherwise, the State is running into a constitutional problem of depriving persons of property without due process of law; secondly, it is my understanding that this provision was placed in there by those who were afraid that the original bidders would obtain a speculative profit by immediately re-selling the parcel.

My purpose in writing you is since DNR does not agree with me that possibly once property has devolved to an heir that the restriction against sale no longer pertains; would the legislature would consider amending the acts to make it clear that once property has devolved the properties can then be sold since to do otherwise in many cases, and particularly in these cases, would result in the heirs losing the property. In this case the parents are older, they do not reside in the State and they have no way, nor desire really, of trying prove up on the property. On the other hand their children did place improvements on the property which are of some value.

Please review my letter, if you have any questions, do not hesitate to contact me.

Very truly yours,

DORIS LOENNIG, P.C.

By:

DORIS LOENNIG

DL:dcm

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/20/86

REQUEST

Bill/Resolution No. : SB 368
 Title : Sale of Inherited Remote
Parcels
 Sponsor : Senator Bennett
 Requestor : Senate Resources
 Date of Request : 2/20/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land & Water Management
 Components : Land Disposals/Fee

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

No Fiscal Impact

Prepared by : Michael E. Vediner *Ray* Phone : 465-2400
 Division : Division of Land & Water Management Date : 2/20/86
 Approved by Commissioner : Mrs D Arnold, Deputy Date : 2/21/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

February 21, 1986

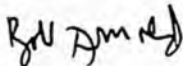
The Honorable Arliss Sturgulewski
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I am writing to offer a suggested amendment to SB 368, relating to the sale of inherited remote parcels, which is scheduled for hearing in your committee on Monday, February 24, 1986.

The department has no objection to this proposal and no fiscal impact is anticipated. The enclosed amendment provides for our existing assignment mechanism to accomplish the intent of the bill.

Sincerely,



Esther C. Wunnicke
Commissioner

Enclosure

cc: The Honorable Don Bennett
Tom Hawkins

February 21, 1986

SB 368, Relating to the Sale of Inherited Remote Parcels.

Suggested Amendment No. 1:

The substantive effect of this bill would be to allow the heirs of a deceased remote parcel lessee an opportunity to assign the acquired interest in the lease. Under applicable law (AS 38.05.077(e); repealed) such an assignment is prohibited. The department suggests the following amended language to provide for assignment of the lease by the heirs via standard assignment procedure. The department seeks concurrence with the assignment so that it can determine that the lease is in good standing and can conform its records to show the new ownership.

(c) Notwithstanding the provisions of former AS 38.05.077(e), the heirs of a deceased remote parcel lessee may assign their leasehold interest in the remote parcel with the concurrence of the state. [SELL THEIR INTEREST IN THE LEASE OF THE REMOTE PARCEL.-]



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

11/24/89
Date

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Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
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DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907

Senate Committee on Resources

TO: Senate Resource Committee Members February 21, 1986
FROM: Senate Resource Committee Staff *MJK*
RE: SB 375 "An Act relating to the release of oil and hazardous substances; and providing for an effective date."

This bill is the Senate companion legislation to HB 470. CSHB 470 (Resources) is currently in a subcommittee of the House Finance committee. Attached is a marked copy of the house bill that shows the differences between the House CS and SB 375. It is anticipated that today's hearing on the bill will be limited to public testimony.

When this bill comes back to the committee at its next hearing as a proposed committee substitute, it is anticipated these amendments will be among those included unless there is specific objection. Attached is additional material that has come in since the last hearing.

Oil Pollution Control Programs in Alaska
Legislative and Fiscal History

1976. SB 406, "An Act relating to oil terminal facilities and the marine transportation of crude oil, refined petroleum products or their by-products", was passed by the legislature (ch 266, SLA 1976). SB 406 created a revolving loan fund within the Dept. of Environmental Conservation to implement statutory provisions regarding oil spill containment and cleanup.

All penalties recovered under AS 30.25.140 - .150 were paid to the department to be deposited in the Coastal Protection Fund. The fund also received assessments from oil tankers based on the degree of risk of an oil spill that each tanker presented.

1977. The Oil Spill Mitigation Account was established under AS 46.03.758(k) (ch 129, SLA 1977). This paragraph, located in the section entitled "Civil penalties for discharges of oil", provides that "Penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the "oil spill mitigation account". The legislature may annually appropriate from the oil spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriations to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects."

1978. The U.S. Supreme Court ruled in Ray v. Atlantic Richfield Co. that states could not regulate the design or construction of oil tankers. On the basis of that ruling, the U.S. District Court for the District of Alaska, in Chevron v. Hammond, ruled that the state's assessment program under AS 30.25 was unconstitutional. The Coastal Protection Fund was also found to be invalid because of a violation of dedicated fund provisions, in which risk charges collected by the state were dedicated to the fund.

1979. Governor Hammond introduced HB 205, "An Act relating to the prevention and control of oil pollution". Attached to the bill was a fiscal note providing for \$350.0 in program receipts for state oil spill cleanup expenses. Program receipts were based upon the levying of an assessment on oil terminal facilities. This assessment provision was later deleted from the committee substitute for HB 205.

1979 (Continued). The legislature appropriated \$991.0 (based on program receipts) for administration of the Oil Pollution Control program and the Coastal Protection Fund (\$6000.0). Only a small amount of program receipts were collected, however, because of the Chevron v. Hammond decision. The decision did not, however, appreciably reduce the department's responsibilities for oil pollution control established under SB 406. The department's FY80 budget request for \$450.0 was reduced to \$250.0.

1980. CSHB 205 was passed by the legislature (ch 120, SLA 1980). Attached to the bill was a fiscal note for \$1542.6, of which \$1000.0 was for an oil spill reserve and \$542.6 was for personal services, travel, contractual, commodities and equipment expenses associated with the establishment of AS 46.04 (Oil Pollution Control).

The fiscal note stated that "It is recommended that the cleanup reserve be maintained by capital appropriation at the \$1 million level. The balance of the reserve should carry over from year to year. Subsequent budget requests may be less than \$1 million. Costs recovered from the spiller or from federal funds will be deposited in the general fund so that the net cost to the state should be less than the one million dollars."

The oil spill reserve exists only as the intent language stated in the fiscal note.

1981. The legislature appropriated \$250.0 to the oil spill reserve.

1983. The state recovered \$350.0 in a settlement with Alyeska Pipeline Co. for two spills that occurred in 1979.

1984. The legislature appropriated \$250.0 to the oil spill reserve. The state received a \$597.9 reimbursement from the federal government for expenses incurred by the state in cleaning up the Nome oil spill.

1985. The department requested \$550.0 for FY86 to bring the oil spill reserve back to the \$1000.0 level. No money was appropriated.

1986. The department requested \$300.0 to be appropriated to the oil spill reserve in the FY87 budget.

HB 470 and SB 375, both entitled "An Act relating to the release of oil and hazardous substances", are introduced. The bills would establish two new chapters within AS 46. AS 46.08 would establish the Oil and Hazardous Substance Release Response Fund, and AS 46.09 would establish a Hazardous Substance Release Control chapter.

Reserve for Emergency Operating Expenses Account
Legislative History

1980. The Reserve for Emergency Operating Expenses Account (Rainy Day Fund) was established in AS 37.05.159. Paragraph (e) specifies that the governor may transfer up to \$5 million during a fiscal year from the Rainy Day Fund to the Fire Suppression Fund to pay the costs of fire suppression. Paragraph (f) specifies that the governor may transfer up to \$5 million during a fiscal year from the Rainy Day Fund to the Disaster Relief Fund.

1982. Paragraph (e) was amended (ch 30, SLA 1982) to allow the governor to transfer up to \$9 million during a fiscal year from the Rainy Day Fund to the Fire Suppression Fund. Language was added, stating that "The fund may not be used for capital expenditures."

1982. In Opinion #13, the Attorney General determined that AS 37.05.159 "Does not represent an unconstitutional dedication of public funds under sec. 7, art. IX, of the state constitution, since money once it is appropriated loses its character as revenue for purposes of the dedicated funds prohibition."

1985. OMB Associate Director Jay Hogan wrote a memorandum to DNR Commissioner Esther Wunnicke stating that "As of March 1985, the Fire Suppression Fund account in the Department of Natural Resources (DNR) will be converted from a noncontinuing to a continuing operating account. Balances at the end of each fiscal year will carry forward to the next fiscal year.

On July 1 of each fiscal year, the State Accountant will review the balance carried forward from the prior fiscal year and then make a transfer from the Rainy Day Fund to the Fire Suppression Fund in the amount necessary to bring the balance to the \$9,000,000 level."

These fund procedures are not mandated by statute, however, and neither the Fire Suppression Fund nor the Disaster Relief Fund requires that any money necessarily be transferred by the governor from the Rainy Day Fund to these funds.

1986. HB 470 and SB 375, both of which would establish an Oil and Hazardous Substance Release Response Fund, are introduced. Both bills would amend AS 37.05.159 by adding a new paragraph (g) that would allow the governor to transfer money from the Rainy Day Fund to the response fund. CSHB 470 would allow the governor to transfer \$1,000,000 during a fiscal year from the Rainy Day Fund to the response fund, and SB 375 would allow the governor to transfer a maximum of \$10,000,000.

Position Title Ecologist II			No. of Positions One	Range/Step 1B A	Barg. Unit GGU	Clas. 28	Approv.	Disapp.
Time Status Full Time	Staff Months 12	IRP Number	Location Juneau		Election District			
Type of Expenditure			Justification					
		Annual	<p>This new position will be responsible for writing regulations related to implementation of this bill, including procedures to be used in containment and cleanup of a hazardous substance, reporting the release of a hazardous substance, use of the response fund, procedures to assess fines, penalties and recovery of costs. This person will also negotiate contracts to contain and clean up incidents requiring immediate response, determine liability for incidents, initiate appropriate actions to recover costs or other penalties, coordinate a training and safety program for field staff and report program activities to appropriate State and federal agencies and the State Legislature.</p> <p>We expect to fill this position on October 1, 1986. Funding for nine months has been requested for FY 87.</p>					
1	2	3						
Salary	28.1							
Benefits	8.3							
Premium Pay								
Other								
Total Personal Services		36.4						
Travel		5.0						
Contractual		25.0						
Commodities		6.5						
Equipment		2.0						
Other								
Total Cost		74.9						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	74.9					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For BAM Use Only								
Key Number								

**Req. For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Water Quality Management

Page 3 of 8
 Revised Date

FY 87

Position Title Clerk Typist III			No. of Positions One	Range/Step B A	Barg. Unit GGII	Clav. 124	Approv.	Disapp.
Time Status Full Time	Staff Months 12	BP Number	Location Juneau		Election District			
Justification								
Type of Expenditure			Amount					
	1	2	3					
Salary		14.7						
Benefits		5.3						
Premium Pay								
Other								
Total Personal Services			20.0					
Total								
Contractual			3.5					
Commodities			1.5					
Equipment			2.0					
Other								
Total Cost			27.0					
Receipt Code			Funding Source					
			Federal Receipts 1007					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			27.0					
For B&M Use Only								
Key Number _____								

This new position will provide clerical support to the new program staff and enter data into computer files established to record program activities. This person will be required to prepare regulations, contract documents and fiscal reports as well as routine correspondence.

We expect to fill this position on October 1, 1987.

Funding for nine months has been requested for FY 87.

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Water Quality Management

FY 87

Page 4 of 8
 Revised Date

Position Title Environmental Field Officer III		No. of Positions One	Range/Step 18 A	Org. Unit GGU	Class Log	Approp.	Disapp.
Time Status Perm. Part Time	Staff Month 6	Location Juneau	Election District		Log		
Type of Expenditure		Amount		Justification This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.			
Salary	2	3					
Benefits	18.7						
Vacation Pay	5.6						
Other							
Total Personal Services		24.3					
Travel		5.0					
Contractual		5.0					
Commodities		3.5					
Equipment		2.0					
Other							
Total Cost		39.8					
Receipt Code	Funding Source						
	Federal Receipts 1002						
	G. F. Match 1003						
	General Funds 1024		39.8				
	I-A Receipts 1005						
	Program Receipts 1020						
	CIP Receipts 1061						
	Other						
Per B&M Use Only							
Key Number							

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Southeast Region

Page 5 of 8
 Revised Date

FY 87

Position Title Environmental Field Officer III			No. of Positions One	Range/Step 18 A	Dep. Unit GGU	Class.	Appoint.	Disapp.
Term Status Full Time	Staff Months 12	RP Number	Location Anchorage		Election District	146		
Type of Expenditure			Justification					
		Amount	<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p> <p>We expect to fill this position on October 1, 1986.</p> <p>Funding for nine months has been requested for FY 87.</p>					
1		2						
Salary		28.1						
Benefits		8.3						
Premium Pay								
Other								
Total Personal Services		36.4						
Travel		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		51.9						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1020					
			CIP Receipts 1061					
			Other					
			51.9					
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Southcentral Region

FY 87

Page 6 of 8
 Revised Date

Position Title Environmental Field Officer III			No. of Positions One	Range/Step 16 A	Bng. Unit GGU	Gov.	Appov.	Disapp.																																				
Time Status Perm. Part Time	Start Months 6	RF Number	Location Anchorage	Election District		LAG																																						
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>2</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>18.7</td> <td></td> </tr> <tr> <td>Benefit</td> <td>5.6</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>24.3</td> </tr> <tr> <td>Travel</td> <td></td> <td>5.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td>5.0</td> </tr> <tr> <td>Commodities</td> <td></td> <td>3.5</td> </tr> <tr> <td>Equipment</td> <td></td> <td>2.0</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>39.8</td> </tr> </tbody> </table>			Type of Expenditure	2	Amount	Salary	18.7		Benefit	5.6		Premium Pay			Other			Total Personal Services		24.3	Travel		5.0	Contractual		5.0	Commodities		3.5	Equipment		2.0	Other			Total Cost		39.8	Justification This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.					
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**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
Component Southcentral Region

FY 87

Page 7 of 8
Revised Date _____

Position Title Environmental Field Officer III			No. of Positions One	Range/Step 18 A	Bur. Unit GGU	Gov.	Appov.	Disapp.
Time Status Full Time	Staff Months 12	RP Number	Location Fairbanks	Division District		148		
Type of Expenditure			Justification					
1	2	3	<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p> <p>We expect to fill this position on October 1, 1987.</p> <p>Funding for nine months has been requested for FY 87.</p>					
Salary	32.1							
Benefits	9.2							
Premium Pay								
Other								
Total Personal Services		41.3						
Total		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		56.8						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	56.8					
	I-A Receipts	1005						
	Program Receipts	1020						
	CIP Receipts	1061						
	Other							
For BAM Use Only								
Key Number _____								

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Northern Region

FY 87

Page 8 of 8
 Revised Date

Board of Game postpones decision on wolves until spring

Continued from Page C-1

me absurd," Johnson said. "This is just another example."

In the Madison case a year ago, the state Supreme Court ruled that all Alaskans qualify as subsistence hunters, trappers and fishermen; and that all Alaskans have a priority over sportsmen or commercial fishermen when it comes to harvesting the state's resources.

In the Eluska case this past spring, the state Court of Appeals ruled subsistence activities cannot be restricted unless they threaten the conservation of wild resources. Alaskans caught hunting, fishing or trapping out of season can claim subsistence as a defense — unless the state has specifically provided for subsistence harvests, the appeals court added.

Board member Kirk Gay earlier this week raised questions about the subsistence

use of wolves. His query started Spengler thinking and led to her warning.

All of which happened despite Gay's doubts there is such a thing as a subsistence harvest of wolves.

"It's all related to a commercial value, one way or another," said the Anchorage big-game guide. "If a guy can afford an airplane, my gosh, he probably couldn't qualify for subsistence."

"The whole thing is very frustrating," said board member Vic Van Ballenberghe, who first proposed the end of land-and-shoot in eight of the 26 game management units that divide the state.

The game board tentatively agreed to continue a land-and-shoot ban on the North Slope (Game Management Unit 26). And it tentatively agreed, for the first time, to end land-and-shoot on the Kenai Peninsula (Units 7 and 15), around the Wrangell/St. Elias National Park and Preserve

(Unit 11), and on the west side of Cook Inlet (Unit 14). But final action must await the board's spring meeting.

Wolf harvests by aerial trappers are relatively small in all of these areas.

The board refused to block land-and-shoot where wolf harvests are significant: in the Nelchina Basin (Unit 13), in the Susitna Basin (Unit 16), and in the southeast Brooks Range (Unit 25A).

Board members expressed fears that if land-and-shoot is ended in those areas wolf numbers could increase rapidly. That, in turn, could lead to a decline in moose and caribou.

Eventually, Gay said, moose and caribou populations could drop to the point where the board would be inundated with pleas to shoot wolves from airplanes to help restore moose and caribou numbers.

The board has found itself in the middle of bitter de-

bates about such aerial hunting programs in the past, he said.

As long as wolf populations are stable — and state wildlife biologists say they are — there is no need to end land-and-shoot, Gay said.

Many people who testified before the board last week reflected that view.

But Van Ballenberghe, wildlife professor at the University of Alaska-Fairbanks, said land-and-shoot is unnecessary in much of Southcentral. Enough wolves would be taken to hold the population stable without land-and-shoot, he said.

The practice should be eliminated because it is offensive to some people, said Van Ballenberghe.

Many people who testified before the board also expressed that opinion.

Land-and-shoot wolf hunting was the main topic on the board's agenda for its eight day meeting in Anchorage

Section **B**

Lawmakers review bill on subsistence

by Beth Barrett
Times Juneau Bureau

JUNEAU — A legislative committee today endorsed a bill that would return first preference in the harvesting of fish and game for subsistence uses to rural Alaskans.

The Senate State Affairs Committee adopted the bill as an alternative to a similar measure by Gov. Bill Sheffield, which was passed by the House last year but stalled in the Senate.

The new proposal, released last month by committee chairman Mitch Abood, R-Anchorage, will undergo a series of public hearings later this month.

The bill would make urban residents eligible for Tier 2 hunts, in which Alaskans would be allowed to apply for certain hunts based on residency, their need for the game, and the availability of other resources.

Subsistence is expected to be one of the most volatile and important issues of this legislative session. The state's original laws granting priority subsistence rights to rural residents were

struck down as unconstitutional, and broad groups of Alaskans became eligible to take fish and game.

Abood said he wants the new proposal substituted for last year's unsuccessful measure.

Sens. Bill Ray of Juneau and Vic Fischer of Anchorage, the two Democrats on the Senate State Affairs Committee, had raised concerns about the measure, saying the bill in its current form leaves too much to interpretation.

"I'm concerned about someone defining the words later on to mean something entirely different," Fischer said before the bill was adopted.

Ray said he wanted certain user groups, such as personal use groups, better defined in the bill.

Unless the state passes a law that meets the federal Alaska National Interest Lands Conservation Act of 1980, the Department of Interior has said it will take over fish and game management on federal lands in Alaska June 1.

Judge grants subsistence rights on any fresh water fishing stream

By RONNIE CHAPPELL
Daily News reporter

KENAI — Alaska residents are entitled to subsistence fish on any fresh water stream that supports a sport or commercial fishery, Superior Court Judge Elaine Andrews has ruled.

Under present state law, subsistence fishermen would have first right to catch fish in some of the state's premier salmon streams, including the Kenai, Anchor and Susitna Rivers.

In a January 17 decision, Andrews dismissed charges against Sterling resident Donald Skuse who was cited last summer for "snagging" six red salmon in the Moose River, a tributary of the Kenai.

Snagging — the jerking of a large treble-hook through a group of schooled fish — is a highly efficient "rod and reel" technique that has been outlawed in Alaska.

When caught, Skuse told an undercover Fish and Wildlife Protection Officer that he was "snagging" for subsistence

purposes.

Skuse prevailed in court, Andrews said, because the state failed — as required by law — to provide him with an "adequate" Kenai River subsistence fishery. If the state had provided that fishery, it could have regulated its location, time, bag limits and means of take, she said.

The state argued that Skuse could have satisfied his subsistence needs by sport fishing on the Kenai River or

See Back Page, JUDGE

Judge

Continued from Page A-1

participating in other subsistence and personal use fisheries available on the Kenai Peninsula.

In the past, subsistence fishing in Cook Inlet has been limited to gillnetting in salt water. The state has also allowed for "personal use" dip net fisheries on the Kasilof and Kenai Rivers.

Andrews' decision means that subsistence fishing must be allowed on every stream in Alaska, said one Fish and Game official who asked not to be identified. "The way I read this, I could go down to the Anchor River between weekends and snag all I want."

The Anchor River is one of the first salmon streams in Alaska to open each summer to sport fishing. The king salmon fishery is so popular and so limited that it is open only three weekends a year.

The decision could also create problems on the Kenai River, where creation of a subsistence fishery will increase competition for a limited number of fish.

In recent years, the river has been the scene of a bitter salmon allocation fight between Anchorage sportsmen and Cook Inlet commercial fishermen. The anglers want to increase the number of king salmon they can catch by decreasing the fishing time given Kenai Peninsula set-netters.

"If this decision had to be rendered, it's good it was rendered while the subsistence question is before the legislature," said Russ Redick, executive director of the Alaska Sportfishing Association. "The idea that every fish stock in every stream has to be open to subsistence is ridiculous. We've got to move on from this. That's why we need a rational decision out of the legislature."

Lawmakers are considering a variety of bills amending the state's 1978 subsistence law. Most would restrict subsistence to rural residents or give the Boards of Fisheries and Game increased authority to restrict subsistence users.

Gov. Bill Sheffield tried to win passage of a subsistence bill last year after the Alaska Supreme Court ruled that urban Alaskans with no traditional dependence on fish and game are entitled to subsistence hunt and fish.

reflect those of the Daily News-Miner.

FRID. 1/26/86

Toward a real solution

We think you'll find interesting reading on the facing page today. We invited three Fairbanksans to share their opinions on the subsistence issue, examining the aspects of it that have created the controversy Alaska faces today.

As you read their views, we'd like to toss in our own.

It's clear to us that Alaska will not be able to find a long-term resolution to the subsistence question until the conflict between federal and state law is resolved.

The federal law—the Alaska National Interest Lands Conservation Act—requires us to give a subsistence priority to rural residents. The state Constitution requires us to treat all Alaskans equally, and further says that fish and wildlife resources are reserved to the people for common use.

If we seek to comply with the federal mandate, any legislation we muddle together is going to perpetuate the inequity, and thus the problem.

Since our congressional delegation advises against lobbying for changes in the act, it's clear we'll have to go to the courts in our efforts to dispense with a discriminatory ruling.

Until Alaska does that, we're only going to succeed at coming up with such a complex tangle of laws and regulations that discriminate against urban Alaskans and create such a maze of requirements for rural Alaskans that the issue will continue to divide us.

At least two of the gubernatorial candidates in the forthcoming election have said that they would challenge the federal law in court, if elected. Short of electing a governor that will do this, the legislators could direct the administration to mount a court challenge.

It is federal interference of a dangerous,

By JOE VOGLER

Subsistence is an insidious and divisive measure of the United States government, designed and intended to divide Alaskans.

It is nothing less than racial discrimination with a "rural" veil, which hides nothing of its ugly nature and purpose.

It violates Article I of Section 3 of the Alaskan Constitution, "no person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex or nation-

al origin." It violates Article VIII of Section 3, "Wherever occurring in the natural state, fish, wildlife and waters are reserved to the people for common use."

Its ugly purpose was revealed in the testimony at the hearing of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, 96th Congress, First Session on HR 39,

Guest Opinion

NR 2219 on March 10, 1979, in Fairbanks, Alaska.

After a long opening statement by Mr. William Williams, president, Tanana Chiefs Conference, in which he mentions the lifestyle of the Native people, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights of the United Nations which the United States signed Oct. 5, 1977, he requested some kind of federal administration oversight as a means of protection, (Page 1328 and 1329). On page 1330, Williams made it very clear that the final access to game as it became scarcer was to be, "finally only Native."

On page 1331, he argued that "Let us, the original users have the last chance and then when it gets low let us cut everybody off . . ."

It was then that Mr. Dingel read from the Alaska Native Claims Settlement Act, "all aboriginal titles, if any . . . and including any aboriginal hunting or fishing rights that may exist are hereby extinguished," Section 4, b. 85 st. 688. And continued, "Now, that is the law and I understand that is the compact between the government and

the Natives of Alaska. Now am I in error to read that as a clear statement that with regard to subsistence hunting, it is the position of both the federal government and the state, which was a participant to it and the Native peoples of Alaska that the Native peoples as regards subsistence hunting are treated just like anybody else? Am I in error?"

Williams: "I think you are in error."

Dingel: "Am I in error? What other section do you cite then, please?"

After some more disagreement, Dingel remarked about Williams' offer to research the question and send him a personal answer, "I think it would be very helpful. Maybe somebody around here knows what the answer to that question is. I always understood when that question was voted on that we had decided the question of Native rights in Alaska for all purposes, including hunting and fishing. It was represented on the floor, I was there."

A little later, from Rep. Den Young: "I will say this and I think we have to keep this in mind, the concept of subsistence was not to be based upon racial qualifications. Subsistence is a rural question, and it is very clear in the Huckaby Bill, because it is rural residents of Alaska, including Natives and non-Natives. That makes it a non-racial issue, and I hope we keep it at that

level, because it is the only way it will survive. That is a fact of life."

I would ask if the subsistence right to hunt walrus, polar bear and whales, which is not available to rural living non-Natives, doesn't make a farce of this position of Rep. Young? There, it isn't a question of rural, it is race and race alone. See Sunday News-Miner, Oct. 27, 1985, Section D, Outdoors Page 3 for an article on this subject.

Now, I would ask you to examine the Declaration of Policy and the Alaskan Native Claims Settlement Act. "Section 2, Congress finds and declares that (b) the settlement should be accomplished rapidly with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participations by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationship between the United States Government and the state of Alaska."

With this clear Declaration of Policy, the act was passed Dec. 18, 1971.

It is no wonder that Dingel, who was also a member of that Con-

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divisive nature

gress, was perplexed by Williams' testimony.

With this act of 1971 in force, the Congress of 1980 passed the Alaska National Interest Lands Conservation Act of Dec. 2, 1980, with Title VIII dealing with subsistence and the trouble started.

How Congress could square this section with Section 2 of Article IV of the Constitution is beyond me. No other states' citizens are thus divided. Where are the Zobel's on this matter? How does it provide for the equal protection clause of Section I, Article XIV?

With all of the problems of integrating two societies and peoples, Alaska has had less problems in my observations and I know there have been many instances of discrimination against Native peoples.

Then with the settlement spelling out a rejection of reservations and special privileges, a later Congress injects this explosive matter. It is nothing less than a deliberate and criminal act of the federal government to provoke trouble and to promote dissension. King George was more honest with his scalp bounty system, even if a lot more bloody, but the final act of this congressional criminal act may be no less bloody and the damage to Alaskan harmony and interracial relations may be very serious and long-lasting.

It is more federal interference and is of a most despicable and dangerous nature. A governor with

any courage or principles would have totally rejected this concept and have fought it in the courts. Both Govs. Hammond and Sheffield have embraced it to their shame and to the great detriment of Alaska.

It is time for a governor of Alaska to tell the federal government to mind its own business and let us mind ours. There, I took more than my usual three words to outline their destination!

Finally, I have killed many moose and have known many who hunted moose and they were all hunting for meat for their family freezer or locker, regardless of where they lived.

And for those who would hang their subsistence hats on Section 4 of Article VIII, ". . . subject to preferences among beneficial uses," I would cite the example given in the minutes of the Constitutional Convention regarding this clause: It would apply to prohibiting the hunting and fishing on a certain lake or area if it were especially suited for a scientific study purpose! That would be a preferential use!

Let us put the Feds back in their constitutional cage. I have been very successful in my courtly encounters with the borough and the state government. And I am now busy getting the attention of the federal government and herding it toward the cage. Wish me well.

Long-time Alaskan Joe Vogler is head of the Alaskan Independence Party.

Rural economy must be protected

By JIM KOWALSKY

Urban Alaskans too often want to think of subsistence in their own terms. Too few critics are willing to consider rural harvest of wild resources as an economic activity, a system that is the very basis for life in rural Alaska.

Subsistence is much more than a weekend moose hunt for sport or a two-week outdoor vacation after which the hunter returns to a regular job. It is a cultural tradition, but most importantly it is an economic reality. It is a seasonal round of harvests with community-wide participation. Rural communities could not exist without fish, game and edible plants.

The rural subsistence economy needs protection under law just as access to economic markets is regulated in the urban business world. The best way to protect the rural economy is by a legal subsistence priority for rural residents. People who live in the villages and depend on the resources for food would have harvest priority in times when the resources are in short supply.

Subsistence is an extensive network of non-commercial distribution of products through community and family sharing. It is supported by the traditional system of rural local land use and occupancy. The traplines, fish and hunting camps, set net sites, trails and game areas used by rural kinship groups and communities to support this system are other major elements of it. The use and occupancy of lands generally is subjected to local traditional customs and laws which define access but are not usually codified.

Rural subsistence is also a mixed economy, combining food harvests

with the small amount of available cash. The head of a village household pieces together as many opportunities as possible throughout the year. These could include a short summer wage job, perhaps collection of a little unemployment, putting out and tending nets for subsistence and maybe commercial salmon, picking large quantities of berries, hunting for moose in the fall, setting out traps in early winter, use of food stamps part of the winter, the sale of handcrafted products, winter hunting for a whole assortment of small game, and trapping for beaver and muskrat in spring.

The village family pieces together and utilizes a whole mix of activities to gain cash and to harvest locally available large and small game, fish and other wild food products. The harvest is shared with those who have no meat or are too old to hunt or fish.

Some of the pieces of this economy seem small and insignificant to urban Alaskans. But together they sustain life in the Bush. A recent study by Robert J. Wolfe and Robert J. Walker shows that dependence on subsistence increases with the distance from a city. Their study, "Subsistence Economies in Alaska: Productivity, Geography and Development Impacts," points out Minto residents harvest 22 times more fish, game and edible resources per capita than Fairbanks residents—933 pounds and 22 pounds respectively. People in Stevens Village on the Yukon harvest 48 times more (at 1,058 pounds per capita) than people in Fairbanks. And in Hughes on the Koyukuk, the people take in 68 times more fish and game per capi-

Guest Opinion

ta (at 1,498 pounds) than people in Fairbanks.

My use of these examples is not meant to imply that hunting and fishing is not an important activity for many urban Alaskans, which it certainly is. Rather, the data demonstrates that it is the economic characteristics and therefore the basic economy of entire Alaskan urban and rural communities and regions which differ so dramatically.

Wolfe and Walker show a direct relationship between remoteness in Alaska and dependence on subsistence. They also show that people depend less on subsistence in communities that have a high non-Native population, a relatively high community income and access to roads. That subsistence contributes to the well-being of much of our state is a fact generations of Native Alaskans have always known.

It is impossible for me—a white, middle-income urban Alaskan concerned about his family—to imagine any other urban resident purposely damaging another Alaskan's economic system.

Access to rural subsistence must be limited in times when the resources are in short supply. This concept of limited access to an economic resource is not new. Commercial salmon and halibut fishermen are subject to limited entry permits, as are sport hunting

guides, taxi cab drivers and tavern owners.

Dozens of business and commercial activities are regulated by laws that limit access. Subsistence is the work and business of rural Alaskan communities, and the subsistence priority is the ultimate "local hire." Urban society has taken extraordinary measures to protect its specific economic interests. Why, then, shouldn't the rural economy—a productive sector of Alaska—be afforded the same kind of protection?

The issue will be addressed in this session of the Alaska Legislature. Two bills—one by Republican Sen. Mitch Abood of Anchorage and the other by Gov. Bill Sheffield—have been filed. Abood's lengthy, complex proposal equivocally construes "rural" and "preferences" in terms so broad that it misses the mark entirely. It would cause terrible injustice to the rural economy.

On the other hand, Gov. Sheffield has proposed simply to insert into state law a clear subsistence priority for rural Alaskans. It would identify subsistence areas of Alaska on a case-by-case basis only when the need arises. It would also restore urban hunters' access to caribou, bison and sheep populations recently denied them.

Most importantly, the frail rural economy would receive the same kind of economic protections that urban Alaskan society has so eagerly arranged for itself and so blandly takes for granted.

Jim Kowalsky is director of wildlife and parks for the Tanana Chiefs Conference, Inc., of Fairbanks. TCC is a regional non-profit Native corporation for Interior Alaska. Kowalsky directs the subsistence advocacy program.

1-26-86

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1-26-86

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Subsistence: a hard *Equal treatment should be keystone of any law*

By SAM HARBO

Should a Native elder in a small village receive hunting and fishing privileges that don't go to an equally deserving, low-income Native elder in North Pole or Delta? Should a wealthy government worker in a rural village get special privileges to hunt on public lands, privileges that aren't available to a low-income resident of a nearby larger community? They might, depending on what the Alaska Legislature does this session.

I believe the vast majority of Alaskans support subsistence privileges for those individuals and families whose continued existence and well-being depend on wild-caught fish and game. That is, for those individuals and families having a food dependence on those resources. So why the subsistence controversy? Because the current law and some of the proposed modifications to it are not based on need. Nor do they provide adequate protection for fish and game resources, because the current definition of subsistence uses can be interpreted to include uses outside the established regulations.

The current law gives a subsistence priority to those individuals having "customary and traditional" use of fish and game. Trying to develop a workable definition of those words has been one of the most elusive tasks the Alaska Boards of Fisheries and Game have ever faced. The courts fared no better; the Alaska Supreme Court finally resolved the matter by going to the legislative record established when the state bill was passed, interpreting "customary and traditional" by determining which groups of users the legislators specifically said would have the priority. The Chitina dipnetters gained near immortality by being named as a qualified group.

Why the controversy over subsistence in Alaska?

As Alaskans grapple to establish a fair state law in the face of federal intervention, the News-Miner asked three contributors to offer their views on the subsistence issue, its cause and solutions.

Offered today are the views of Alaskan Independence Party head Joe Vogler, former state Board of Game member Sam Harbo and Tanana Chiefs Conference subsistence advocacy director Jim Kowalsky.

Guest Opinion

tration, argue that we should keep "customary and traditional" as the basis for defining subsistence. But they would limit "customary and traditional" only to people living in rural communities in which the personal and family consumption of fish and game is a significant part of that community's economy. All individuals in a community so designated would get the priority. None of the individuals in communities not so designated would get the priority. An all-or-nothing approach.

Taking an all-or-nothing community approach is extremely unfair. Very wide ranges of income and great differences in dependence on fish and game exist among families in nearly all communities. How would we treat, for example, the communities of Barrow, Bethel, Cordova, Dillingham, Galeana, Glennallen, Haines, Kotzebue, Nenana, Nome, Tanana, Tok and Wrangell? None of those communities have only families with low incomes and great dependence on fish and game. Nor do any of those communities have only families with substantial incomes and very little dependence on fish and game.

believe preemption is inevitable.

If the state makes a successful, good-faith effort to provide the subsistence privilege to those individuals truly dependent on fish and game, but in the process also gives the privilege to those who qualify in nonrural areas, then at least we have ensured that the protected group under federal law is also protected under state law.

If a noncompliance case is then brought against the state, would a court rule against the state solely because we also protected subsistence uses in nonrural areas? I doubt it. If they do, then we seriously need to consider what it is the federal law actually is protecting—and why the rural designation is in federal law. Is it there as a result of effective lobbying during the chaotic last hours of ANILCA's passage?

We must keep in mind that if "rural" were not in the federal law, we would not even consider putting it in state law—because to do so is unjust. And for that very reason it was not there when the state law passed.

Advocates of the community approach argue that the patterns of sharing in a community dictate that the subsistence privilege must be on a community basis. Also, how would a community elder who is dependent on fish and game, but who

Prior to the Supreme Court action, about the only thing generally agreed to was that need was not a basis for granting the priority. However, even today some participants in the subsistence debate argue as if need were a basis; after all, it seems so logical that it should be.

If the subsistence priority is not based on need, on what is it based? Don't ask the Boards of Fisheries and Game; they couldn't figure it out. Nor did the attorney general's office. Again, the Alaska Supreme Court helped. Their decision, influenced by the legislative record, led the boards to conclude that any Alaska resident taking fish and game primarily for his/her own and his/her family's consumption, regardless of need, qualified for the subsistence priority. Such broad inclusion resulted in the illogical and very unfair Tier 2 hunts that we experienced last fall—hunts such as the subsistence bison hunt at Delta and the subsistence full-curl ram Dall sheep hunt near Tok. Obviously, the law must be modified.

Some advocates of change, including the current state adminis-

The all-or-nothing community approach would violate the one principle that must apply if a subsistence law is to be fair and just, and hence acceptable: all families similarly situated with respect to their use of and dependence on fish and game must be treated equally.

Fairness, justice and equal treatment—the public must believe those are occurring, otherwise we will continue to have substantial discord over the subsistence issue, as well as disrespect for and disregard of wildlife regulations. An essential element in a fair approach is that people similarly dependent on fish and game are treated the same, regardless of where they reside. Obviously I strongly disagree with those who advocate inserting the word rural into subsistence priority legislation.

Advocates of the rural provision claim we must comply with the federal law. That law restricts the priority to rural residents, without adequately defining rural. Without compliance, the advocates claim, federal preemption of state management on federal lands will occur. That is a worry, but I don't

is physically unable to procure those resources, be provided for if the priority were not community-wide? Those are real concerns, but they can be addressed adequately in an individual, need-based approach.

Sharing preceded the law and will continue regardless of whether or not a community has a privileged status. And the needs of subsistence-dependent, but physically impaired, elders, regardless of where they reside, can be provided for in a manner similar to that for blind Alaska residents—someone can be permitted to hunt and fish for them.

Although there are many different arguments raised in the subsistence debate, the most consequential one has to do with fairness, justice and equal treatment. A subsistence law having those attributes will be accepted by the people of the state. We cannot continue with subsistence regulations that destroy the social fabric of our state.

A retired associate professor of econometrics at the University of Alaska-Fairbanks, Sam Harbo served on the state Board of Game for more than 10 years.

ADN 1-31-86

Natives granted hunting rights to ducks, geese

Judge rules Indians, Eskimos
can take birds for food any time

By CRAIG MEDRED
Daily News reporter

Eskimos and Indians can hunt ducks, geese and swans for food at any time in Alaska, U.S. District Court Judge James A. von der Heydt has ruled.

Officials of the U.S. Fish and Wildlife Service said Thursday that they are still trying to determine the implications of the ruling.

"This does impact migratory birds statewide," said agency spokesman George Sura. "I've heard it called a mixed

bag. I don't know how it helps us. Obviously the service, in the long haul, is looking for a clear statutory basis for issuing subsistence regulations."

Von der Heydt ruled Monday that Alaska Natives are not bound by the federal Migratory Bird Treaty Act that bans spring and summer hunting, outlaws egg gathering, limits the weapons hunters can use, and sets bag limits for legal fall hunts.

The judge said the migrato-

See Back Page, JUDGE

Judge rules Eskimos, Indians allowed to hunt

Continued from Page A-1

ry bird act was superceded by a clause in the Alaska Game Law of 1925 that says no regulations shall "prohibit any Indian or Eskimo, prospector or traveler, to take animals or birds during the closed season when he is in absolute need of food and other sufficient food is not available."

Von der Heydt's decision may have left open the possibility the agency could in some way regulate subsistence harvests under the terms of the Fish and Wildlife Improvement Act of 1978.

The ruling came in a suit filed by the Alaska Fish and Wildlife Federation and Outdoor Council. The groups sought to stop spring hunting of geese and egg gathering on the Yukon-Kuskokwim Delta.

Geese populations have

plummeted there over the past decade. Hardest hit have been cackling Canada geese, which have declined from an estimated 380,000 in 1965 to about 25,000 today. Populations of Pacific white-fronted geese, emperor geese and Pacific black brant that breed on the delta have also declined sharply.

State and federal biologists blame the declines on the reduction in goose wintering areas in the Lower 48, increases in the number of predators on the breeding grounds, poor weather, and spring killing by subsistence hunters.

The delta's human population has increased 42 percent in the past 20 years. This, the biologists say, has meant increased hunting of the geese. The growing use of motorboats and all-terrain vehicles

in spring hunts has led to more disturbances of nesting birds, biologists say.

Spring hunting and egg gathering have been limited for the past two years by a voluntary agreement among the Association of Village Council Presidents, the Alaska Department of Fish and Game, the U.S. Fish and Wildlife Service, the California Department of Fish and Game and two California sportsmen's groups.

But the wildlife federation and the outdoor council challenged those agreements, arguing that they didn't do enough to protect geese that have been creeping closer and closer to endangered species status.

"Initial reports indicate that the cooperative plan has been successful," von der Heydt said in his decision. "Appar-

Anchorage Daily News

Friday, January 31, 1986

ducks, geese, swans for food at any time

ently, this has led to a major decline in the subsistence harvest of each of the species in question. The plan has also reduced egg-gathering activities. Of equal importance, because of the involvement of the Native community in the plan, increasing enforcement, including the issuance of citations, has occurred."

Native leaders on the delta said they will continue to abide by the cooperative agreements in an attempt to rebuild the geese populations.

"Hopefully, they want to see some increase in the size of the bird population," said Harold Sparck, executive director of Nunam Kitlutsisti, an Eskimo environmental group in Bethel.

"The chairman of our board, the guy who worked on this thing for the last 12 years, he

said this was also a good opportunity to thank the courts for giving social justice to the village Eskimos after 25 years of harassment," Sparck said.

Over the years, there have been various attempts by the Fish and Wildlife Service to end spring hunting on the delta. Those efforts came to an end in 1975, however, after a year of threats, confrontation and some gunfire between delta residents and service agents.

"This lawsuit probably will have no bearing on the cooperative agreement to manage the renewable resource," said Gene Pertola, president of the Bethel-based association of village presidents.

"I feel that it's probably a monumental decision in terms of the management of migratory birds in Alaska," added

Dave Cline, regional representative of the National Audubon Society. "I won't say that I don't have any worries, but I think it helps rather than hinders efforts to build a cooperative agreement. The (Native) groups that we have been working with have never asked for unregulated harvests.

"The people have dramatically reduced egg gathering. They have tried to not kill cackling geese. They are trying to cooperate, at least the majority of them."

But Cline added the situation could get messy if Alaska Natives took the decision literally and "thumbed their nose" at conservation needs.

"That's the worst that could happen," Cline said. "I would think that would be a serious mistake."

Malone says politics can't solve subsistence woes

By ROSEMARIE ALEXANDER
Clarion Correspondent

JUNEAU — Unless Alaskans learn to tolerate a variety of lifestyles, subsistence will always be a problem, says former Rep. Hugh Malone.

"We think that tolerance exists, but it doesn't," he said in an interview Monday.

The Kenai Democrat served in the House of Representatives during several subsistence battles. But this year, it's critical the Legislature get a new law on the books.

"What is the Legislature going to do with Judge Andrews' decision on snagging?" he asked. If her rule stands, he said, every commercial and sport fishing river and stream will also have to have a subsistence fishery.

Under the recent court ruling, charges of snagging red salmon were dismissed against Sterling resident Donald Skuse because he said he relied on the fish for food. District Court Judge Elaine Andrews cited the 1985 Alaska Supreme Court Madison decision which defines fishing for "personal consumption" as "subsistence," making it a priority over other uses.

"That's going to make a big difference in the management of the Kenai River and all the river fisheries on the Kenai Peninsula," Malone said. "We're going to have to adopt regulations for subsistence and make those work."

The recent Skuse decision prompted senators to add a provision in House Bill 288 stating that subsistence is not a defense for

violating fish and game laws.

State Fish and Game Subsistence Director Steve Behnke said it is one of the few provisions in a Senate bill that may stand, once the bill starts moving through committees.

"We in the department are interested in seeing some kind of provision like this," he said in an interview. It would be helpful to the boards in preventing court challenges like the Skuse case, he said.

But Behnke never had a chance to tell that to the Senate State Affairs committee Tuesday. A statewide teleconference was short-lived when Chairman Mitch Abood decided the new bill had too many problems.

The bill defines subsistence as "non-commercial, customary and traditional

uses" for personal consumption by a rural Alaskan who lives in an area where subsistence "is a significant characteristic of the economy." It also requires that a person live in area twelve consecutive months.

That cuts out urban natives who rely on fish and game for their food, said Juneau Sen. Bill Ray. "There are several hundred people living in the Juneau Native village who have a subsistence way of life," Ray objected, pounding the table. "That's all they do...Are you going to say that those people don't have the same opportunity?"

"I'm not saying that. The Supreme Court said that," Abood answered.

The Alaska National Interest Lands Act

See SENATE, back page

...Senate subsistence bill moves

Continued from Page 1

(ANILCA) limits subsistence to rural Alaskans. State law does not mention rural, and in 1985, the Alaska Supreme Court extended subsistence to all residents.

The Senate version of HB 288 gives the Boards of Fish and Game authority to identify the kind and estimate the amount of fish and wildlife that can be used for subsistence in a rural area. If a species is not identified as a necessary part of living off the land, anyone can hunt or fish it under sport regulations.

In determining any restrictions, the boards must be "consistent with sustained yield, sound management, and the maintenance of healthy fish stocks and game populations," according to the bill. Only the words sustained yield are used in current statutes and sound management may not pass federal standards, Behnke said.

Abood said it's all a matter of common sense. The Anchorage Republican called it "all a matter of whose sound management is being gored." Alaska Federation of Natives President Janie Leask warned

senators that only urban Alaskans will suffer the consequences if a subsistence bill is not passed.

"Rural people are protected by ANILCA," she said. "If the state does not bring the law into compliance, the federal government will take over management of federal lands, and that management provides a subsistence priority. It's the urban Alaskans (who will suffer), through the Madison decision, which classifies everybody as a subsistence user," she said.

She predicted that pressure will mount on the Kenai, considered the most popular salmon fishing river in Alaska. The Skuse case sets a precedent, she said, "that snagging and set-net fishing for Cook Inlet salmon stocks normally harvested by sport fishermen in freshwater rivers is protected by the Madison subsistence priority."

Leask and AFN counsel Don Mitchell raised enough questions about the State Affairs bill that Abood booted it to Senate Resources committee. "We worked on it during the interim. We took public testimony — hundreds of hours of it — and we still come back to the same things we cannot resolve," Abood said.

Peninsula
Clarion
2-5-86

Subsistence fish, game

JUNEAU (AP)—A subsistence hunting and fishing bill was approved for further action Tuesday by the Senate State Affairs committee, which bowed to time pressure and passed what members said was a bill that may be imperfect, but one that will do the job.

However, a spokesman for Gov. Bill Sheffield said he is worried that

even if the bill adequately defines who qualifies for subsistence rights, it may raise questions about what fish and game they can take.

The legislation (HB 288), an amended version of Sheffield's proposed bill, passed the committee by a 3-1 vote. It must be considered in two other Senate committees, Natural Resources and Judiciary, before it is brought to

the Senate floor.

Committee Chairman Sen. Mitch Abood, R-Anchorage, said the measure is "a darn good bill" that meets federal requirements and reinstates subsistence rights for rural Alaskans.

"We've had this bill, we've been working on it all summer . . . we've had hundreds and hundreds of hours of testimony on it. We still come back to the same things we cannot resolve," Abood said.

bill rushed out by

The committee debated down to the minute the bill passed issues including how to define rural and how much responsibility to give the fish and game boards for deciding which species can and cannot be taken under subsistence rules.

Sen. Bill Ray, D-Juneau, voted against the bill's passage.

Ray said he objects to basing subsistence rights solely on the basis of rural residency, without extending the rights to Native urban dwellers

who live in Anchorage, Fairbanks or Juneau but who have retained the tradition of hunting and fishing for all their food.

Abood said there is no way a subsistence bill can please everyone. He said he wanted to get the bill on its way so the Legislature can pass it this session, but he expects it to have a bumpy ride.

The United States Department of Interior has told the state it must pass a law that complies with federal subsistence standards by June 1. or the department will take over

fish and game management on federal lands now managed by Alaska.

"I think everybody's going to get a lick in on the thing. . . I imagine if that happens, we'll miss the June 1 deadline," Abood said. "I'm very disappointed and frustrated."

The Alaskan Federation of Natives expressed concern about a clause that allows the state to determine which of similar species can be taken in subsistence hunting and fishing. Don Mitchell, AFN counsel, said the clause opens the

committee

potential that the state could keep subsistence hunters from using species that are popular among commercial or sport fishermen.

Jim Ayers, legislative liaison for the governor, said that clause also worries the administration, which believes the bill may not comply with federal requirements that subsistence rules be very specific.

"This (bill) means you can shift them (subsistence rights holders) to wherever and whatever you think they ought to eat," Ayers said. "This could cause some real problems for rural Alaskans."

Sheffield's staff also wants the Legislature to define terms that could require fish and game officials to base subsistence take allowances on "sound management." That term could upgrade the conventional requirement that all stock beyond what's needed for "sustained yield," or a level population, is eligible for subsistence harvest.

Other clauses added by the committee would give military personnel hunting rights on military property and invalidate subsistence as a defense against prosecution for the illegal taking of fish or game.

The bill also mandates that the fisheries and game boards install a system of subsistence permits whenever the boards need to reduce the harvests permitted for nonsubsistence hunters and fishermen.

Ayers said he hopes problems with the bill can be resolved quickly, before the Department of Fish and Game has to set up rules for spring fishing that would be similar to the hunting regulations put in place last year. Those regulations set up a two-tiered licensing system that gave different rights to urban and rural residents.

The subsistence issue was rekindled by a court decision last year that said virtually all Alaskans can qualify for subsistence hunting and fishing.

**ALTERNATIVES FOR THE IDENTIFICATION/CLASSIFICATION
OF HAZARDOUS WASTES IN ALASKA**

**Final Report
January 24, 1986**

Prepared for

**Alaska Department of Environmental Conservation
Division of Environmental Quality
Juneau, Alaska 99811**

Prepared by

**ICF Northwest
Richland, Washington 99352**

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY.	v
1.0 INTRODUCTION.	1
2.0 LITERATURE SURVEY	3
3.0 STATE SURVEY.	6
RESPONSES OF STATES THAT ADOPT THE 40 CFR 261 DEFINITION.	8
RESPONSES OF STATES THAT APPLY THEIR OWN DEFINITION	11
SMALL QUANTITY WASTE EXEMPTIONS.	13
4.0 THE BASELINE FEDERAL DEFINITION	21
INTRODUCTION	21
INITIAL APPROACHES TO DEFINITION	21
THE INITIAL PROPOSED AND THE CURRENT FEDERAL DEFINITION.	25
THE PROPOSED FEDERAL DEFINITION.	30
5.0 ALTERNATE CANDIDATE APPROACHES FOR DEFINING HAZARDOUS WASTES.	38
INTRODUCTION	38
GENETIC EFFECTS.	38
ACUTE TOXICITY	42
CHRONIC TOXICITY	44
PERSISTENCE/BIOACCUMULATION.	46
DEGREE OF HAZARD	48
EXEMPTIONS AND EXCLUSIONS.	51
SUMMARY.	51
6.0 EVALUATION OF CANDIDATE SYSTEMS	53
INTRODUCTION	53
TECHNICAL DEFENSIBILITY.	53
EASE OF ADMINISTRATION AND COSTS	69
7.0 CONCLUSIONS AND RECOMMENDATIONS	84
CONCLUSIONS.	84
RECOMMENDATIONS.	84
(BOUND SEPARATELY)	
APPENDIX A -- ANNOTATED BIBLIOGRAPHY	A-1
APPENDIX B -- PROFILES OF APPROACHES REVIEWED.	B-1
APPENDIX C -- RESPONSES TO STATE SURVEY.	C-1
APPENDIX D -- TOXICITY CHARACTERISTIC LEACHATE PROCEDURE	D-1
APPENDIX E -- REFERENCES NOT REVIEWED.	E-1
APPENDIX F -- BIOASSAY TEST PROCEDURES	F-1

EXECUTIVE SUMMARY

Alaska Senate Bill 503 (SB 503) expresses the intent of the Alaska legislature that the Alaska Department of Environmental Conservation (ADEC) obtain from the U.S. Environmental Protection Agency (EPA) authorization to administer and enforce a hazardous waste program in Alaska. SB 503 instructs ADEC to evaluate the most appropriate mechanisms by which to identify a waste characteristic of toxicity, persistence, or carcinogenicity and other characteristics identified as hazardous by EPA. To meet this legislative mandate, a study was undertaken to evaluate various approaches to identifying hazardous wastes and to recommend an optimum program to ADEC on which to base their hazardous waste regulations.

While states may be authorized by the EPA to implement and administer regulations under the Resource Conservation and Recovery Act (RCRA), a precondition of authorization is that the state program be at least as stringent as the federal program. Therefore, in addition to being one alternative which a state can apply, the federal definition of hazardous waste is the baseline which must be met or exceeded by all states.

In order to identify candidate systems for defining hazardous wastes, a review was conducted of literature describing proposed and existing systems for defining hazardous wastes, classifying toxic substances, and establishing criteria for environmental media. Of the over 100 papers reviewed, 92 were found to be of some relevance to the study. These papers were abstracted and an annotated bibliography prepared.

Of the 50 state programs, 33 were reviewed during the course of the study. It was determined that 14 of the states had originally developed definitions different from that of the EPA. However, as authorization progressed, eight of these states elected to adopt the EPA definition. Ten states were required by statute to adopt the federal definition by reference. Reasons for implementing the federal definition included belief that it would facilitate obtaining authorization, desire to maintain continuity with neighboring states, lack of resources to develop an alternate definition, and satisfaction with the adequacy of

the federal definition. Of the six states that are utilizing their own definition, three employ only minor modifications, and three have significantly different approaches. Five of the six fully intend to maintain their different approaches in the future even though it has complicated the authorization process and required significant resources to pursue. In all cases, these five states felt the federal definition was inadequate.

The federal definition of hazardous wastes will undergo a major change in the next year. When the EPA promulgated the current definition, they acknowledged that the approach taken was incomplete, but would get the RCRA program underway while a more comprehensive approach was developed. The 1984 amendments to RCRA have provided legislative mandates prompting completion of the development process. As a consequence, a new definition will be proposed in the near future. The definition will encompass a much broader set of wastes and will be based on a risk assessment methodology applied to solid waste management.

During the study, 42 alternative systems were identified for defining, classifying, or ranking hazardous wastes. Each such system was summarized in a profile that characterizes its treatment of genetic effects, acute toxicity, chronic toxicity, bioaccumulation and persistence, and degree of hazard. Each approach was compared to the proposed new federal definition in each category. Since the federal program is the required minimum, all other approaches were discarded if they did not meet or exceed the stringency of the proposed federal criteria. In this way, a subset of candidate systems was identified for further analysis.

The candidate systems were analyzed to determine the broadest definition which was technically defensible. Based on this consideration, it was determined that the proposed federal definition is the premier approach for genetic effects and chronic toxicity. It also meets the desired objectives of a degree-of-hazard concept by virtue of the landfill ban regulations. The approach to acute toxicity and bioaccumulation/persistence were conceptually correct, but incomplete because they fail to address impacts on aquatic life such as commercially valuable fishes. Small quantity exemptions cannot be technically justified with the current data base. Large volume waste exclusions are

defensible since a separate regulatory program is in place to address these materials.

Alternatives to the federal definition were also characterized with respect to their effects on the authorization process, resource requirements, and costs. Implementation of lower small quantity exemptions would have the greatest potential impact on state resources and costs. Expansion of the bioaccumulation/persistence criteria could also be highly impactful depending on the nature of wastes not currently managed as hazardous. Proposed changes in acute toxicity criteria will have little real impact on the program.

An analysis of resource requirements revealed that Alaska would need a staff of 20 to implement an authorized state program at the previous small quantity exemption level of 1,000 kg/month. The new threshold of 100 kg/month could increase staff requirements even further.

It was concluded that Alaska should undertake four study efforts:

- 1) Determine the volume and distribution of wastes produced by generators of less than 1,000 kg/month and recommend an appropriate exemption quantity less than or equal to the federal limit of 100 kg/month based on potential risks;
- 2) Identify volumes and characteristics of wastes not currently regulated as hazardous to facilitate estimation of costs and benefits associated with any modifications to the federal definition;
- 3) Evaluate the degree to which input parameters to the EPA model for defining hazardous wastes represent conditions found in Alaska; and
- 4) Develop an approach for selection of criteria related to bioaccumulation/persistence hazards to aquatic life resulting from long-term leaching into surface waters.

It is recommended that Alaska:

- 1) Adopt by reference the federal definition of hazardous wastes with the addition of a 500 mg/l 96-hr LC₅₀ aquatic toxicity criteria to the mammalian criteria applied by EPA;
- 2) After authorization, consider reduction in the small quantity generator exemption levels and addition of criteria for antimony, beryllium, cobalt, copper, molybdenum, nickel, thallium, vanadium, and zinc pending results of waste characterization studies; and
- 3) Retain the ability to list wastes as hazardous as a means of managing wastes with constituents for which criteria have yet to be established.

Alaska State Legislature

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Senate

Committee on Resources

CSSB 503 - AN ACT RELATING TO HAZARDOUS WASTE AND CERTAIN PUBLIC CONTRACTS CONCERNING HAZARDOUS WASTE; CHANGING PENALTIES FOR ENVIRONMENTAL POLLUTION VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE."

SECTIONAL ANALYSIS.

Section 1. Regulation of hazardous Waste

- (a) This section directs the Department of Environmental Conservation to adopt regulations for the management of hazardous waste. These regulations must meet the minimum Environmental Protection Agency's requirements as well as regulate those hazardous wastes that are toxic, persistent, or carcinogenic. The federal program ignores the carcinogenic and toxic effects of a waste on human health and the environment. Regulations should be developed no later than July 1 1986 and effective on July 1, 1987.
- (b) Mining waste, oil and gas production wastes are temporarily excluded in this section until federal studies on these wastes have been completed. DEC will consider the report results in the development of regulations for these wastes.
- (c) This section instructs the state to take actions necessary to receive EPA authorization for the hazardous waste program.
- (d) The quantities of waste which will be managed as hazardous are established in this section.
- (e) This section requires the Department to conduct an education program about the regulations for those affected.

Section 2. Transportation of hazardous waste.

Before a hazardous waste can be transported, a manifest (already required under federal law) which includes information about the type of material, disposal site, and handling procedures must be sent to DEC. DEC then sends a copy of this manifest to the highest local elected official and the local and state public safety agencies.

Section 3. Temporary collection of hazardous waste.

This section institutionalizes the very successful program currently offered by DEC, known as "hazardous waste clean-ups." Temporary collection and transfer operations will be held for small quantity and household generators of hazardous waste four times a year.

SECTIONAL ANALYSIS OF SB 503 CONTINUED.

Section 4. Hazardous waste management facilities and sites.

This section outlines the criteria and public comment procedures DEC should use to determine hazardous waste management sites and facilities in Alaska. Recommendations to the Governor and Legislature should be submitted not later than July 1, 1987. Final sites and facilities should be submitted two years later.

Section 5 - 8. Penalties for violations.

These sections include the technical amendments on criminal and civil penalties which are needed to satisfy the federal requirements to obtain final authorization of the state's hazardous waste program.

Section 9. Definitions.

This section defines various terms found in the legislation.

Section. 10. Hazardous waste contracts.

This section prohibits a legislative staff member from soliciting or receiving a contract concerning hazardous waste from a state agency following the session during which the staff member worked for the legislature.



REPLY TO
ATTN OF:

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X
ALASKA OPERATIONS OFFICE
3200 HOSPITAL DRIVE
SUITE 101
JUNEAU, ALASKA 99801

February 21, 1986

The Honorable Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski,

The Environmental Protection Agency (EPA) strongly supports SB375 which would establish a Hazardous Substance Response Fund in Alaska. Other than oily substances, the State currently lacks legislation that allows for a mechanism to expend funds in containing and cleaning up releases of hazardous substances. This not only is a positive addition, but indeed a necessary one to Alaska Statute 46.

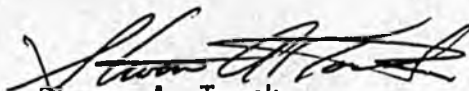
At the first Senate Resource Committee hearing concerning this bill, we heard supporting testimony from a number of interests, including Commissioner Ross of the Department of Environmental Conservation, the Fairbanks Northstar Borough, the Alaska Health Project, and a small business in Anchorage. We also heard other testimony that existing Federal programs (to address these issues) was sufficient. We feel however, that not just in Alaska, but nationwide, the Federal programs designed to address environmental quality are best implemented, and in fact rely upon, a cooperative effort with state and local governments.

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), DEC has received two grants to assist EPA in investigating sites which may have had inappropriate hazardous waste management practices in the past. A scoring system enables EPA to prioritize these sites on a national level. Present guidelines however indicate that most Alaska sites probably will not rank high enough to receive further funding for remedial action. This does not mean these sites are of no concern; however, some other mechanism would have to be utilized to assure clean up. Your bill would provide the State of Alaska this mechanism. Even if a site is ranked on the National Priority List, the state must have a mechanism to match payments of up to 50% of cost incurred. Your bill also provides this match capability.

Due to the delay and uncertainty of CERCLA reauthorization, EPA's investigative and response capabilities have drastically decreased. Except for emergency situations, little money is currently available. At the same, our list of potential sites in Alaska is increasing, thus creating an even greater need for State involvement in the Superfund process.

We appreciate the opportunity to comment on this legislation. We encourage its early enactment, and intend to coordinate our efforts with DEC for an effective program in Alaska. Please contact me should you have questions or if we can be of any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Torok", written in a cursive style.

Steven A. Torok
Air/Waste Coordinator



REPLY TO
ATTN OF:

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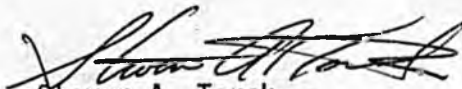
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Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), DEC has received two grants to assist EPA in investigating sites which may have had inappropriate hazardous waste management practices in the past. A scoring system enables EPA to prioritize these sites on a national level. Present guidelines however indicate that most Alaska sites probably will not rank high enough to receive further funding for remedial action. This does not mean these sites are of no concern; however, some other mechanism would have to be utilized to assure clean up. Your bill would provide the State of Alaska this mechanism. Even if a site is ranked on the National Priority List, the state must have a mechanism to match payments of up to 50% of cost incurred. Your bill also provides this match capability.

Due to the delay and uncertainty of CERCLA reauthorization, EPA's investigative and response capabilities have drastically decreased. Except for emergency situations, little money is currently available. At the same, our list of potential sites in Alaska is increasing, thus creating an even greater need for State involvement in the Superfund process.

We appreciate the opportunity to comment on this legislation. We encourage its early enactment, and intend to coordinate our efforts with DEC for an effective program in Alaska. Please contact me should you have questions or if we can be of any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Torok", written in a cursive style.

Steven A. Torok
Air/Waste Coordinator



UNITED FISHERMEN OF ALASKA

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

February 14, 1986

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Representative Davis,

Thank you for asking the United Fishermen of Alaska to comment on CSHB 470 and SB 375, both of which would establish an Oil and Hazardous Substance Release Response Fund. The UFA recognizes the need for a readily available funding source to respond to releases of oil and hazardous substances, and commends your leadership role in addressing this issue.

The UFA and member organizations are fully aware of the importance of maintaining unpolluted waters in Alaska in order for the fishing industry to prosper. Releases of oil or hazardous substances into rivers and open waters may directly impact the state's fisheries and, as a consequence, may adversely affect the livelihood of Alaska's fishermen.

Passage of these bills would provide much greater assurance to the commercial fishing industry that Alaska's fisheries will continue to be a major statewide industry.

Sincerely,

Jack Cadigan
Bob Blake



REPLY TO
ATTN OF:

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X
ALASKA OPERATIONS OFFICE
3200 HOSPITAL DRIVE
SUITE 101
JUNEAU, ALASKA 99801

February 21, 1986

The Honorable Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski,

The Environmental Protection Agency (EPA) strongly supports SB375 which would establish a Hazardous Substance Response Fund in Alaska. Other than oily substances, the State currently lacks legislation that allows for a mechanism to expend funds in containing and cleaning up releases of hazardous substances. This not only is a positive addition, but indeed a necessary one to Alaska Statute 46.

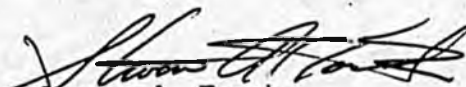
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We appreciate the opportunity to comment on this legislation. We encourage its early enactment, and intend to coordinate our efforts with DEC for an effective program in Alaska. Please contact me should you have questions or if we can be of any assistance.

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Steven A. Torok
Air/Waste Coordinator

February 6, 1986

Mr. Ralph W. Tarr
Solicitor-Designate
Office of the Solicitor
Department of the Interior
C St. between 18th & 19th Sts., N.W.
Room 6348
Washington, D.C. 20240

Dear Mr. Tarr:

On September 23, 1985, William Horn, Assistant Secretary, Department of the Interior, informed Governor Sheffield that a determination had been made that Alaska's subsistence program is no longer in compliance with the requirements of the Alaska National Interests Lands Conservation Act, Title VIII ("ANILCA"). That determination was based on an analysis of Madison v. Alaska Department of Fish and Game, 696 P.2d 168 (Alaska 1985).

In response to the ANILCA ramifications of Madison, as well as the allocation disruptions it mandated, Governor Sheffield had introduced a bill into the State House of Representatives during the 1985 session, House Bill No. 288. That bill would have inserted the word "rural" into the State statutory definition of subsistence uses, and clarified the authority of the State Board of Fisheries to authorize and regulate "personal use fishing," as distinct from "subsistence fishing."

The Alaska Senate did not act on the bill during 1985, but recently the Senate State Affairs Committee passed on a Senate Committee Substitute for House Bill 288, to the Senate Resources Committee. A copy of that February 3, 1986, Senate Committee Substitute is also attached.

Since the Department of the Interior will eventually be reviewing whatever bill is enacted into law, as indicated by Bill Horn's September 1985 letter, your view on the fundamental requirements of ANILCA, and how the Senate Committee Substitute corresponds to those requirements, would assist us in giving the most correct advice to the Legislature and the Governor. In particular, it would be useful to have an assessment from your office on the following issues:

1. Does ANILCA require that "subsistence uses" be limited to customary and traditional uses of fish and game by residents of rural Alaska? It appears that ANILCA § 803 so defines the term.
2. Does ANILCA require that takings for subsistence uses as defined in ANILCA be afforded a priority over takings for other uses whenever it is necessary to restrict the harvest to protect the resource or the continuation of subsistence uses? It appears that ANILCA § 804 establishes that standard.
3. Does ANILCA require that the priority operate to provide reasonable opportunity for all subsistence uses even if that means restricting or eliminating takings for other purposes before any subsistence use is restricted? ("Restrict" is not here intended to include reasonable regulation.) It has been suggested that the extent of the priority may vary, depending upon a balancing of the importance of subsistence uses against the importance of non-subsistence uses. However, the legislative history appears to indicate otherwise. See, for example, 126 Cong. Rec. H10647 (Nov. 12, 1980).
4. Do the provisions of ANILCA § 804 apply to each fish stock and game population which is the subject of subsistence uses? It appears that legislative history mandates that subsistence uses are stock and population specific. See, for example, 126 Cong. Rec. H29279 (Nov. 12, 1980).
5. Does ANILCA authorize a durational rural residency requirement in identifying who may engage in subsistence uses? It appears that legislative history indicates otherwise. See, for example, Senate Report No. 96-413, 96th Cong., 1st Sess. 233 (1979).
6. Does ANILCA require that subsistence uses be identified and regulated on a community or area basis? It appears that legislative history indicates that ANILCA does not intend for subsistence to be identified and regulated on an individual basis. See, for example, 126 Cong. Rec. H10546 (Nov. 12, 1980).

7. Does ANILCA authorize only "important" subsistence uses to be subject to the protections of the subsistence law? It appears that ANILCA § 803 and § 804 require that all subsistence uses of a fish stock or game population be authorized, rather than only "important" subsistence uses.
8. Is the subsistence priority in ANILCA limited to a priority over other consumptive uses, or would it include a priority over other takings, such as catch-and-release fishing? It appears that ANILCA § 804 simply refers to "taking."
9. Does ANILCA require that fish stocks and game population can be harvested for subsistence uses only by people living in the immediate vicinity of the stocks and populations? It appears that such an interpretation would not take into account the customary and traditional patterns of use of residents of certain rural communities and areas who travel some distance to hunt or fish at certain times of the year.
10. Would defining "subsistence uses" in terms of individual need be consistent with ANILCA? It appears that legislative history indicates otherwise. See, for example, 126 Cong. Rec. H10546 (Ncv. 12, 1980).

Your assessment of these specific questions would be of great assistance to us. Since it is not possible to predict how quickly the Senate will act, as prompt a reply as is feasible would be appreciated.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

cc: Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Bill Horn
David Gayer
Sharon Allender

February 6, 1986

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HAROLD M. BROWN
ATTORNEY GENERAL

cc: Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Bill Horn
David Gayer
Sharon A'lender

January 28, 1986

MARUO

SUBJECT: CSHB 470 (Resources)

TO: Rep. Mike Davis

FROM: Ed Hein, LAA *EH*

Enclosed is the draft committee substitute requested on your behalf by Jonathan Sperber. He asked whether the draft allows the Department of Environmental Conservation to contract with municipalities and entities in unincorporated communities.

Proposed Sec. 46.09.020(e) provides that the commissioner may enter into agreements with "other persons or municipalities." Proposed Sec. 46.09.040 provides that the commissioner may contract with a person or a municipality. Under existing law, AS 01.10.060, "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person. This definition applies in this bill and appears to cover virtually any "entity" that is organized in an unincorporated community, such as a fire department, for example.

"Municipality" is likewise defined in AS 01.10.060 and

- One of two -

Rep. Mike Davis
Jan. 28, 1986
Page 2

organized under state law.

includes all forms of local government. This definition took effect January 1, 1986, and applies to this bill.

Thus, in my opinion, the bill provides the authority to contract that you desire.

If you have further questions or comments, feel free to contact me at your convenience.

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