

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

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Official Business

# Alaska State Legislature

## House of Representatives

Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-4924

### Special Committee on Fisheries

April 3, 1986

Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Colleagues:

The House Special Committee on Fisheries has concluded its hearings on fish and wildlife enforcement in Alaska.

Below is the report of the committee which includes recommended policy changes responding to public concerns about levels of protection and the professional structures of the Department of Public Safety.

I wish to thank the many citizens and members of the Sheffield Administration and law enforcement professionals who contributed time and thought to the committee's work.

The Fisheries Committee study was conducted with full participation by the Department of Public Safety and by Governor Sheffield. Commissioner Robert Sundberg, Deputy Commissioner Jim Vaden, Fish and Wildlife Protection Director Robert Henderson, Mr. Bob Piazza and Mr. John Taylor of the Public Safety Employees Association are among many who deserve special thanks for their efforts.

These hearings culminated the past week when the commitment of the Administration to the finest professional fish and wildlife protection force possible and the research and study by the Fisheries Committee were combined to produce a joint statement of policy by the Committee and by Governor Sheffield.

It is with pleasure that this statement is provided as part of our report. It is noteworthy that the necessary task of cost containment during a period of revenue decline will be implemented without degrading the field identity and professional caliber of our fish and wildlife protection troopers and officers.

Finally, I wish to thank Rodger Painter and Sharon McCauley, staff to the Special Committee on Fisheries for their outstanding work.

Sincerely,

A handwritten signature in cursive script that reads "Peter Goll".

Peter Goll  
Chairman



Official Business

# Alaska State Legislature

House of Representatives

Special Committee on Fisheries

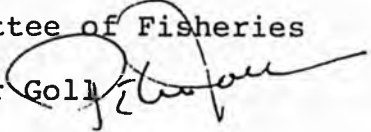
Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-4924

M E M O R A N D U M

April 2, 1986

TO: Members  
House Special Committee of Fisheries

FROM: Representative Peter Goll   
Chairman

UBJECT: Fish and Wildlife Enforcement Committee Report

Attached is the proposed committee report on fish and wildlife enforcement. We will meet to discuss the report and our proposed resolution at 8:30 a.m. Thursday, April 3.

Please review the report prior to the committee meeting to allow us to gather comments without having to go through the document line by line. Thank you.

PROTECTION OF ALASKA'S FISH AND WILDLIFE

Alaska's Fish and Wildlife Protection Program  
A Report and Recommendations  
By the House Special Committee on Fisheries  
April 3, 1986

## I N T R O D U C T I O N

The House Special Committee of Fisheries began gathering information on the Department of Public Safety's fish and wildlife protection program during the fall of 1985.

Extensive public comments were gathered during a series of teleconferenced hearings in February and March, 1986. Many additional statements were submitted in writing, and numerous phone calls were received from concerned citizens and employees of the Department of Public Safety.

Evident throughout the process was the high level of public concern for increased enforcement on the fishing and hunting grounds. Alaskans from all areas of the state, particularly those involved in the commercial fishing and guiding industries, called for additional enforcement officers during seasons of peak activities.

Much concern also was voiced about "cross utilization" of fish and wildlife troopers to perform general law enforcement duties. Bidding procedures for protection officer vacancies, cross utilization and other new policies by the Department of Public Safety were perceived by many of those who testified or submitted written comments as being detrimental to a well-trained force of highly motivated, fish and wildlife protection professionals.

The Department of Public Safety worked closely with the committee throughout the hearing process, and provided important information on the subjects of discussion. Materials and testimony from the Department showed that cross utilization has diverted only a small amount of protection officers' field time from fish and game cases. Some testimony was presented during the hearings in support of the Department's policy changes.

This report contains a summary of information and testimony gathered during the committee process.

A summary of the committee's recommendations is found on page 2. Detailed recommendations are provided on pages 9 and 10.

## S U M M A R Y   O F   R E C O M M E N D A T I O N S

The House Special Committee on Fisheries adopted the following positions regarding fish and wildlife protection:

1. The level of enforcement on the fishing and hunting grounds must be increased to ensure adequate protection of our renewable resources.
2. The ratio of supervisory to field personnel in the Division of Fish and Wildlife Protection (FWP) should be reduced by conversion of vacant supervisory positions into seasonal and year-round field enforcement positions.
3. The Department of Public Safety (DPS) should work closely with fish and wildlife user groups to develop cooperative programs designed to increase public involvement in resource protection.
4. The Department must maintain a clear separation between the primary responsibilities of fish and wildlife protection officers and general law enforcement troopers. The Division of Fish and Wildlife Protection should retain its full divisional status.
5. When state troopers outside the Division of Fish and Wildlife Protection "cross bid" for vacant fish and wildlife protection trooper positions, they should not be given a priority over other more qualified candidates.
6. DPS policies should be examined to determine how to improve the career path of fish and wildlife protection personnel. Detailed recommendations are found on pages 9 and 10.
7. Advanced fish and wildlife protection training should be developed for officers initially moving into enforcement positions. Area-specific training should be improved, and should include expanded utilization of local expertise.
8. Cross cultural training opportunities should be provided for all DPS personnel.
9. The operation of the Public Safety Academy should be examined for potential cost-saving and improved efficiency.

## ENFORCEMENT COVERAGE

Hearings by the House Special Committee on Fisheries have revealed that the public is convinced that Alaska's fish and wildlife resources are threatened by the lack of adequate enforcement on the fishing and hunting grounds. The message that Alaskans want more officers in the field was very clear and consistent throughout three days of teleconferenced testimony and in numerous written comments received by the committee.

The figures in Table One show that the staffing of the Division of Fish and Wildlife Protection (FWP) has not kept pace with increased pressure on Alaska's fish and wildlife resources. This is particularly true over the past seven fiscal years when personnel levels have remained remarkably stable in the face of dramatic increases in the state's population and numbers of hunters and fishermen:

FWP had a staff of 142 in FY 80. The staff was increased to 147 by FY 86. 3.4% increase.

Alaska's population grew from 419,700 in FY 80 to 523,048 in FY 84. 24.6% increase.

The state issued 349,009 sport hunting, fishing and trapping licenses in FY 80, and 436,709 in FY 85. 25.1% increase.

Commercial fishing permits used in state waters climbed by 55.6% between FY 76-84 (from 11,705 to 18,214). In addition, efficiency of the commercial fleets has increased dramatically, and fishing grounds needing patrolling has expanded as Alaska fishermen shifted into offshore areas.

At the same time, the violation rate for fishing and hunting offenses has continued to climb:

In FY 81, FWP officers made 1,821 citations from 50,433 contacts in the field. In FY 85, 2,901 citations were issued from 52,154 contacts. This represents a 27% increase in the violation rate.

Two other factors are important to consider in discussions of levels of enforcement coverage:

FWP officers spent seven percent of their time on general law enforcement work during FY 85; and

FWP has 28 full-time positions at the rank of sergeant or above, plus eight corporals, to supervise 66 full-time FWP troopers.

The result of these trends is that coverage in the field is being stretched exceedingly thin. Indeed, the commissioner's office told the Fisheries committee, "We all realize that enforcement in Alaska is minimal."

The calls for increased enforcement from the commercial fishing community have been particularly strong; concern was greatest regarding enforcement levels in Western Alaska and on our southern maritime border with Canada.

A special effort by DPS during the 1985 season to increase enforcement in the state's largest commercial salmon fishery, Bristol Bay, yielded promising results and a positive response from fishermen. By shifting officers from other areas and using seasonal personnel, FWP issued more than 170 citations and seized four vessels in Bristol Bay during 1985.

By the end of the fishing season, the Bristol Bay effort had yielded the state treasury \$212,300 just in fines and forfeitures of fish, compared to the \$180,000 in additional enforcement costs. A survey of permit holders by the Bristol Bay Native Association showed that fishermen were pleased by the increased efforts to enforce fishing regulations.

The area of fish and wildlife enforcement that appears to be suffering most with increased harvest pressure and lack of increased enforcement personnel is Alaska's rapidly growing recreational fishery. DPS has placed its lowest enforcement priority on sport fishing, in part because officers must concentrate on problems posed by the highly efficient commercial fleets during the salmon seasons.

The result has been very little sport fishing enforcement in Alaska, except in the highly popular Kenai and Susitna salmon sport fisheries.

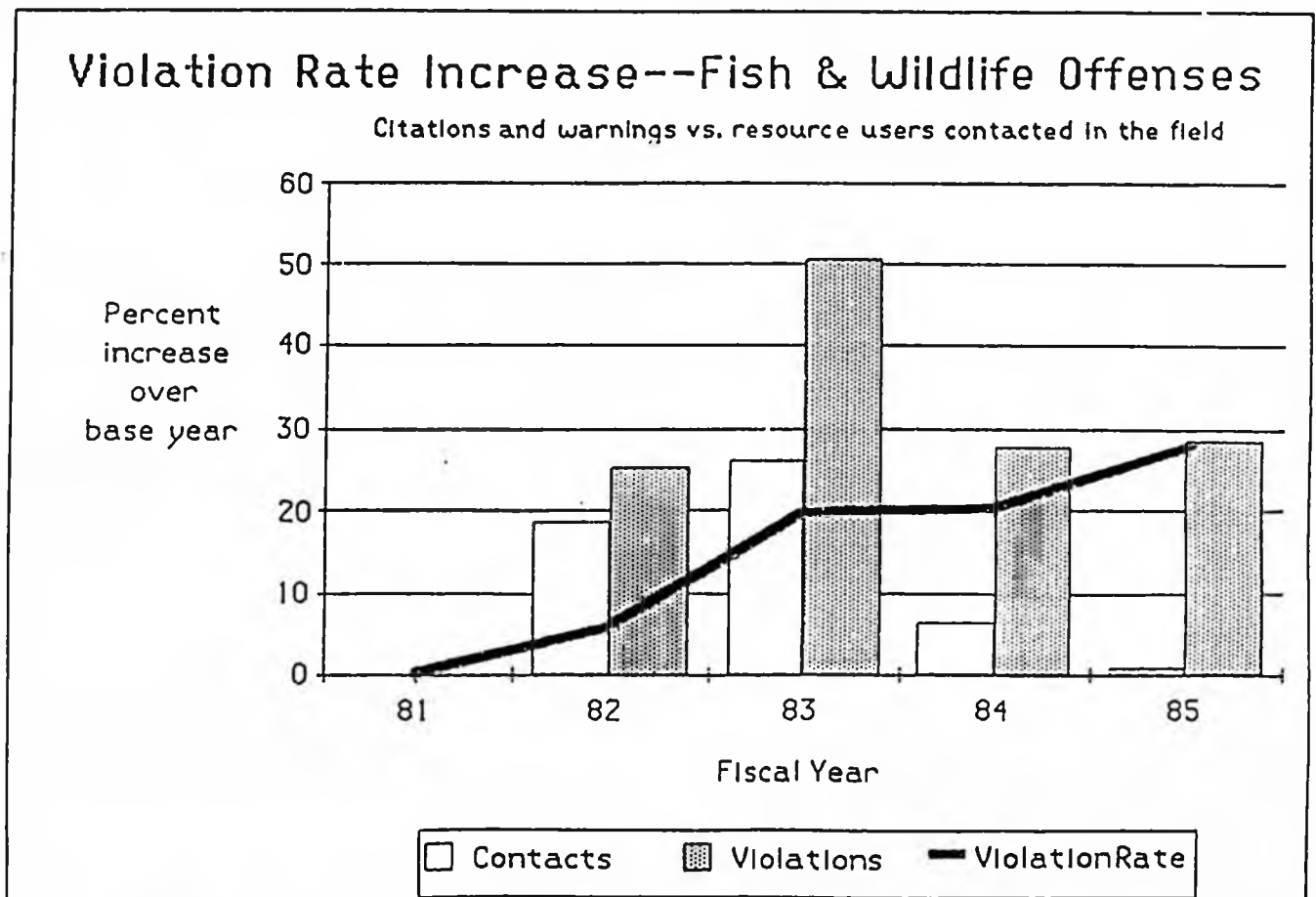
The Fisheries committee also discussed at some length the possible use of Village Public Safety Officers (VPSOs).

There appears to be little support for the use of VPSOs in fish and wildlife enforcement among the regional non-profit organizations which help the state administer the programs. Testimony before the Fisheries Committee and a DPS poll indicate that people involved in the program believe that local acceptance of the VPSOs would be undermined if they got involved in fish and wildlife enforcement. However, contact with municipal governments, village councils and Native corporation leadership would be useful in addressing local participation in the enforcement effort.

**TABLE 1**  
**FISH AND WILDLIFE PROTECTION BUDGET AND PERSONNEL RELATED**  
**TO MEASURES OF PRESSURE ON FISH AND WILDLIFE RESOURCES**

FISCAL YEAR	NUMBER OF PERSONNEL	FISH & WILDLIFE PROTECTION BUDGET	STATEWIDE POPULATION	NUMBER OF CONTACTS STATEWIDE	NUMBER OF CITATIONS STATEWIDE	NUMBER OF LIMITED ENTRY PERMITS FISHED	NUMBER OF SPORT FISHING, HUNTING, TRAPPING, LICENSES & TAGS
1976	81	5,087.3	409,800			11,705	202,656
1977	72	5,181.3	418,000			13,252	219,242
1978	100	6,765.8	411,600			15,819	257,277
1979	111	7,875.0	413,700			18,082	266,990
1980	142	8,172.1	419,700			17,944	349,009
1981	143	10,655.4	435,200	50,433	1,821	17,833	400,320
1982	156	12,534.1	460,837	59,760	2,680	18,158	445,171
1983	156	13,542.6	495,290	62,780	3,307	19,026	364,948
1984	145	13,704.4	523,048	54,831	2,827	18,214	401,787
1985	145	13,398.9	.	52,154	2,901		436,709
1986	147	13,412.0					

Prepared by the House Research Agency, March 1986.



## S T R U C T U R A L   C O N C E R N S

Three years ago, the Department of Public Safety (DPS) began an effort to achieve more efficient utilization of personnel and to increase the professionalism of its fish and wildlife protection staff. This effort included an upgrading of FWP enforcement officers to trooper status, more intensive training of fish and wildlife protection officers in general law enforcement skills and duties, and the "cross utilization" of troopers in the two divisions.

A great deal of public concern during the House Special Committee on Fisheries hearings focused on these policy changes. Many of those who testified criticized these policies which they saw as undermining the professionalism of FWP officers, interfering in the "career path" of individuals interested in being "game wardens" or "fish cops," and eventually leading to a complete integration of fish and wildlife enforcement personnel into the state troopers.

The new policies have resulted in a lessening of the structural lines separating FWP "brown shirt" officers from the "blue shirt" troopers involved in general law enforcement.

Before the reorganization, "brown shirt" recruits went side-by-side with "blue shirt" recruits through the Public Safety Academy, but received about five weeks of specialized Title 16 training. After graduation, the "brown shirt" recruits would move directly into FWP.

There were no formal DPS policies on "cross utilization" of blue and brown shirt officers, although there was general cooperation between the two divisions.

Today there are no "brown shirt" recruits. All DPS recruits go through identical training at the academy. Graduates accepted into the Department go through about three months additional training and a one-year probationary period as a "blue shirt" trooper. Following the one-year probation, troopers are eligible to bid on openings within FWP.

A binding arbitration ruling affected this "career path" with the determination that all members of the Public Safety Employees Association (PSEA) would be allowed to bid on "brown shirt" openings on the basis of seniority.

However, a recent memorandum of understanding between PSEA and DPS modified the arbitration ruling to allow FWP troopers to have priority in bidding for "brown shirt" positions, followed by seniority bidding by "blue shirts."

While the recent memorandum of understanding improves the "career path" for fish and wildlife troopers, the public and members of the Fisheries Committee expressed much concern about the difficulty facing new recruits or fish and wildlife protection officers wishing to make a career of fish and wildlife protection.

There appears to be little opposition to the one-year probationary period. However, there is a very strong public perception that fish and wildlife enforcement is a very specialized field requiring recruitment of officers who want to be fish and wildlife professionals. There is very strong public sentiment against integration of Division of Fish and Wildlife Protection into the Division of Alaska State Troopers.

The Fisheries Committee concluded that development of a better career path for enforcement officers is a critical step DPS must undertake. The Committee believes that candidates for FWP trooper positions should be selected on the basis of their individual qualifications rather than seniority as a state trooper, and that seasonal personnel should have the opportunity for career advancement.

The Fisheries Committee has reviewed DPS documentation regarding "cross utilization." According to this material, seven percent of FWP patrol and investigative time was devoted to general law enforcement and traffic cases. A breakdown of casework also shows that most of this effort was concentrated during the "off season" months for fish and game activities.

However, it also appears clear that "cross utilization" may be a one-way street with state troopers spending little time enforcing fish and game laws.

Testimony and discussion by the committee supported the philosophy that the Department policy and structure must ensure that fish and wildlife enforcement remain the top priority of the FWP Division. It is clear that if the separation of divisional responsibility is not maintained, that declining revenues will completely eliminate the "lower priority" enforcement goals. For example, if sport fish enforcement must compete with burglary and murder for officer time, the result is obvious.

## T R A I N I N G

Concerns about training also were raised during public testimony to the Fisheries Committee.

Prior to the reorganization, fish and wildlife enforcement recruits received about five weeks of intensive training in Title 16 responsibilities and skills important to fish and game protection, such as courses on survival, marine navigation, identification of fish and wildlife species and methods of preserving evidence in fish and game cases.

The Public Safety Academy now provides a 42-hour fish and wildlife protection course to all recruits. This offering may be expanded in future academy classes with the addition of 16-20 hours of cold water survival training. New FWP troopers also are provided with "mini-modules" covering commercial fishing, trapping, guiding, hunting and sport fishing.

While the increased exposure to general law enforcement training and the hands-on experience gained through the one-year probationary period improves law enforcement skills of FWP officers, the loss of specific, intensive fish and wildlife training undermines the specialization.

The Fisheries Committee and members of the public also expressed concern at the elimination by the Public Safety Academy of cross cultural training designed to familiarize all officers with Alaska's large Native community. While some aspects of the cross cultural training have been incorporated in individual courses at the Academy, DPS personnel receive no other cross cultural orientation.

Much interest was expressed by commercial fishing groups and Native organizations in the possibility of working closely with DPS to provide opportunities for enforcement officers to become more familiar with commercial fishing operations and the needs of the Native community.

Another issue related to training raised during the committee process was the DPS policy of paying wages or stipends to trainees at the Public Safety Academy. In addition to receiving free tuition, room and board, trainees receive monthly stipends of \$1859. DPS policy requires reimbursement of the stipend if the trainee voluntarily decides to not pursue a position with the Department. The committee questioned the practice of paying a stipend to someone who is not guaranteed a job with DPS.

## R E C O M M E N D A T I O N S

1. The level of enforcement on the fishing and hunting grounds must be increased during periods of peak activity to ensure adequate protection of our most important renewable resources.
2. The ratio of supervisory to field personnel in the Division of Fish and Wildlife Protection should be reduced by converting vacant, non-essential supervisory positions to seasonal fish and wildlife enforcement positions limited to Title 16 enforcement and, when appropriate, fish and wildlife protection troopers. The goal is to increase presence on the hunting and fishing grounds during seasons of peak activities within the context of declining revenues.
3. The Department of Public Safety should increase work with fish and wildlife user groups on cooperative programs designed to increase public involvement in resource protection and supplement enforcement efforts of Department personnel. The Wildlife Safeguard Program should receive more publicity to increase public awareness of the program. DPS also should work with fishermen's organizations to devise a program to increase cooperation within the fishing fleets in the reporting of violations.
4. The Division of Fish and Wildlife Protection should retain its full divisional status. There should be a clear separation in the primary responsibilities between fish and wildlife protection officers and general law enforcement troopers. Except in one-trooper posts, FWP officers should engage in general law enforcement duties only when they clearly do not interfere with Title 16 responsibilities, or in life-threatening situations.
5. DPS should renegotiate the memorandum of understanding with the Public Safety Employees Association to provide a bidding system that eliminates the priority for general law enforcement troopers to bid on FWP vacancies on the basis of seniority. The Committee recommends the following bidding priorities: (a) FWP troopers, (b) experienced fish and wildlife enforcement officers or individuals with law enforcement credentials and documented fish and wildlife expertise, such as wildlife management degrees, commercial fishing or guiding background and game warden experience, (c) general law enforcement troopers without such backgrounds, and (d) other applicants.

6. DPS policies should be reviewed to improve the career path of fish and wildlife protection personnel. The Committee believes DPS can achieve greater efficiencies with increased utilization of seasonal fish and wildlife enforcement officer positions, but these positions presently are dead-end, seasonal jobs (generally three months a year) with no opportunity for advancement. There should be more six to eight month slots with some hope for full-time employment as a "brown shirt" trooper after academy training.
7. FWP should institute advanced Title 16 training for all officers initially moving into FWP trooper positions. Area-specific training available to enforcement personnel should be strengthened by utilizing local expertise, such as orientation programs involving the Marine Advisory Program or community colleges, local fish and game advisory committees, commercial fishing organizations and Native groups.
8. DPS should provide cross cultural training opportunities for all personnel through cooperative efforts with Native organizations or Alaska Department of Fish and Game's cross cultural program.
9. DPS should study the Public Safety Academy to determine whether cost-savings and improved efficiency could be achieved without significant deterioration of basic law enforcement training for Public Safety personnel and local municipalities. Some specific areas which should be explored include elimination of stipends paid to non-Department personnel and increased fees for training provided to non-Department personnel. Any savings realized will be channeled into the hiring of additional fish and wildlife enforcement field personnel.

A T T A C H M E N T S

Summary of Public Testimony  
Summary of Written Comments from Public

### Fish and Wildlife Enforcement Oversight Hearings

The testimony from these hearing has been sorted into a definable outline of evidence presented by persons who testified during the three days of the hearings. In addition to the verbal testimony, Representative Peter Goll, Chairman of the Special Committee on Fisheries, urged participants to send or call in additional testimony.

Comments from Pat Hunsacker of Willow and Janet Thompson of Port Lions supported those requesting fish and wild life enforcement be kept as a separate division and not merged into the troopers. There was concern expressed the Department of Public Safety was trying to do away with the "brown shirts" entirely, and put all enforcement into blue.

The subject of increasing the budget was pursued in terms of expanding the use of wildlife protection personnel in rural areas. Dean Paddock speaking on behalf of the Bristol Bay Driftnetters Association said, "My association supports allocation of additional funding and strongly supports the retention of a healthy, separate entity trained to work in the wildlife resources."

On the positive side, there was testimony from Oscar Dyson and George Johnson in Kodiak saying the current structure was fine, and that the enforcement was the best ever. There was rather even testimony the fish and wildlife officers needed the trooper training and cited such reasons as more complicated enforcement needs. Bob Blake, representing United Fishermen of Alaska and Cordova District Fishermen's Union said, "Fish and wildlife officers I have contacted feel the basic training at the academy is beneficial, but the they need to break away from the troopers after that point."

Testimony from Bristol Bay indicated the targeting in their area by the increased enforcement made for a better season in 1985, but the major violators were still not being caught.

Representatives from the administration of Public Safety urged persons witnessing violations to obtain as much information about the incident and to call the local protection officers as soon as possible. They described the new Alaska Fish and Wildlife Safeguard program patterned on the Crime-Stoppers with a 24 hour toll-free number and payment for information leading to the arrest or citation of fish or wildlife violators. People who wish to be involved can make tax-deductible donations to the reward fund.

Many of the persons testified to the observation of violations on and around Prince of Wales Island, near False Pass and the Chignik areas, as well as the aforementioned Bristol Bay. Such violations were illegal fishing by sportsmen and visiting trollers; use of spotter planes, helicopters, and high powered lights at night for herding fish; and the illegal leasing and sale of commercial fishing permits. John Skan and Jim Martinez testifying from Prince of Wales Island saying there was never enough Fish and Wildlife Protection Officers.

The subject of training was addressed by a large number of the respondents with such comments as the brown shirts not being familiar with fisheries or subsistence problems; inadequate cross cultural training; and a lack of motivation by officers for the welfare of the wildlife. From Fairbanks, Lee Goodman stated, "A lot of the enforcement problems in rural Alaska is state personnel who are not familiar with fisheries and subsistence use."

The denial of a clear career path for the wildlife protection officer and failure of Public Safety to appreciate the professionalism of their career were cited as examples of training problems. Jim Timmerman representing the Bristol Bay Native Association said they would like to see the officers get more training on vessel equipment including the use of the Loran.

The use of bidding was cited as destructive to the dedicated fish and wildlife enforcement recruit by a majority of the persons testifying. Lonnie Anderson from the Kake Advisory Committee testified their main concern on the bidding was, "It appears the people with any experience get the best jobs while the outposts get what's left over." Bidding was explained by Deputy Commissioner James Vaden, and defended by John Taylor of the Public Safety Employees Association. Under questioning, Mr. Taylor said he did support additional fish and wildlife training and a separate career path.

There was testimony requesting the legislature to investigate what was perceived as infighting in the department of public safety; to prioritize so protecting ducks would get equal importance as arresting drunk drivers; and to assure the leadership of the fish and wildlife protection division would be hired from within the ranks.

Throughout the testimony was a suggestion of "low morale" among the fish and wildlife protection officers affecting their perception of their job and their relationship with the administration.

Billy Miller, Jim Skogstad and David Hanson testified from Hope on the economic importance of protecting the fish and wildlife resources. Also Dave Schrader from Kodiak said, "With the decline in oil revenues, we need to support alternative industries such as the commercial fishing industry. Regulation enforcement is critical to protect resources and promote an orderly harvest of those resources." Summing it up, Ken Dierdorf, a McGrath trapper, said, "... it won't be long before we find fish and game constitutes the true permanent fund in the state."

Compiled by Representative Dave Thompson

House Special Committee on Fisheries  
Oversight Hearings on Fish & Wildlife Enforcement

Excerpts from written testimony:

1. In Southeast enforcement was not steady enough. ...boundary line enforcement was sporadic, making it tempting to jump the line. The quality of range markers and lines was uneven, and in some cases non-existent. More fishermen should appear at Board of Fish meetings. Fishermen felt enforcement too severe for Acts of God with no criminal intent, or inadvertent offenses such as going to sleep. People interested in fish and game protection might be discouraged if they had to be troopers first. ...seasonal workers could be deputized to do enforcement as required. ...funding was a consideration in tying the two together, and the fisheries enforcement was ensured funding...

2. The fish and game resources are clearly a part of the Alaskan character and heritage we should always defend and enhance. ...the management of our fish and game resources are in jeopardy if certain trends are not soon reversed. ...there is movement within the Department of Public Safety to obscure the distinctions between state troopers and fish and wildlife officers. At present a person interested in a career in fish and wildlife enforcement must first wear trooper blue for three years before they may even begin to aspire to the color of their preference, game warden brown. ...these policies must be reviewed and revised or our fish and wildlife resources will ultimately pay the price.

3. In the Bering Sea the inadequate level of enforcement, does create economic incentives for fishermen to break the law. Local fishermen in the western Alaskan herring fisheries feel that there have been numerous incidences of fishermen participating in several of the herring fisheries in flagrant violation of the regulation. For the past two years I have seen no attempt to enforce the exclusive registration regulation on the fishing grounds in Norton Sound herring fishery. ....inconsistent enforcement of fishing regulations. ...several stories of over zealous officers diligently pursuing minor subsistence violators while neglecting major violation enforcement. Attendance at the Fish and Game Advisory Committee meetings by enforcement personnel would improve the relationship between fishermen and enforcement. There would be greater understanding of both enforcement and the fisheries.

4. One of the most important problems facing fish and game enforcement during the 1986 season will be in the Alaska Peninsula-Aleutian Islands fishery. The Board of Fisheries has put a cap on the harvest of chum salmon which is caught incidentally with the sockeye salmon. Once the chum ceiling is reached, the entire fishery is shut down. Since the chums are worth a fraction of what sockeyes are worth, there will be an incentive for fishermen and processors to either dispose of chums, or to list them as other species so as to keep the sockeye fishery open. The board instituted the chum cap because of dangerously low chum runs in parts of Western Alaska. ...a major enforcement effort will be needed in this area.

5. In the Cook Inlet there is not enough enforcement presence for the almost 600 fishing boats. There should be one or two more vessels and radio contact with the observer plane and the fleet. Loran, with weak and inconsistent signals, has not worked well in Cook Inlet. ...there are consistent pleas from sport fishermen for more enforcement on the Kenai River.

House Special Committee on Fisheries  
Oversight Hearings on Fish & Wildlife Enforcement

Excerpts from written testimony:

6. In the Bethel area a lack of consistency and the degree of commitment by FWP officers have been a constant public complaint from those users who witness violations not cited by FWP. An example of this is the Nelson Island herring fishery. FWP officers are suppose to check each permit holder in the large Togiak herring fishery, recording the vessel identification number, captain's license, and crew member names. This listing was to preclude a crew member in Togiak from becoming a captain or reusing a Togiak vessel in a northern exclusive use registration area. In 1985, this procedure was not followed by FWP. Numerous reports from fishermen indicated that nomads were in the area. Violations that were documented, and turned over to ADFG, the FWP, and CFEC were never investigated. This has undermined the creditability of the State's regulatory and enforcement system.
7. There is no market for summer chums, but commercial fishing is justified by ADFG since summer chums are an underutilized stock. Access to a market has spawned a black market roe fishery in Y-4. Open abuse has been reported to Fish and Game Advisory Committee meetings, and before the Alaskan Board of Fisheries, yet FWP has done nothing to curtail the illegal operation.
8. Fall chums are a threatened species in the Yukon River. The Board regularly received reports that subsistence caught eggs of Fall Chums have routinely entered the commercial egg processing industry in a fishery where a market for the flesh does not exist. FWP has failed after numerous years of complaints to undertake any enforcement action to curtail this activity.
9. There were numerous reports that fishermen in the North Aleutian Peninsula fisheries repeatedly went beyond the 3 mile territorial sea of the State of Alaska to intercept Bristol Bay and Arctic-Yukon-Kuskokwim salmon. One American seine boat was observed with gear in the water more than 40 nautical miles from the North Aleutian Peninsula. Numerous complaints were received this year because FWP had removed all its officers from the North Aleutian Peninsula to target Bristol Bay.
10. Close supervision of the fishery to prevent wide-spread discarding of less valuable chums by the False Pass fisheries will prevent a serious conservation problem from developing.
11. From 800 responses from Bristol Bay salmon gillnet permit holders, 629 fishermen recorded known violations. Of these violations, 500 were fishing outside the line, 113 were fishing more than 3 nets, 123 were setnetters who were drift fishing, and 95 were drift fishermen who were setnetting. Results of the survey, by the Bristol Bay Native Association, indicate that the level of enforcement in Bristol Bay increased during the 1985 salmon season, but there is still a need for improvement.
12. Presently the Division of Fish & Wildlife Protection does not officially exist. They are all State Troopers. There is no statute that mentions or describes FWP, or the duties of the Division. Wildlife Officers have always cooperated with the State Troopers, even when the FWP was part of the Department of Fish & Game, and should continue to do so. ...suggested FWP should be changed to Wildlife Officers.

House Special Committee on Fisheries  
Oversight Hearings on Fish & Wildlife Enforcement

Excerpts from written testimony:

13. The current policy of the Alaska State Troopers providing game law enforcement in Kotzebue is not working because the Troopers are overloaded with criminal cases. If we are ever to make progress toward scientific management of wildlife on a sustained yield basis, as the Alaska Constitution mandates, we must be willing to enforce those laws. The best way to enforce those laws is to station a DPS Fish and Wildlife Protection Officer in Kotzebue.

14. There should be no "slack" time for the FWP officers. In the winter in Southeast, there are intense fisheries such as winter herring, dungeness, tanner and King crab, salmon trolling, abalone and trawl fisheries, as well as deer, goat, bear, wolf and moose hunting. This is in addition to the winter trapping season, and the fact these officers need to take their vacations during the winter. We need to keep professional, dedicated, motivated wardens working with these resources.

15. Very few Blues transferring to Brown have been qualified for the position filled, they just have the seniority to get the position, and won it over a qualified Brown shirt. When Jay Hammond became governor, he asked what he could do to raise the morale of FWP officers. The officers stated they wanted an identity of their own. They turned in their State Trooper badges and were given Fish and Wildlife Protection Officer badges. Now, again, they have State Trooper badges.

16. Lack of enforcement by both Fish and Game and the FWP create frustration between legal and illegal fishermen because the legal fishermen don't want to become informers on the illegal fishermen, but they resent having to abide by the laws, only to discover that many of the illegal fishermen, when caught and cited, turn around and buy extra gear and go out fish again. They are even foolish enough to boast over the VHF that they will make enough money to pay the fine and the fine was worth their while.

17. Some recommended solutions would be: take the permits away for the duration of the summer. If only the boat and its gear are taken, the fishermen can get another boat and gear and go back out. ...we fishermen have to monitor ourselves, and help enact laws or regulations that protect our present and future fishing industry. If we don't control our fishing industry ourselves, we are going to be asking ourselves the eternal question, "Where are our fish?"

18. ...fish and game law enforcement is a full-time job. A fish and wildlife officer must start with an image. The specialized training, public relations, public education and unique equipment are necessary to accomplish the complicated task of Alaska's fish and game enforcement. Our State has a sport fish/tourism income of a reported 700 million dollars, complex commercial fishing, hunting and guiding activities spread out over an area so large, it is impossible for even our present enforcement staff to adequately patrol.

19. ...police training is an important aspect of being a fish and game enforcement officer. Additional training as a fish and game officer is also necessary. It is very hard to make a case involving red, brown, or tanner crab if you can't tell the difference.

House Special Committee on Fisheries  
Oversight Hearings on Fish & Wildlife Enforcement

Excerpts from written testimony:

20. Having been closely associated with the problem as a Fish and Game Department management biologist, it is my perception that much of the difficult can be described as DELAYED MAINTENANCE. This is precisely what has happened in Bristol Bay Commercial Fisheries enforcement. In the 25 years since statehood, the job has become more difficult, not only in the field but also in the constraints under which administrators must now operate. In spite of this, the FWP officers deserve commendation for the job which was done in Bristol Bay during 1985. It wasn't perfect, but it was head and shoulders above anything that has been done since Statehood. ...there has been a shortage both of preventative enforcement and enforcement directed toward apprehending the gross violator whose violation does not fall into the category of the obvious, the easily apprehended, the run-of-the-mill infraction. Commercial fishermen are looking forward to the arrival of knowledgeable enforcement of the existing laws and regulations.

21. It would be a serious omission to close any discussion of enforcement in the Bristol Bay watershed without reference to the fact that for years this fantastic sport-fishing area has largely been ignored during the main sport fishing season. ...gross violations occur here, also. In many places, effort has risen to a level which threatens serious consequences if we ignore such flagrant disregard for biological considerations much longer.

22. ...I went along on a boat patrol on the Yukon River. I talked to many people, both native and non-native, operating fish camps. I was told, in reference to FWP, "They are only here during the height of fishing season when everyone is watching out for them. Where are they in the fall when the jet boats full of moose antlers are going up the river?" They are probably trying to make appearances in other "hot spots" while poaching continues almost unchecked.

23. Many states have progressive fish and game enforcement divisions, almost all within the Fish and Game Departments. The enforcement officers are usually college educated in resource management first, then trained in law enforcement. Enforcement is recognized as an integral part of the whole wildlife scheme, and the officers often take part in research and management activities. There is a professional community of wildlife law enforcement officers developing in this country with increased emphasis on upgrading the profession. ...Alaska is missing out on that.

24. It is time for us to take a good look at the Division of Fish and Wildlife Protection. If moving them back to the Department of Fish and Game would correct the current problem, then do it. If divorcing them from the Department of Public Safety and making them a separate department on their own is a more viable alternate, then do that. At the present time, the state with the most to offer in the way of fish and wildlife resources is the state doing the least to preserve and protect these resources.

25. If our game wardens are converted to troopers and if game biologists are not allowed to manage game, ALASKA magazine will start running out of wildlife subject material in the future as the resource deteriorates.

26. The dual role program is a new concept that will, given a chance, provide continuing levels of law enforcement and resource protection in rural Alaska by combined use of personnel and logistical support equipment in the face of declining state revenues.

compiled by Rep. Dave Thompson

## Fish and Wildlife Enforcement Recommendations

The Special Committee on Fisheries and the Office of Governor Sheffield appreciate the comments, suggestions, and recommendations the public has provided to the Fisheries Committee, to the Department of Public Safety and to Governor Sheffield regarding the protection of Alaska's fish and game resources. Based on public comment during the Fisheries Committee hearing process and discussions with the Governor's Office and the Department of Public Safety, certain policy and program changes within the Division of Fish and Wildlife Protection will be implemented.

It is, and always has been, the intent of the Governor to maintain separate divisions for fish and wildlife protection and general law enforcement troopers. Further, the Governor continues to remain committed to the maintenance of an enforcement staff of highly trained professionals specializing in fish and wildlife resource protection. Both the Committee and the Administration underscore the policy that "cross-utilization" is limited to instances where it clearly does not interfere with the primary responsibilities of each division or in life-threatening circumstances. It is also recognized that exceptions will be made in one-trooper posts out of necessity, due to limited resources.

The following are recommendations supported by both the Fisheries Committee and the Governor:

1. Reduce the ratio of supervisory to field personnel. Since the 1970s, there has been a steady increase in managerial level positions within the division resulting in a high ratio of supervisors to field personnel. Because protection of the resource ultimately takes place in the field, the Department will convert vacant, non-essential supervisory PCNs to fish and wildlife enforcement positions limited to Title 16 enforcement and, when appropriate, to fish and wildlife protection troopers.
2. The Department will increase public involvement in resource protection by working with fish and wildlife user groups on cooperative programs. The Department will increase public exposure to the existing Fish and Wildlife Safeguard program and will work with fishing organizations to explore recommendations for involving Alaskans in Title 16 enforcement.
3. The Governor and the Fisheries Committee support the efforts of the Commissioner and PSEA to provide for a bidding system that provides a priority for "brown shirts" to bid on "brown shirt" positions on the basis of seniority, followed by selecting the most qualified candidates for the positions.

4. The Department will examine methods to enhance the career opportunities for fish and wildlife protection personnel.
5. The Department will <sup>develop</sup> (explore) methods to improve training and orientation for fish and wildlife personnel. These efforts will include the following:
  - a. ~~explore options to~~ Strengthen Title 16 training for officers initially moving into "brown shirt" positions;
  - b. expand cross-cultural training opportunities for all commissioned personnel within the Department;
  - c. utilize local expertise/resources in providing for orientation/training of personnel assigned/reassigned to a new area of the state, including local fish and game advisory committees, commercial fishing organizations, Marine Advisory Programs where they exist, community colleges and Native organizations.

ALASKA FISH & WILDLIFE PROTECTION UPDATE

APRIL 3, 1986

The recent trend for Fish & Wildlife Protection work to be merged with the duties of State Troopers has generated extensive public concern.

The basic issue is whether or not Alaska is providing stable and adequate resource protection services.

Historically, fish and wildlife protection has been administered through either the ADF&G or the Department of Public Safety, and various authorities exist today for each of those departments to enforce fish and game laws. This is inherently an unstable situation that, with some regularity, has attracted legislative and public concern over the question of where and how resource protection should be administered.

Clearly, we need to clarify lines of responsibility so that we can see what we are getting and can eliminate the unnecessary expense of an annual controversy.

Alaska's economy is tied to its resources and if the protection responsibility shifts among agencies, or if fisheries protection can be merged with highway patrol, the result is reduced resource protection. This is short sighted management with too much latitude and sleight of hand for these times of fiscal concern.

The urgency of fiscal management requires that agencies provide a clear record of their services. Any system that blurs or merges the Fish & Wildlife Protection and the State Trooper functions is not readily audited and invites criticism.\*

The answer is for the existing Fish & Wildlife Protection staff to be assigned division status to ensure continuity and identity of the protection function.\*

Resource protection requires continuity in a staff oriented to Alaska's unique fisheries, wildlife, geography, and cultures. The best interests of all Alaskans require a clear delineation of responsibilities, staffing, training, and recruitment for our fish and wildlife enforcement needs.

\* for example, DPS program cuts in vessels or aircraft would appear to be absorbed by DPS in a statewide dept context. Actually, however, the impact would be mostly on the FWP program & very little on the blue shirt/trooper.

There is an apparent trend for Fish and Wildlife Protection work to be merged with the duties of state troopers.

This trend is indicated through media reports and Department of Public Safety actions in areas such as recruitment, training, official vehicles, and personnel assignments. Public Safety appears to justify these actions on the basis of economy and administrative flexibility.

Discussion

The key element being ignored in this change is the question of fisheries and wildlife protection.

Alaska's economy is tied to its resources and when you merge fisheries protection with highway patrol you are neglecting fisheries. This is shortsighted management with too much latitude and sleight of hand for these times of fiscal concern. It is important that Alaskans see what they are getting in resource protection.

While police of any category can write speeding tickets, not all police have expertise in fisheries or other resource issues. Public safety and resource protection each require a different orientation of their personnel.

Department of Public Safety policy has been to select fish and wildlife officers from existing troopers on a seniority basis. This eliminates direct recruiting of people who want a resource career. In addition, current training at the academy needs intense fish and game exposure but no longer includes a fish and wildlife officer on its staff. It should also be noted that the Fish and Wildlife Division director has only a city police background, as does the commissioner and all of his other top staff. These are all good people in their respective fields but they are not resource oriented.

The focus of leadership, training, and recruitment creates a substantial drift from Alaska's norm of resource protection. It is becoming evident that, statewide, we are losing continuity and focus on resource protection.

We need to maintain a separate identity, responsibility, training, and recruitment for fish and wildlife enforcement if we expect to protect the interests of all Alaskans.

### Other Points:

Costs - difficult to assess in any law enforcement work.

DPS talks of a \$2 million cost to bring full separate coverage. Not relevant because no one is asking to create new coverage. Just separate out the F+W coverage so it can be accounted for. A lot of talk built around vacant & unfunded positions.

Make the whole cost issue speculative at best & a waste of time.

Better to focus on f+w enforcement as a separate entity with clear identity that public can relate to & that legislature can track for value received.

FWP presently (& always has) lacks division status.

Division status would bring the issue out in the open & make Public Safety accountable for it.

As it stands now, the "non-division" is simply a handy pawn.

Presence - an essential ingredient of overall management & best accomplished by wildlife people instead of city or highway police types.

Personnel - can't select/recruit resource oriented people in the present system.

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

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 419  
 Title : "An Act relating to the Division  
 of Wildlife Enforcement and the  
 Department of Public Safety."  
 Sponsor : Senator P. Fischer  
 Requestor : Senate Resources  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Fish & Wildlife Protection  
 \_\_\_\_\_  
 Components : FWP Enforcement  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		720.0	756.0	793.8	833.5	875.2
TRAVEL		18.0	18.9	19.8	20.8	21.9
CONTRACTUAL		173.4	182.1	191.2	200.7	210.8
SUPPLIES		17.7	18.6	19.5	20.5	21.5
EQUIPMENT		135.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>1064.1</b>	<b>975.6</b>	<b>1024.3</b>	<b>1075.5</b>	<b>1129.4</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		1064.1	975.6	1024.3	1075.5	1129.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>1064.1</b>	<b>975.6</b>	<b>1024.3</b>	<b>1075.5</b>	<b>1129.4</b>

**POSITIONS :**

FULL-TIME		9	9	9	9	9
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Equipment need in the first year only and a 5% inflation factor used after FY 87.  
 See companion fiscal note from Alaska State Troopers for \$864.1 for SB 419.

Prepared by : Kathy Niles, Admin Assistant Phone : 465-4336  
 Division : Commissioner's Office Date : 3/14/86

Approved by Commissioner : *[Signature]* Date : 3/14/86  
 Agency : Public Safety

Distribution (by Agency preparing fiscal note) :

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

SB 419 Fiscal Note  
BRU: Fish & Wildlife Protection

---

100 PERSONAL SERVICES \$720.0

9 positions at approx. \$80.0/ea in the following locations:

- a) Girdwood
- b) Cooper Landing \*
- c) St. Paul Island \*
- d) St. Marys \*
- e) 7 Mile Camp \*
- f) Fort Yukon \*
- g) Barrow \*
- h) Deadhorse \*
- i) Kotzebue \*

---

200 TRAVEL 18.0

(est. \$2000/position)

---

300 CONTRACTUAL 173.4

Dry Cleaning 6.3  
Medical 2.7  
Mileage/4 vehicles 14.4  
@ \$300/mo/vehicle  
Housing Subsidy 150.0  
(8 locations)

---

400 SUPPLIES 17.7

Uniform & law enforcement  
supplies @ \$1300/position 11.7  
Fuel & misc. commodities  
@ \$100/mo/X 5 6.0

---

500 EQUIPMENT 135.0

Vehicles, Skiffs, Snowmobiles  
appropriate to location (outfitted)  
@ \$15,000 ea

NOTE: All costs are estimates only.

---

TOTAL TROOPER COST TO THE BRU 1064.1

\* Housing subsidy required.

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

Revision Date : \_\_\_\_\_

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 Title : "An Act relating to the Division  
 of Wildlife Enforcement and the  
 Department of Public Safety."  
 Sponsor : Senator P. Fischer  
 Requestor : Senate Resources  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Alaska State Troopers  
 \_\_\_\_\_  
 Components : Detachments & CIB  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		640.0	672.0	705.6	740.9	777.9
TRAVEL		16.0	16.8	17.6	18.5	19.4
CONTRACTUAL		12.9	76.5	80.4	84.4	88.6
SUPPLIES		15.2	16.0	16.8	17.6	18.5
EQUIPMENT		120.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>864.1</b>	<b>781.3</b>	<b>820.4</b>	<b>861.4</b>	<b>904.4</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		864.1	781.3	820.4	861.4	904.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>864.1</b>	<b>781.3</b>	<b>820.4</b>	<b>861.4</b>	<b>904.4</b>

**POSITIONS :**

FULL-TIME		8	8	8	8	8
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Equipment needed in the first year only and a 5% inflation factor used after FY87.

See companion fiscal note from Fish & Wildlife Protection for \$1064.1 for SB 419.

Prepared by : K Niles Kathy Niles, Admin. Assistant Phone : 465-4336  
 Division : Commissioner's Office Date : 3/14/86  
 Approved by Commissioner : [Signature] Date : 3/14/86  
 Agency : Public Safety

**Distribution (by Agency preparing fiscal note) :**

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

SB 419 Fiscal Note  
BRU: Alaska State Troopers

100 PERSONAL SERVICES		\$640.0
8 positions at approx. \$80.0/ea in the following locations:		
a) Dutch Harbor*		
b) Coldfoot *		
c) Wrangell		
d) Hoonah		
e) Sand Point		
f) Unalakleet *		
g) Mc Grath *		
h) Cordova		
200 TRAVEL		16.0
(est. \$2000/position)		
300 CONTRACTUAL		72.9
Dry Cleaning	5.6	
Medical	2.4	
Mileage/4 vehicles @ \$300/mo/vehicle	14.4	
Housing Subsidy (4 locations)	50.5	
400 SUPPLIES		15.2
Uniform & law enforcement supplies @ \$1300/position	10.4	
Fuel & misc. commodities @ \$100/mo/X 4	4.8	
500 EQUIPMENT		120.0
Vehicles, Skiffs, Snowmobiles appropriate to location (outfitted) @ \$15,000 ea		
		<hr/>
TOTAL TROOPER COST TO THE BRU		864.1

\* Housing subsidy required.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 419

OPPOSED

March 10, 1986

SB 419 - "An Act relating to the division of wildlife enforcement and the Department of Public Safety."

In reviewing the Statutes, the Legislature has only mandated the following Divisions within Departments through Legislation.

AS 44.21.300 establishes a Division of Data Processing in the Department of Administration. AS 44.33.010 establishes a Division of Tourism within the Department of Commerce and Economic Development. AS 44.47.010 establishes a Division of Housing Assistance within the Department of Community and Regional Affairs.

SB 419 establishes four (4) Divisions within Public Safety. This reduces the Administration's flexibility and ability to manage this Department's work force in the most economical manner.

During the past year, the Department has received criticism as a result of articles which appeared in the Alaska Sportsman.

The Division of Fish & Wildlife Protection is not being "phased-out". We have eliminated separate training modules in the basic recruit academy. All commissioned Troopers must attend and pass the same curriculum. After completing probation, these Troopers may apply for the Division of Fish & Wildlife Protection.

During the past two years, six Troopers have transferred between Divisions: two from Fish & Wildlife and four from the Troopers. That is a net gain of two additional Troopers within the Division of Fish and Wildlife Protection. At present, only 4 Trooper positions are vacant in the Division of Fish & Wildlife Protection. This Division's underfunding is in excess of \$480,000.

Training modules have been established to train these transferees in Title 16 laws.

At present, there are 109 commissioned positions within Fish & Wildlife. One hundred and one (101) are filled, eight (8) are vacant due to underfunding. No positions will be filled this year unless there is further attrition. Of the 101 current Fish & Wildlife Troopers, 98 of them went through a split academic curriculum at the Sitka Training Academy.

I do not believe anyone would think it economically feasible to hold a special group of classes for 6 weeks for the 2 additional Fish & Wildlife officers hired in the past two years. No new hires are anticipated this year due to slow attrition and forced vacancy.

At present, Public Safety has 22 one man posts. These posts are manned by either a Fish & Wildlife Trooper or an Alaskan State Trooper. The Trooper is responsible for all enforcement work in the Trooper's assigned geographical area. The Division assigned to man these posts is determined by the majority of work to be performed. If it is mostly resource protection, a Fish & Wildlife Trooper is assigned. If it is mostly criminal, an Alaska State Trooper is assigned.

All Fish & Wildlife Troopers are aware of their primary responsibilities, resource protection. Every effort is made not to interfere with that priority unless there is a life threatening situation.

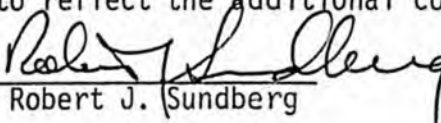
That is not to say, a Trooper shouldn't and couldn't check fishing licenses. They have always had that authority and have exercised it. By the same token, a Fish & Wildlife Trooper should not ignore a drunk driver in front of him or to be unable to serve court process when he visits a village.

Should this ability to manage our manpower resources be eliminated by legislation, we would be required to staff 15 of the one man posts with a Trooper from each Division. In addition, Cordova has no Alaska State Troopers and Kotzebue has no Fish & Wildlife Protection Troopers. Although these are multi-person posts, additional personnel would need to be assigned.

It should be noted by the Legislature that personnel within the Division of Fish & Wildlife Protection only spend 7% of their time on Title 11 complaints. The Troopers are fully commissioned within Public Safety while with the Department of Fish & Game, they were only authorized to enforce Title 16 and were paid two ranges lower than Troopers.

We have established 35 permanent seasonal Fish & Wildlife enforcement officers who enforce only Title 16. They are paid at range 12.

A fiscal note is attached to reflect the additional cost.

  
Robert J. Sundberg

Introduced: 2/14/86  
Referred: Resources, State Affairs  
and Finance

1 IN THE SENATE

BY P. FISCHER BY REQUEST

2

SENATE BILL NO. 419

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the division of wildlife enforce-  
7 ment and the Department of Public Safety."

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

9 \* Section 1. AS 18.65.080 is amended to read:

10 Sec. 18.65.080. POWERS AND DUTIES [OF DEPARTMENT AND MEMBERS OF  
11 STATE TROOPERS]. The Department of Public Safety and each member of  
12 the division of state troopers and the division of wildlife enforce-  
13 ment is charged with the enforcement of all criminal laws of the  
14 state, and has the power of a peace officer of the state or a munic-  
15 ipality and those powers usually and customarily exercised by peace  
16 officers. A commissioned [EACH MEMBER OF THE] state trooper or wild-  
17 life officer [TROOPERS] may prevent crime, pursue and apprehend of-  
18 fenders, obtain legal evidence, institute criminal proceedings, exe-  
19 cute a [ANY] lawful warrant or order of arrest, make an arrest without  
20 warrant for a violation of law committed in the trooper's or officer's  
21 [HIS] presence, and may cooperate with other law enforcement agencies  
22 in detecting crime, apprehending criminals, and preserving law and  
23 order in the state.

24 \* Sec. 2. AS 18.65.080 is amended by adding a new subsection to read:

25 (b) The ~~primary duty~~<sup>responsibility</sup> of the division of wildlife enforcement is  
26 to enforce laws and regulations of the state relating to wildlife  
27 resources, guiding, and outfitting. The ~~primary duty~~<sup>responsibility</sup> of the division  
28 of state troopers is to enforce criminal laws of the state, other than  
29 those relating to wildlife resources, guiding, and outfitting. The

1 ~~commissioner~~ may not order one division to assume the primary duty of  
2 the other ~~division~~ because of a shortage of money appropriated to  
3 either or both ~~divisions~~ by the legislature unless required by a  
4 disaster or emergency, such as an earthquake, flood, air crash, prison  
5 escape, or riot.

6 \* Sec. 3. AS 44.41 is amended by adding a new section to read:

7 Sec. 44.41.015. DIVISIONS OF THE DEPARTMENT. (a) The Depart-  
8 ment of Public Safety contains the following divisions:

- 9 (1) division of administration;  
10 (2) division of motor vehicles;  
11 (3) division of state troopers;  
12 (4) division of wildlife enforcement.

13 (b) The governor or the commissioner of public safety may estab-  
14 lish other divisions necessary or convenient for executing the duties  
15 of and administering the department.

The duties, funding, & personnel of these two  
divisions shall be identified & administered  
on the basis of separate divisions with respective  
missions, and may not be transferred between  
divisions. The separate missions of these two  
divisions do not preclude emergency loan  
of personnel in times of -- (line 4 of pg 2) --.



# 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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Senator John B. (Jack) Coghill  
Alaska State Legislature

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

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



MEMORANDUM

TO: Senator Sturgulewski

FROM: Senator Coghill

RE: SB 427

April 24, 1986

SB 427 will allow persons holding agricultural rights only land to apply for a five acre fee simple homesite. There is a zero fiscal note attached to this piece of legislation. The obvious benefit to the state and to individuals is that the individuals will not have to depend on the state for financing improvements. At the present time banks will not loan money to individuals for improvements on ag right only land, even through the state supported loan programs of Alaska Housing Finance Corporation and the Department of Community and Regional Affairs. Housing loans are only available for construction on fee simple land.

How can we expect farmers to succeed if they don't live on the land? In these troubled times we must look to the private sector to take up the slack in this economic slump. We can't on one hand deny farmers the opportunity to use money in the private sector and on the other hand say that the state funds in the Agricultural Revolving Loan Fund are drying up. This doesn't make sense to me. SB 427 will enable an economic progression to take place. In the process the state will not lose any money and it stands to gain from economic stability.

I am requesting that you calendar this bill at the earliest possible time as time is growing short in this legislative session. If it is impossible to calendar this bill at this time would you please waive the committee referral. Thank you for considering this request.



# 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 A. 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

March 17, 1985

FROM: Senate Resource Committee Staff *ME*

RE: Sponsor Substitute for Senate Bill No. 430

"An Act authorizing the commissioner of the Department of Natural Resources under certain circumstances to reduce or revoke royalty oil or gas obligation increases made in connection with the institution or operation of a cooperative or unit plan; and providing for an effective date."

In this packet is a analysis of this bill by the sponsor, a letter and fiscal note from DNR, a letter from CONOCO and a relevant article from the Daily News.

## SPONSOR ANALYSIS OF SB 430

Relating to the reduction or revocation of royalty oil and gas obligation increases under certain circumstances.

### PURPOSE

The purpose of SB 430 is to remove a perceived ambiguity in Alaska's oil and gas laws that is impairing the Commissioner of the Department of Natural Resources' ("DNR") ability to encourage oil production from marginal oil and gas units.

### BACKGROUND

In 1979, DNR adopted a short-lived policy of requiring a royalty surcharge as a condition of approval of certain oil or gas units. For example, when the working interest owners of the Milne Point Unit sought unit approval in September, 1979, they were required to accept an increase in their royalty from 12½% to 20%.

This 7½% royalty surcharge was imposed at a time when DNR believed that, in 1985, the wellhead price of Milne Point oil would be approximately \$34/barrel. In fact, the current wellhead price has plummeted to the point where continued development of the Milne Point Unit has been suspended.

### THE PROBLEM

DNR recognizes the dramatic difference between the predictions of 1979, and the facts of 1986. From the industry's perspective, DNR should reconsider the desirability of its royalty surcharge because of these changes. That agency is concerned, however, that

the legislature may have unintentionally limited DNR's authority to adjust the terms of unit agreements as circumstances change.

The 1979 royalty surcharge was imposed under AS 38.05.180 (p), which broadly authorizes the commissioner to "change or revoke . . . royalty requirements of the leases . . . in connection with the institution and operation of a . . . unit plan. Under the plain words of that section, the commissioner may increase royalties at the time of unit "institution," and she may also reduce them at the time of unit "operation." As a result, that subsection empowers the commissioner to change the royalty stipulations of a unit agreement whenever the public interest demands it.

DNR, however, has also pointed to AS 38.05.180(j), which requires two years of production from the field before a royalty may be reduced on "leases." Since DNR believes that two year's production has not occurred from the Milne Point "field," the agency is concerned that the two year limitation of subsection (j) may imply a limit to the commissioner's very different authority to change royalty requirements in conjunction with unitization under subsection (p).

#### LEGISLATIVE HISTORY

A review of the legislative history of subsection (j) shows that this was never the legislature's intent. In 1978, "when subsection (j) was created," the legislature authorized royalty and net profit share bidding. With the royalty as a bid variable, the legislature was concerned that a company might bid an artificially

high royalty to obtain the lease, and then immediately seek a royalty reduction. As a result, the legislature enacted subsection (j) in order to limit the circumstances under which a lessee could reduce its royalty below that bid upon or agreed to at the competitive sale.

On the other hand, it was never the legislature's intention to prevent the commissioner from reassessing her own, unilateral royalty increases made in connection with unitization. In fact, an amendment which would have made the commissioner's unitization authority under subsection (p) subject to the limitations of subsection (j) was rejected by the legislature.

#### What the Bill Does

Despite the clear legislative intent behind these statutes, this perceived uncertainty has nonetheless deterred DNR from reconsidering its royalty surcharge. Accordingly, SB 430 would remove any question about the commissioner's authority to change the special royalty stipulations of a unit agreement whenever the public interest warrants. The bill is very narrowly drawn. For example, it would not authorize royalty reductions below the amount agreed to at the competitive sale; rather, it would only authorize reconsideration of special royalty stipulations in the unit agreement itself.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

March 17, 1986

The Honorable Arliss Sturgulewski  
Chair, Senate Resources Committee  
P.O. Box V  
Juneau, AK 99811

Dear Senator Sturgulewski:

The Department of Natural Resources supports SS SB 430, which is scheduled for a hearing today in the Senate Resources Committee. The bill would authorize the commissioner of the Department of Natural Resources under certain circumstances to reduce or revoke oil or gas royalty obligation increases made in connection with the institution or operation of a cooperative or unit plan.

The bill primarily would affect the Milne Point Unit, a small North Slope oil field which began production last fall.

Conoco, Inc., the Milne Point Unit operator, has been seeking for several years to roll back a 20% royalty on certain Milne Point leases. The royalty obligation on those leases was increased from 12.5% to 20% under an agreement required by the department in 1979 as a condition of approval of the Milne Point Unit.

As a result of an application for royalty relief filed last fall by Conoco and Milne Point Unit working interest owners Reading and Bates Petroleum Company, Champlin Petroleum Company and Cities Oil and Gas Corporation, the department has examined confidential economic, geological, geophysical and engineering data supplied by the companies. Based upon that review, the department believes that rescinding the royalty increase would encourage continued production and further development of oil reservoirs within the Milne Point Unit.

Under existing and forecasted economic conditions, there is a high likelihood that both the economic and physical recovery of oil and gas at Milne Point will not be maximized for either the companies or the state at a royalty rate of 20%. Production of oil and gas from the developed reservoir (i.e., the Kuparuk River formation) will not be maximized, and development and production of oil and gas from yet to be

developed reservoirs (i.e., the Shallow Sands - heavy oil and gas reservoirs, geologically equivalent to ARCO's West Sak-Ugnu reservoirs at Kuparuk Unit) likely will not occur at all. The companies have made a persuasive case that they cannot be reasonably assured an adequate rate of return on any future or incremental investment under the existing 20% royalty. Given the further erosion of crude oil prices since the application was filed with the state last October, it is possible that current production will be halted if the royalty rate on the leases remains at 20 percent.

A careful review by staff of the data and analyses supplied by the companies confirms that, under current and expected market conditions, the companies likely will not receive an adequate rate of return on their current investments, and that future investments in the Milne Point Unit also would yield a less than satisfactory return. It is also very likely that if current conditions persist (or get worse), the field will be shut-in if the royalty remains at 20%. In addition, future development of the Milne Point Unit Shallow Sands is almost certain not to occur at a 20% royalty.

A reduction in the royalty rate from 20% to 12.5% would result in a revenue decrease to the State of approximately \$4.5 million a year from the Milne Point Unit. (See attached fiscal note.)

The department has tried to address the need for royalty relief within the current statutory framework, and earlier this year proposed that the royalty obligation be changed (not reduced) to a 12.5% royalty and a 35% Net Profit Share in lieu of the current 20% royalty. The companies have not accepted this proposal, even though it would have the effect of an immediate reduction in the royalty obligation, and would leave open the opportunity for the companies to apply for further relief after two years of field production based on the facts and circumstances at that time.

The department has been constrained from considering an outright royalty reduction by AS 38.05.180(j), which precludes the commissioner from granting a reduction of a lease royalty "until two years' initial production from the field has occurred and each lessee requesting the reduction has made a clear showing that the revenue from all hydrocarbons produced from the field is insufficient to produce a reasonable rate of return with respect to that lessee's total investment in that field."

The department's proposal to change the existing royalty rate was based on the authority of AS 38.05.180(p), which authorizes the commissioner to change royalty requirements of unitized leases "as the commissioner determines necessary

or proper to secure the proper protection of the public interest." Under the department's proposal, the state likely would have been compensated for the near-term revenue losses resulting from a reduction to a 12.5% royalty rate by the further receipt of revenues from the development of the Shallow Sands reservoirs at Milne Point and the application of the 35% Net Profit Share and the 12.5% royalty to that production. Revenues to the state over time likely would have been equivalent or greater under the department's proposal, but the income would have been delayed.

The department believes that it is not authorized to reduce the royalty obligation under AS 38.05.180(p), because of the limitation AS 38.05.180(j) appears to place on the commissioner's powers. If AS 38.05.180(j) applied only to leases that had not yet been unitized, AS 38.05.180(j) would be a nullity because, as a practical matter, unitization always precedes production. Related statutes should not be construed to make one statute a nullity.

Further, the general rule of statutory construction is that specific provisions control general provisions. Under this rule, the specific royalty reduction provisions of AS 38.05.180(j) would control the general provisions of AS 38.05.180(p).

Further, the legislative history of AS 38.05.180(j) argues against using AS 38.05.180(p) to circumvent the royalty reduction limitations stated in AS 38.05.180(j).

Testimony before the Legislature in 1978 focused on royalty reductions in conjunction with the increased flexibility given to the commissioner to select bidding methods. A prime concern was to prevent royalty bid manipulation, where a bidder obtains a tract by bidding an unreasonably high royalty counting on a subsequent royalty reduction to make the lease profitable. Although the companies obtained their leases at a fixed royalty sale, the policy against royalty bidding is arguably still applicable. The companies' leases were about to expire, causing the companies to agree to increase royalties in order to keep from losing the leases which were about to expire.

The bill that created AS 38.05.180(j) went through several committee substitutes. One committee, the House Resources Committee, voted to place an express limit on the commissioner's powers under AS 38.05.180(p) by adding the language: "however, the commissioner may not reduce the state's royalty within any unit except as provided in [j] of this section." A subsequent committee reviewing the bill, the Senate Resources Committee, deleted that language, but its sole motive was that the language was unnecessary since that committee had already decided to delete AS 38.05.180(j) altogether.


March 17, 1986

Later in the Senate Resources hearing, DNR pointed out that AS 38.05.180(j) granted the commissioner less power to reduce royalties than existed at that time under AS 38.05.140. The committee then voted to amend AS 38.05.140 to delete the commissioner's royalty reduction powers for oil and gas, and voted to reinstate AS 38.05.180(j). The committee immediately adjourned, without taking up the question of whether the previous committee's limitation of AS 38.05.180(p) should be retained.

In view of this legislative history, the department concluded that the specific royalty reduction limitations stated in AS 38.05.180(j) control the general royalty reduction powers granted in AS 38.05.180(p).

Thank you for the opportunity to comment on SS SB 430.

Sincerely,



Esther C. Wunnicke  
Commissioner

Attachment

cc: Senator Bettye Fahrenkamp

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SSSB 430  
 Title Revoke/Reduce Royalty Increase

Sponsor : Fahrenkamp  
 Requestor : Senate Resources  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Natural Resources  
 BRU : Petroleum Management

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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

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

REVENUE	(4500.0) *	(4500.0) *	(4500.0) *	(4500.0) *	(4500.0) *	(4500.0) *
---------	------------	------------	------------	------------	------------	------------

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

\* - This revenue loss would occur if production continues at current levels. The department has proposed an administrative resolution with similar fiscal impact in the short-term. If the bill is not enacted and production stops because the unit is not economic, revenue losses would be higher. See attached page for assumptions.

Prepared by : Kay Brown Phone : 762-4241  
 Division : Oil and Gas Date : 3/13/86

Approved by Commissioner : *Norm D. Arnold, Deputy* Date : 3/16/86  
 Agency : Natural Resources

**Distribution (by Agency preparing fiscal note) :**

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

Attachment to fiscal note for SSSB 430

The fiscal impact (revenue) is estimated on the basis of several assumptions:

The bill would affect only Milne Point unit production;

Milne Point Unit production at 30,000 bpd;

Royalty reduction from 20% to 12.5% under SSSB 430;

Gulf price of \$15/barrel.

DEC 31 1985

Conoco Inc.  
3201 C Street  
Suite 200  
Anchorage, AK 99503  
(907) 564-7600

Received - Juneau  
Office 1/8/86  
MJA

December 23, 1985

The Honorable Arliss Sturgulewski  
Senator, Alaska  
1024 West Sixth Avenue  
Anchorage, Alaska 99501

FILE  
SB430

Re: Enclosed Request for Unit  
Agreement Amendment

Dear Senator Sturgulewski:

Enclosed is a copy of a request by Conoco Inc. and other Milne Point Unit working interest owners to amend the Milne Point Unit Agreement. The companies submitted the request to DNR on November 4, 1985. The amendment would remove a 7½% royalty surcharge that was imposed upon these companies by DNR Commissioner Robert LeResche in September, 1979.

Granting the companies' request for removal of the surcharge will have a negligible effect on current state revenues. Indeed, the surcharge will net the state only some \$8 million in additional royalties in 1986. However, if the surcharge results in premature field abandonment, the state will suffer a foreseeable \$1.1 billion net loss in taxes and royalties. Moreover, the subsequent production at Milne Point which is jeopardized by the surcharge is critical to the state. For example, if the surcharge is removed, and the unit is fully developed, the state's projected FY 1996 oil production decline will be reduced by 31%.

Either inaction by DNR, or DNR's refusal to acknowledge its authority to grant the companies' request, may necessitate a legislative response in order to prevent premature abandonment of the only currently-active marginal field on the North Slope, and the resultant loss in state revenue. As a result, we hope that you, and your staff, will have the opportunity to review the companies' papers.

This matter arose in 1979, when the Milne Point companies applied to Commissioner LeResche for approval of the Milne Point Unit. The commissioner refused to approve the unit unless the companies consented to pay a 20% royalty, rather than the 12½% that had been agreed to at the 1969 competitive sale. The companies of course, had little choice but to accept the commissioner's demands, since a rejection of the unit

application would mean that the companies would lose their leases, and no production would occur at Milne Point at all.

Commissioner LeResche was motivated, at the time, by his assumption that wellhead prices in the mid-1980's would be about \$34 per barrel, and that the market could therefore bear this royalty surcharge. In fact, wellhead prices are now about \$14 per barrel. As a result, the effect of the surcharge will, in all probability, not be to increase state revenues, but rather to substantially reduce overall state taxes and royalties because of a premature field abandonment. Indeed, as the enclosed papers indicate, with the surcharge the Milne Point Unit may have as little as an 8-year field life.

Conoco recognizes that, in 1978, the legislature limited the commissioner's ability to reduce royalties on individual leases in order to prevent irresponsible royalty bidding at competitive sales. The limitation was intended to guard against abuses when the royalty was a bid variable -- a situation not present here. As our brief demonstrates, that limitation does not prevent the commissioner from amending her own unit agreements. And, an amendment to the unit agreement is all that is needed, and all that is asked for here. The 12½% royalty in the companies' leases will remain intact.

The companies are hoping that DNR will recognize its authority, and act upon the companies' request quickly. If the agency decides that it does not have authority to amend its own unit agreements, the companies will have two options. The first, of course, is to litigate. And, while the companies are confident that they would ultimately prevail in that litigation, that option will be costly and time consuming. As our brief indicates, it is very important that a final decision on the royalty surcharge be made shortly. Therefore, delaying resolution of this issue for 2-3 years of litigation may bring about the early abandonment of Milne Point irrespective of the ultimate outcome.

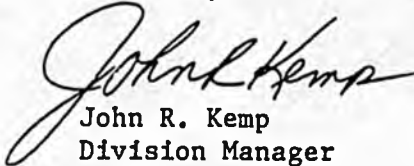
The other option is legislation that would even more clearly direct the commissioner to act in the very limited and compelling circumstances present here. We had hoped that DNR would process our request in a way that would allow the legislature to consider this matter, if it needs to consider it at all, responsibly and in due course. We therefore asked DNR to decide the companies' request well prior to the convening of the upcoming legislative session; and, to that end, we submitted our request more than two months before the session was to commence. If the agency delays our request, the legislature may find itself facing a new oil and gas issue in mid-session. We are therefore deeply concerned that DNR has yet to act on our request even at the staff level -- particularly in light of the fact that DNR has known of this issue, and the need to resolve it, since October, 1983.

At this point, then, we would appreciate whatever efforts you feel appropriate toward encouraging Commissioner Wunnicke to make her final

decision before your next session commences. And, we will certainly keep you advised of the progress of our request.

Thank you in advance for the attention which I know that you, and your staff, will give to this matter.

Sincerely,

A handwritten signature in cursive script that reads "John R. Kemp". The signature is written in dark ink and is positioned above the typed name and title.

John R. Kemp  
Division Manager  
Anchorage Division

vv

TESTIMONY OF JON K. TILLINGHAST  
BEFORE THE SENATE RESOURCES COMMITTEE  
REGARDING SB 430 (MARCH 17, 1986)

CONOCO IS THE OPERATOR OF THE MILNE POINT UNIT. BY ANY DEFINITION, MILNE POINT IS A MARGINAL UNIT. IT BEGAN PRODUCTION LAST FALL, AND IS CURRENTLY PRODUCING ONLY 18,000 BARRELS PER DAY--THIS IN COMPARISON TO PRUDHOE BAY'S 1.5 MILLION BARRELS PER DAY, AND 260,000 BARRELS PER DAY FROM THE KUPARUK UNIT.

DESPITE ITS MARGINAL NATURE, MILNE POINT, AND MILNE POINT ALONE, IS REQUIRED TO PAY A SPECIAL ROYALTY SURCHARGE. AT THE STATE'S 1969 COMPETITIVE SALE, THE SUCCESSFUL BIDDERS STRUCK A BARGAIN UNDER WHICH THEY AGREED TO PAY A 12.5% ROYALTY. IN 1979, HOWEVER, WHEN THE MILNE POINT COMPANIES SOUGHT APPROVAL OF THEIR UNIT, THE STATE REFUSED UNLESS THE COMPANIES AGREED TO PAY A 20%, RATHER THAN A 12.5% ROYALTY. SINCE REJECTION OF THE UNIT WOULD

CAUSE THE COMPANIES TO LOSE THEIR LEASES, THEY HAD LITTLE CHOICE BUT TO ACCEPT.

IN 1979, THE STATE BELIEVED THAT THIS ROYALTY SURCHARGE WAS IN THE PUBLIC INTEREST, BECAUSE IT ALSO BELIEVED THAT WELLHEAD OIL PRICES IN 1985 WOULD BE NEARLY \$35 PER BARREL. AS EVENTS HAVE TRANSPIRED, A BARREL OF MILNE POINT OIL IS NOW WORTH ABOUT \$3.50 AT THE WELLHEAD. AS A RESULT, INSTEAD OF INCREASING STATE REVENUES, THE ROYALTY SURCHARGE THREATENS TO FORCE PREMATURE ABANDONMENT OF THE UNIT.

CONOCO RECOGNIZED THE NEED FOR ROYALTY RELIEF THREE YEARS AGO, WHEN WELLHEAD PRICES WERE \$21 BARREL. AT THAT TIME, WE FIRST ASKED DNR TO RECONSIDER THIS ROYALTY SURCHARGE IN LIGHT OF THE FACT THAT THE ASSUMPTIONS BEHIND IT HAVE TURNED OUT NOT TO BE TRUE. DNR, IN TURN, LET US KNOW THAT IT TOO WAS CONCERNED THAT THE SURCHARGE MAY NO LONGER SERVE ITS INTENDED PURPOSE. NEVERTHELESS, DNR FEELS THAT ITS HANDS MAY BE TIED BY 1978 CHANGES TO AS 38.05.180 THAT IT BELIEVES PREVENTS IT FROM RECONSIDERING ITS OWN UNITIZATION DECISIONS.

CONOCO'S POSITION IS THAT § 180(p) BROADLY AUTHORIZES THE COMMISSIONER TO CHANGE OR REVOKE ROYALTY REQUIREMENTS IN CONNECTION WITH UNIT OPERATION. DNR, ON THE OTHER HAND, HAS POINTED TO § 180(j), AND SUGGESTED THAT ITS RESTRICTIONS ON THE REDUCTION OF LEASE ROYALTIES MAY IMPLICITLY LIMIT ITS AUTHORITY UNDER § 180(p) TO CHANGE UNIT TERMS.

LAST NOVEMBER, CONOCO SUBMITTED A FORMAL REQUEST TO RECONSIDER THE ROYALTY SURCHARGE IN THE MILNE POINT UNIT AGREEMENT. ON FEBRUARY 5th OF THIS YEAR, WE RECEIVED A LETTER FROM COMMISSIONER WUNNICKE, WHICH I HAVE PROVIDED TO EACH OF YOUR OFFICES, WHICH INDICATED THAT EXISTING LAW COULD PRECLUDE HER FROM REDUCING OR REVOKING THE ROYALTY SURCHARGE; THEREFORE, SHE INDICATED A WILLINGNESS TO EXPLORE (AND HERE I AM QUOTING) "CHANGING ROYALTY REQUIREMENTS IN A MANNER WHICH WOULD NOT CONSTITUTE AN ACTUAL OVERALL REDUCTION OF CONOCO'S ROYALTY OBLIGATION."

AT THAT POINT, AND IN LIGHT OF DNR'S CONCERNS OVER THE STATUTE, IT BECAME OBVIOUS THAT LEGISLATION WAS NECESSARY IF DNR

WAS TO FEEL ITSELF ABLE TO CONSIDER REVOKING OR REDUCING THE SURCHARGE, AS OPPOSED TO SIMPLY CHANGING ITS FORM. SB 430 WOULD ACCOMPLISH PRECISELY THAT.

THERE ARE A FEW POINTS THAT I WOULD LIKE TO BRIEFLY MAKE WITH RESPECT TO THE BILL, THE URGENCY BEHIND IT, AND THE ONGOING EFFORTS TO NEGOTIATE A SOLUTION TO THIS CONTROVERSY WITH DNR. FIRST, THE BILL IS VERY NARROWLY DRAFTED. ON PAGE 2, LINES 3 - 7, IT WOULD AUTHORIZE, AND ONLY AUTHORIZE, THE COMMISSIONER TO REDUCE OR REVOKE HER ROYALTY SURCHARGES. ONCE THE SURCHARGE DISAPPEARS, SO DOES THE COMMISSIONER'S AUTHORITY UNDER THIS BILL. THIS BILL GIVES THE COMMISSIONER NO AUTHORITY WHATSOEVER TO REDUCE ROYALTIES BID UPON OR AGREED TO AT A COMPETITIVE SALE.

NEXT, THE BILL DOES NOT GRANT CONOCO, OR ANYONE ELSE, ROYALTY RELIEF. IT MERELY AUTHORIZES THE COMMISSIONER TO RECONSIDER ROYALTY SURCHARGES IN UNIT AGREEMENTS WHEN THE PUBLIC INTEREST WARRANTS. CONOCO WILL STILL HAVE TO PROVE ITS CASE BEFORE THE DEPARTMENT. THE ISSUE BEFORE THE RESOURCES COMMITTEE THEN IS NOT WHAT CONOCO'S ROYALTY SHOULD BE; THAT ISSUE WILL HAVE

TO BE RESOLVED BY DNR, BASED ON THE CONSIDERATION OF FINANCIAL DATA, SOME OF IT CONFIDENTIAL. THE ONLY RELIEF CONOCO IS ASKING HERE IS TO REMOVE A PERCEIVED AND VERY UNINTENTIONAL IMPEDIMENT TO DNR'S ABILITY TO RECONSIDER THE SURCHARGE.

THERE IS URGENCY TO THIS LEGISLATION. AS YOU KNOW, THE UNIT HAS ALREADY HAD TO SUSPEND NEW DRILLING AT MILNE POINT, AND IN LIGHT OF THE RECENT DRAMATIC DECLINE IN OIL PRICES THE SURCHARGE IS JEOPARDIZING NOT ONLY FUTURE DEVELOPMENT, BUT EXISTING PRODUCTION AS WELL.

DESPITE THE TIME PRESSURES PRESENT HERE, CONOCO HAS SPENT THE PAST WEEKS IN ONE LAST ATTEMPT TO RESOLVE THIS MATTER THROUGH NEGOTIATION WITH DNR. IN THOSE NEGOTIATIONS, DNR HAS USED ITS BEST EFFORTS TO WORK WITHIN ITS PERCEIVED CONSTRAINTS. SPECIFICALLY, DNR HAS DONE AS WELL AS ANYONE COULD TO CHANGE THE NATURE OF THE SURCHARGE WITHOUT REDUCING IT, AND AT THE SAME TIME AFFORD SOME MEANINGFUL RELIEF TO CONOCO. WE COMMEND DNR FOR THE EFFORTS THEY HAVE MADE IN THIS REGARD; HOWEVER, THEIR JOB MAY BE AN IMPOSSIBLE ONE UNDER THEIR VIEW OF THE STATUTE, FOR IT IS VERY

HARD TO REDUCE A ROYALTY WITHOUT IN FACT REDUCING IT. INDEED, THE FAILURE, TO THIS POINT, OF OUR DISCUSSIONS WITH DNR VIVIDLY ILLUSTRATES THE NEED FOR THIS LEGISLATION; FOR, IF A REVOCATION OR REDUCTION OF THE SURCHARGE IS NECESSARY TO PERMIT ECONOMIC FIELD DEVELOPMENT, AND DNR BELIEVES THAT THE SURCHARGE CANNOT BE REDUCED AT ALL, THERE IS LITTLE REASON FOR OPTIMISM.

CONOCO, OF COURSE, WILL CONTINUE TO TALK WITH THE AGENCY AS THIS BILL--HOPEFULLY--PROGRESSES THROUGH THE LEGISLATURE. AT THIS POINT, HOWEVER, FURTHER DELAYS IN LEGISLATIVE CONSIDERATION OF THIS BILL WILL TEND TO HINDER, RATHER THAN AID CONTINUED NEGOTIATIONS, SINCE IT WILL PERPETUATE PRECISELY THAT STATUTORY UNCERTAINTY WHICH DNR BELIEVES PRECLUDES IT FROM CONSIDERING THE COMPANY'S POSITION ON ITS MERITS.

THANK YOU FOR THE OPPORTUNITY TO TALK WITH YOU TODAY REGARDING SB 430, AND I WOULD BE DELIGHTED TO TRY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

# Low prices could force state's newest well to shut down

By JEFF BERLINER  
United Press International

If oil prices drop much lower, it will cost more to produce a barrel of oil at Alaska's newest oil field than it can fetch on the open market.

Oil from Conoco's new Milne Point field costs \$6 per barrel — including state fees and royalties — to produce at Pump Station No. 1, the start of the \$9 billion, 800-mile trans-Alaska pipeline, said Chuck Logsdon, state petroleum economist.

By the time the pipeline tariff — about \$5 a barrel — and the cost of shipping the oil to a West Coast refinery are added, Logsdon said, the oil has cost the producer \$12 a barrel.

Oil prices on the world spot market were hovering near \$13 last week, although

contract prices average above \$15 a barrel.

"Milne Point would shut down before going below the break-even point, and it's close to that margin right now," Logsdon said. A Conoco spokeswoman, however, said the company would continue operation.

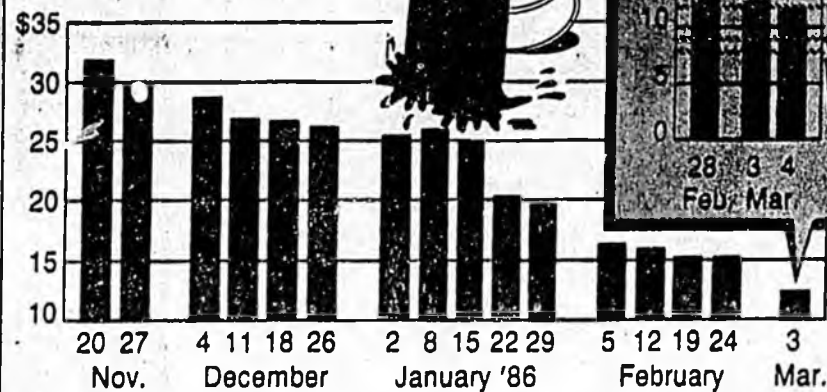
"Should oil prices force Milne point economics to a break-even point, we would not overreact by shutting the project down immediately," said spokeswoman Sondra Fowler. "There are several things that would rapidly improve the project's economics — a rebound in the price of oil, a reduction in the state's royalty rights, or an elimination of the ban on North Slope oil exports."

Milne Point is a major oil

See Page D-3, **MILNE POINT**

## Oil Prices Falling Near Break-even Point

Prices per barrel for West Texas Intermediate crude.



Nearby settlement prices for NYMEX crude oil futures contracts  
Source: New York Mercantile Exchange

Oil from Alaska's new Milne Point field costs \$12 per barrel to deliver to West Coast refineries.

Kuparuk oil comes to \$9 a barrel at the West Coast refineries

Prudhoe Bay oil costs \$8 a barrel at the West Coast refineries.

## MILNE POINT: Selling price could soon match production costs at Alaska's newest oil well

Continued from Page D-1

eld by Lower 48 standards it is dwarfed by the size of the other two North Slope fields. Milne Point produces about 20,000 barrels a day, but compares with about 1.5 billion barrels a day pumped from the Prudhoe Bay field and about 250,000 barrels a day from the Kuparuk River field.

These two other oil fields on the North Slope are not as close to break-even, Logsdon said.

Prudhoe oil costs \$8 per barrel to deliver to West Coast refineries. Kuparuk oil comes to \$9 a barrel at the refineries, Logsdon said.

About half Alaska's oil journeys to Gulf Coast refineries. This longer trip adds \$3 to the per-barrel cost, Logsdon said.

In comparison to the North Slope, Saudi Arabian oil is brought out of the ground for "from 25 cents to 50 cents a barrel, and who knows, they may be able to produce it cheaper than that," Logsdon said.

Shipping costs in a depressed market for oceangoing tankers add only about \$1.50 a barrel to get Saudi oil to the U.S. Gulf coast refineries. Alaskan producers are bound by law to use more expensive American-flag shippers.

Alaskan and Saudi Arabian crude are of comparable quality.

Conoco Inc. brought Milne Point into production with much fanfare in November, well ahead of schedule, and announced it was going ahead with plans to expand the field.

Less than three months later Conoco has halted further development of Milne Point, cut its budget and slapped a hiring freeze on the project, while continuing to pump oil from the already developed portion of the field.

The relative high cost of North Slope oil leaves little margin for profit and reinvestment in new development.

However, oil company officials would not discuss their break-even figures.

"That's competitive information and we ain't going to tell," said D.J. Moon, Standard Alaska Production Co. spokesman.

"It's different for each company and it's different for each oil field," said Susan Andrews, ARCO Alaska Inc.'s spokeswoman.

Economist Arlon Tussing

believes prices could drop so low that the state will collect no oil royalty, sending the state's economy into a depression.

However, Tussing said he did not expect Standard and ARCO, operators at Prudhoe Bay and Kuparuk, to shut down the fields unless prices dropped so low that the companies were losing money before the oil left Pump Station No. 1.

Logsdon said he believed Prudhoe Bay and Kuparuk would continue to operate, but he said if prices drop below a profitable level, companies may cut back production, stop shipment to Gulf Coast refineries, and sell it all on the West Coast.

Every day, the three North Slope fields send a total of 1.8 million barrels of oil down the 800-mile trans-Alaska

pipeline to the oil port of Valdez, said John Ratterman, Alyeska Pipeline Service Co. spokesman. That figure represents 20 percent of U.S. production.

Because of the high cost of producing oil in the arctic, Milne Point is considered a marginal field. One year ago, when Milne Point was being developed during a time of less drastic oil price declines, Conoco regional manager Rob McKee said:

"If the decision to develop Milne Point were to be made on today's price projection, the unit owners could conceivably reach a different decision than the one reached a year ago because the much-reduced profitability might not justify the risk."

Development of Milne Point has stopped. ARCO plans to idle five of its nine

drill rigs this spring, Andrews said, adding that ARCO still plans a huge summer construction season to boost production at Kuparuk and bring the new Lisburne field into production.

Sohio has not announced any major cutbacks and Moon said the firm plans to begin development of its Endicott field in April and have it pumping oil by late next year.

Said ARCO President Harold Heinze, "We know of huge accumulations of oil on the North Slope, including the West Sak field, which may be larger than the Prudhoe Bay field. But the West Sak field is a marginal field, and with the price of oil in decline and an uncertain tax picture in Alaska, we cannot go beyond the research and planning stage."



# 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 A. Smith  
Signature of Camera Operator

11/24/89  
Date

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SELDOVIA NATIVE ASSOCIATION, INC.

P.O. DRAWER L

SELDOVIA, ALASKA 99663  
(907) 234-7625 • 234-7890

APR 3  
1986

March 27, 1986

Representative Albert P. Adams, Chairman  
Finance Committee  
Alaska State Legislature  
Pouch V (Mail Stop 3100)  
Juneau, Alaska 99811

Dear Representative Adams:

This letter is a request for favorable action by the Finance Committee and your support of House Bill #677.

This bill is an attempt to finalize the restoration of land within the Kachemak Bay State Park (KBSP) to State ownership.

When Seldovia Native Association (SNA), an ANCSA Corporation, made its land selections in the Seldovia area, the State of Alaska Department of Natural Resources gave notice of appeal on Seldovia's selections in Township 8 S, Range 13 W, Seward Meridian.

Although ANCSA corporations were entitled to select certain lands tentatively approved (TA) to the state, the state felt that state TA'd land in Township 8 S, Range 13 W, Seward Meridian was available to SNA because it was selected as mental health lands rather than general grant lands.

To protect its selection entitlement, SNA selected lands within the Kachemak Bay State Park that are in the Seldovia withdrawal area and were TA'd to the state as general grant selections. SNA later dropped its claim to the so-called mental health lands.

Recognizing its obligations to the citizens of Alaska and the need for public recreation, the KBSP was established by the state legislature.

Each year the public recreation activities in the Kachemak Bay area increase. The Land SNA owns in the park is some of the most used land as it is closest to the Homer boat harbor. This land has some of the finest bays with good beaches and hiking areas. The China Poot Bay red salmon dip net fishery is on SNA's land. For several years the state has been using this land for public recreation and the dip net fishery has grown to be very popular with the public. In the past, SNA has not disturbed the state in its use of corporate land, as we always felt the land trade would take place.

In 1975, SNA made an offer to Governor Jay Hammond, whereby SNA would trade the land it has within the KBSP for other state land of equal value.

From 1975 to 1979, SNA made several attempts working with the Division of Parks and DNR, but could not accomplish very much. In May of 1979, the Cook Inlet Region, Kenai Peninsula Borough, the State of Alaska and SNA entered into a Memorandum of Understanding regarding this land trade.

Since that time there have been two small trades, one on March 15, 1983 whereby the state acquired 3,578 acres from Seldovia and again on May 13, 1985 involving 960 acres.

At the time of the May 13, 1985 exchange, the Commissioner of DNR stated she wanted only one single land trade with Seldovia. She agreed with SNA the trade was taking far too much time and effort than initially anticipated.

Although we at SNA agree to the excessive use of time and effort, along with costs, we feel the smaller trade phases, such as the one of March 15, 1983 were more effective. We stated our concerns to the Commissioner in Jureau when we met with her in Senator Fischer's office during the 1985 legislative session. The Commissioner felt DNR had the capability of doing the one time, full trade program.

When land was being offered to SNA for its review as to whether or not it desired certain parcels, Ron Swanson of DNR, and Jack Wiles of Division of Parks, brought a list of lands to Seldovia that included the state land at Granite Point in Cook Inlet, near the Beluga Coal Fields. SNA agreed it should acquire this parcel as it would be an ideal dock site if and when the coal fields were developed.

At various times after this offering, DNR personnel stated the Granite Point site would not be available to SNA. DNR Commissioner Wunnicke stated several times the Granite Point dock site would not be in the trade. SNA insisted Granite Point would have to be in the trade, as we had a high priority for that parcel.

When John Crawford, the Chairman of the SNA Board of Directors and I met the Commissioner in Senator Fischer's office, it was our understanding the Granite Point land would be available to SNA in the one last full trade out. After this meeting, we were informed the Commissioner did not intend Granite Point to be part of the trade. We checked with Senator Fisher as to his understanding our our discussion, and he stated he understood the Commissioner to say Granite Point would be available to SNA in the one large trade plan. From that point forward, SNA took the position if the trade was to be accomplished, the Granite Point dock site would have to be included.

The state comprised a list of lands and had them appraised. Because there were many errors and/or discrepancies in the appraisal, DNR either would not or could not approve the appraisal for about six weeks after it was completed.

During that six weeks, public hearings were held in Seldovia, Homer, Soldotna and Anchorage. Seldovia expressed concern about the low appraisals given its land by the appraiser. The state appraiser was also deeply concerned about the low appraisal and errors in the appraisal.

The appraisal was completed December 2, 1985. This appraisal, after downward adjustments requested by DNR personnel, gave the SNA land a value of \$12,977,431. This adjusted value greatly disturbed the SNA Directors. On August 13, 1985 the appraisal firm of BlackSmith and Richards placed a value of \$14,552,200 for the very same land. SNA contacted a local appraiser who informed us land values in the Kachemak area had been appreciating at the rate of 1 to 1½ percent per month. We feel this would place a value of some \$18,481,294 on the SNA land.

DNR drafted a bill to be introduced for action by the 1986 legislature. The bill had to be submitted by January 23, 1986, but before the bill would be introduced, DNR requested SNA sign an exchange agreement. The appraisal of December 2, 1985 was not approved by DNR until January 21, 1986, giving SNA about two days to respond to the appraisal. SNA could not agree to an appraisal that was much too low, and could expose the Directors of SNA to legal action by shareholders, had they agreed to such a devaluation of the corporate land at that time.

SNA recommended that DNR introduce its legislative bill and when it reached the committee hearing level, SNA would ask for amendments to both raise the value of SNA's land to an appropriate figure and include the Granite Point land in the trade. The Commissioner refused to introduce any legislation at that point.

The Directors of SNA felt the issue of trading land with the state was much too important to let die for lack of a bill by DNR.

When it became apparent DNR would not have a bill for the 1986 legislative session, the SNA Directors met and drafted a new proposal.

1). SNA will reappraise the corporation's lands within the Park to solve the dispute of the lower appraisal dated December 1985.

This new appraisal will be done before the end of April.

2). SNA would relinquish its claim to the Granite Point dock site.

3). SNA would drop all the lands on the west side of Cook Inlet, including Kalgin Island, and take only those state lands on the Kenai Peninsula.

4). Any deficiency in land values would be made up in the form of cash.

Representative Albert Adams  
March 27, 1986

Page Four

We feel very strongly the offer is a good one. It would accomplish the state reacquisition of the Park land in one final act, as the Commissioner wished, it would resolve the dispute of whether or not SNA could receive the Granite Point land and all parties could get on with more productive activities. SNA is very aware of the reduced oil revenues the State of Alaska is facing and is willing to address the payment of cash in other than a lump sum if the legislators wish.

We contacted Senator Fischer, Representatives Andre Marrou and Mike Navarre, the legislators for our area. They agreed legislation should be introduced. Senator Fischer introduced Senate Bill #452, and Representatives Marrou and Navarre sponsored House Bill #677.

SNA recognizes the efforts of many people, both public and private to make this trade happen.

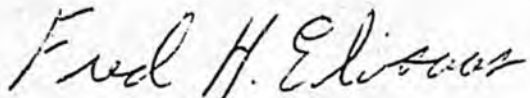
All parties worked long and hard to restore the park as it was originally established. It will be almost impossible to reactivate this trade if the present legislature does not pass House Bill 677.

It is our understanding House Bill #677 has been referred to the House Resource Committee, Finance Committee and Rules Committee. At this time, we would respectfully request committee hearings by the appropriate committees.

When the committee hearings are held, we would expect DNR, along with other interested parties that wish to testify to voice their concerns.

Thank you for your consideration.

Sincerely,



Fred H. Elvsaa, President  
Seldovia Native Association, Inc.

FHE/rn

cc: Governor Bill Sheffield  
Commissioner Esther Wunnicke  
All Legislators  
Kachemak Bay State Park Advisory Board

Similar letter sent to:

Rep. Adelheid Herrman and  
Rep. Richard Shultz,  
Co-Chairmen of the  
Resource Committee

also to:

Rep. M.V. Miller, Chairman  
Rules Committee