

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4339 SRES HJR 51 - HJR 53

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James O. Smith  
Signature of Camera Operator

11/24/89  
Date

HJR

51

Hein  
3/26/86 ✓

Original sponsors: Sund, Szymanski,  
Goll, et al

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR HOUSE JOINT RESOLUTION NO. 51 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Relating to Coast Guard user fees.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS the United States Senate is considering, as part of Senate  
8 Concurrent Resolution 32, a proposal to impose user fees on commercial  
9 fishing and recreational boat owners; and

10 WHEREAS it is inappropriate to require boat owners, rather than the  
11 general public, to bear the cost of basic governmental functions, such as  
12 search and rescue, aiding navigation, and protecting the marine environ-  
13 ment; and

14 WHEREAS the Alaska State Legislature strongly objects to imposing user  
15 fees on small commercial fishing vessel operators, especially because there  
16 is no guarantee that funds raised by user fees would be earmarked for  
17 boating purposes; and

18 WHEREAS it would be inequitable for boat owners to bear the entire  
19 cost of user fees, since in Alaska, unlike other states, the "users" of the  
20 above-mentioned Coast Guard services include not only boat owners, but also  
21 mountain climbers, hikers, hunters, users of canoes and kayaks, persons in  
22 need of medic and other emergency aid in rural villages and remote areas,  
23 aviators who rely on navigation aids, and persons dependent upon marine  
24 shipments for necessities; and

25 WHEREAS vessel owners are already subject to federal motorboat fuel  
26 taxes intended for boating and fishing enhancement; and

27 WHEREAS the proposed fee structure discriminates against smaller  
28 commercial fishing vessel operators by charging a flat annual fee of \$540  
29 for each commercial vessel under five gross tons, which is substantially

1 more burdensome than the fee proposed for larger commercial vessels; and

2 WHEREAS the user fees proposed for the owners of small fishing boats  
3 in Alaska would, in many cases, exceed the owners' annual net income and  
4 thereby force the owners out of business; and

5 WHEREAS the fixed rate structure for user fees being considered does  
6 not allow for adjustments during lean years in the Alaska commercial fish-  
7 ing industry; and

8 WHEREAS the proposal would likely result in a doubling of fees in  
9 federal fiscal years 1987 through 1990; and

10 WHEREAS since Coast Guard services are almost entirely unavailable in  
11 many of the remote areas of Alaska, it is inequitable to charge owners in  
12 those remote areas the same fee charged vessel owners in areas that are  
13 well serviced by the Coast Guard;

14 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
15 that the President of the United States direct the Secretary of Transporta-  
16 tion to reject the proposed imposition of Coast Guard user fees on boat  
17 owners, or in the alternative, to approve the proposed user fees only if  
18 the rate structure equitably distributes the economic burden of the fees  
19 among all users of Coast Guard services and avoids a severe economic impact  
20 on Alaska commercial fishermen.

21 COPIES of this resolution shall be sent to the Honorable Ronald  
22 Reagan, President of the United States; and to the Honorable Ted Stevens  
23 and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don  
24 Young, U.S. Representative, members of the Alaska delegation in Congress.  
25  
26  
27  
28  
29

**JOHN SUND, REPRESENTATIVE**

*2505 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552*

---

*While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919*

March 7, 1986

MEMORANDUM

TO: Frank Homan, Senate Resources Aide

FROM: Howard Wayne, Rep. Sund's office

RE. HJR 51 - Coast Guard User Fees  
.....

This resolution recently passed out of the Senate Transportation Committee, and John would like to get it scheduled in your committee as soon as possible. Let me know what you can do.

In the backup for HJR 51 you'll find:

- A copy of the resolution.
- A copy of the federal legislation. (HR 1936)
- A memo from John outlining the issue.
- A memo from K.C. Bell regarding fee schedule and bill status.
- House State Affairs Committee -C- fiscal note.

I also have letters of support and a list of people to testify. Let me know what you need.

Thanks for your help!

# 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

M E M O R A N D U M

March 24, 1986

TO: All Members  
Senate Resources Committee

FROM: Staff, Senate Resources Committee

RE: HJR 51 Relating to Coast Guard user fees

HJR 51 urges the Alaska delegation in Washington, D.C. to oppose the imposition of Coast Guard user fees on small commercial fishing vessels in Alaska. The resolution further urges that if the user fees are imposed, the fee structure be adjusted to protect the smaller commercial fishing vessels.

The sample fee structure attached shows that smaller commercial vessels under 5 gross tons would be assessed at a rate of \$540 to \$720 per year. Recreational boats would be assessed approximately \$23 per year.

There is a zero fiscal note.

### Enclosures:

Memo from Rep. John Sund  
Sample fee structure.  
Fiscal note  
Draft of HB 1936

JOHN SUND, REPRESENTATIVE  
2505 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

January 30, 1986

MEMORANDUM

TO: House State Affairs Committee

FROM: Rep. John Sund

RE: HJR 51 - Coast Guard user fees

.....

Enclosed in your packet is a copy of Federal House Bill 1937, schedules of proposed direct and indirect fees, and a summary of the bill's status. Should it pass, this legislation would require Alaskan commercial and sport vessels to pay user fees for the following Coast Guard services:

seaman's documents and licenses  
vessel inspection  
merchant marine investigations  
maintenance for aids to navigation  
non-emergency search and rescue

The intent of the proposal is to raise the following revenue during the ensuing three years.

FY 36 - \$150 million  
FY 87 - \$250 million  
FY 88 - \$350 million

The following is a sample fee breakdown. The lower figure is that suggested by the Senate/White House and the high figure was the original OMB proposal.

Commercial vessels UNDER 5 GROSS TONS - \$540 - \$720 per year  
(this could include skiffs, set net skiffs, handtrrollers, etc.)

Commercial vessels between 5 - 99 gross tons - \$810 - \$1080

Recreational Boats - approximately \$23 per boat average.

This information was provided by K.C. Bell of Congressman Young's office and David Dye of Senator Stevens office.

HJR 51 opposes coast guard user fees overall, and specifically opposes the proposed distribution of fees.

February 11, 1986

Please telecopy these four pages to :

Mr. Howard Wayne  
Office of Rep. John Sund  
telcopy #: 465-4648

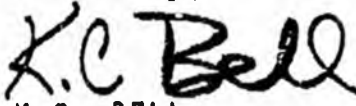
Mr. Wayne:

I am sending to you the SAMPLE fee breakdown supplied as part of H.R. 1936. As you can see, it reflects a \$23 charge for recreational boaters. It should be noted that the 1987 fiscal year budget presented to Congress still assumes that revenues will be collected through a Coast Guard user fee, although it is NOT factored into the Coast Guard budget request. The Subcommittee on Coast Guard and Navigation last year made it very clear that it continues to oppose such user fees.

I could not get a copy of S.Con.Res. 32 in time for you, however, I have enclosed a summary of the status of that legislation.

Please let me know if you require further information.

Sincerely,

  
K.C. BELL

**FULL YEAR RECOVERY****INDIRECT FEES -- SAMPLE RECOVERY SCHEDULE**

CLASS	NUMBER VESSELS	AVERAGE <sup>1</sup> ANNUAL FEE \$	RECOVERY FY86 \$000
A. REC BOATS	6,000,000	23	136,000
B. INLAND SYSTEM <sup>2</sup>			57,000
C. FISHING VESSELS			
US <100GT	119,000	780	93,000
US >100GT	2,200	1800	4,000
FOR<100GT	0	900	0
FOR>100GT	840	2500	<u>2,000</u>
		TOTAL	99,000
D. INTERNATIONAL/COASTWISE			
COMMERCIAL VESSELS			
TONNAGE FEE <sup>3</sup>			75,000
COASTAL <i>cd be as high as 50-80,000</i>	3,600	3,800	16,000
TOWBOATS	2,900	2,400	7,000
BARGES	4,000	2,000	8,000
MODU	300	2,000	<u>600</u>
		TOTAL	107,000
TOTAL INDIRECT RECOVERY			400,000

<sup>1</sup> Estimated Average annual fee. Actual fees may vary significantly when all computational factors are considered. Figures may not compute exactly due to rounding.

<sup>2</sup> Fees will be approximately 0.25 mills per ton-mile to permit compatibility with the Corps of Engineers fees and collection procedures.

<sup>3</sup> Tonnage fee. This fee schedule will be administered in the same manner as the tonnage fees collected by customs in accordance with Title 19 § 4.20 U.S. Code. It will be approximately 5 times the amount currently assessed by Customs.

**FULL YEAR RECOVERY****DIRECT FEES -- SAMPLE RECOVERY SCHEDULE<sup>1</sup>**

DIRECT FEES	RECOVERY FY86 \$000
REGATTA PERMITS	200
REGATTA PATROLS	800
DOCUMENTATION OF VESSELS	2,000
ADMEASUREMENT OF VESSELS	2,000
INSPECTION OF VESSELS	36,000
PERSONNEL LICENSING	10,000
TERMINAL INSPECTIONS	24,000
DOMESTIC ICEBREAKING <sup>2</sup>	<u>1,000</u>
TOTAL	76,000

<sup>1</sup> Actual fees will be determined by computed costs of services rendered to specific identifiable users.

<sup>2</sup> For specific identifiable users.

### STATUS OF MAJOR BILLS—FIRST SESSION

Number of bill	Title	Reported	Passed House	Reported in Senate	Passed Senate	Sent to Conference	Conference report agreed to in—		Date approved	Law No.
							House	Senate		
<b>LEGISLATIVE BILLS</b>										
H. Con. Res. 172	Budget, First, 1986 (H. Rept. 99-133)	1985 May 20	1985 May 23	1985	1985	1985	1985	1985	1985	
<del>H. Res. 372</del>	Budget, First, 1986		May 23	Mar. 20	May 9	May 23 <sup>(1)</sup>	(*)	Aug. 1 <sup>(2)</sup>		
H.R. 2100	Food Security Act of 1985 (H. Rept. 99-273)	Sept. 18	Oct. 8		Nov. 23	Dec. 5	Dec. 18	Dec. 18		
H.J. Res. 372	Debt Ceiling Increase		Aug. 1	Sept. 28	Oct. 10	Oct. 15 Nov. 7	Dec. 18 (*) <sup>(3)</sup> Dec. 11	Nov. 1 <sup>(4)</sup> Dec. 11	Dec. 12	99-177
H.R. 2817	Superfund Amendments of 1986 (H. Rept. 99-253)	Nov. 12	(*)							
H.R. 3500	Budget Reconciliation (H. Rept. 99-300)	Oct. 3	Oct. 24							
H.R. 3838	Tax Reform Act, 1985 (H. Rept. 99-426)	Dec. 7	Dec. 17							
<b>APPROPRIATION BILLS</b>										
H.J. Res. 342	Supplemental, Agriculture, 1985		July 18		July 19				July 24	99-71
H.R. 1239	Supplemental Appropriations, African Relief (H. Rept. 99-2)	Feb. 21	Feb. 28	Mar. 5	Mar. 20	Mar. 27	Apr. 2	Apr. 2	Apr. 4	99-10
H.R. 2577	Supplemental Appropriations, 1985 (H. Rept. 99-142)	May 22	June 12	June 13	June 20	July 16	July 31	Aug. 1	Aug. 15	99-88
H.R. 2942	Legislative Branch, 1986 (H. Rept. 99-194)	July 10	July 13	July 25	July 31	Oct. 8	Oct. 29	Oct. 29	Nov. 13	99-151
H.R. 2959	Energy and Water, 1986 (H. Rept. 99-195)	July 10	July 16	July 25	Aug. 1	Oct. 1	Oct. 17	Oct. 17	Nov. 1	99-141
H.R. 2965	Commerce, Justice, State, Judiciary (H. Rept. 99-197)	July 11	July 17	Oct. 4	Nov. 1	Dec. 3	Dec. 5	Dec. 6	Dec. 13	99-180
H.R. 3011	Interior, 1986 (H. Rept. 99-205)	July 16	July 31	Sept. 24	(*)					
H.R. 3036	Treasury, Postal, 1986 (H. Rept. 99-210)	July 18	July 30	Sept. 9	Sept. 26	Oct. 8	Nov. 7	Nov. 7	(*)	
H.R. 3037	Agriculture, 1986 (H. Rept. 99-211)	July 18	July 24	Sept. 24	Oct. 16	Dec. 9				
H.R. 3038	HUD, 1986 (H. Rept. 99-212)	July 18	July 25	Aug. 28	Oct. 18	Nov. 6	Nov. 13	Nov. 13	Nov. 25	99-160
H.R. 3067	District of Columbia, 1986 (H. Rept. 99-223)	July 24	July 30	Sept. 9	Nov. 7	Dec. 4				
H.R. 3228	Foreign Assistance (H. Rept. 99-252)	Aug. 1								
H.R. 3244	Transportation, 1986 (H. Rept. 99-256)	Sept. 5	Sept. 12	Oct. 4	Oct. 23	Oct. 30				
H.J. Res. 388	Continuing, 1986 (H. Rept. 99-272)	Sept. 17	Sept. 18	Sept. 24	Sept. 25				Sept. 30	99-103
H.R. 3327	Military Construction, 1986 (H. Rept. 99-275)	Sept. 18	Oct. 17	Oct. 31	Nov. 7	Nov. 13	Nov. 20	Nov. 21	Dec. 10	99-173
H.R. 3424	Labor, Health, Human Services; 1986 (H. Rept. 99-289)	Sept. 26	Oct. 2	Oct. 4	Oct. 22	Nov. 5	Dec. 5	Dec. 6	Dec. 12	99-178
H.R. 3629	Defense, 1986 (H. Rept. 99-332)	Oct. 24	Oct. 30	Nov. 6						
H.J. Res. 441	Continuing, further, 1986		Nov. 12		Nov. 13				Nov. 14	99-154
H.J. Res. 465	Continuing, further, 1986 (H. Rept. 99-403)	Nov. 21	Dec. 4	Dec. 5	Dec. 10	Dec. 11 Dec. 17	(*) Dec. 19	Dec. 19	Dec. 19	99-190
H.J. Res. 476	Continuing, further, 1986		Dec. 12		Dec. 12				Dec. 13	99-179
H.J. Res. 491	Continuing, further, 1986		Dec. 17		Dec. 17				Dec. 17	99-184

\* S. Con. Res. 32 became the budget vehicle subject to a House-Senate conference. \* House receded from its amendment and concurred with a further amendment Aug. 1, 1985. \* Senate concurred in further House amendment Aug. 1 (Legislative day of July 16), 1985. \* House receded and concurred with amendments in Senate amendments Nos. 1 and 2 Nov. 1, 1985. \* Senate agreed to House amendments with amendments Nov. 2, 4, 6, 1985. \* House disagreed to Senate amendments and asked for further conference Nov. 6, 1985. \* Vetoed Nov. 15, 1985. In House, referred to Appropriations Nov. 19, 1985. \* H.R. 2777 passed House Dec. 10, 1985. Pursuant to H. Res. 331, H.R. 2005 became the vehicle subject to a House-Senate conference. \* House rejected conference report Dec. 16, 1985. \* Laid on the table Dec. 4 (Legislative day of Dec. 2), 1985.

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill Resolution No. : HJP 51  
 Title : Relating to Coast Guard  
User Fees  
 \_\_\_\_\_  
 Sponsor : SUND  
 Requestor : \_\_\_\_\_  
 Date of Request : 2/14/86

**FISCAL DETAIL**

Agency Affected : \_\_\_\_\_  
 BRU : \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

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

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

**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

Prepared by : Representative Katie Hurley Phone : 465-4963  
 Division : House State Affairs Committee Date : 2/14/86

Approved by <sup>Chair</sup> Katie Hurley Date : 2/14/86  
 Agency : House State Affairs Committee

Distribution (by Agency preparing fiscal note) :

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

HR 1936  
S. 1318

D R A F T   B I L L

To authorize the Secretary of the department in which the Coast Guard is operating to establish fees for certain Coast Guard services and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard User Fee Authorization Act of 1985".

Sec. 2. (a) At the end of part I of title 14, United States Code, add the following new chapter:

"CHAPTER 19 -- USER FEES

"Sec.

671. Definitions.

672. User fee authority.

673. Establishment of fees.

674. Collection of fees.

675. Treatment of receipts.

676. Annual search and rescue certification.

677. Exemptions.

678. Liability of the United States not altered.

679. Penalties.

"§ 671. Definitions

"In this chapter -

"(1) "associated equipment" -

"(A) means -

"(i) a system, accessory, component, or appurtenance of a recreational boat; or

"(ii) a marine safety article intended for use on board a recreational boat; but

"(B) does not include radio equipment.

"(2) "offshore facility" means any artificial island, installation, or other device permanently or temporarily attached to the seabed of the United States Outer Continental Shelf, which is erected thereon for the purpose of exploring for, developing, or producing resources therefrom.

"(3) "operating expenses" means costs incurred by the Coast Guard as necessary expenses for its operation and maintenance.

"(4) "owner" means a person who claims lawful possession of a vessel, facility, or terminal by virtue of legal title or equitable interest therein which entitles that person to such possession.

"(5) "recreational boat" means any vessel that is operated only for pleasure use.

"(6) "recreational boat and associated equipment manufacturer" means any person engaged in

"(A) the manufacture, construction, or assembly of recreational boats or associated equipment; or

"(B) the manufacture or construction of components for recreational boats and associated equipment to be sold for subsequent assembly; or

"(C) the importation into the United States for sale of recreational boats, associated equipment or components thereof.

"(7) "terminal" -

"(A) means -

"(i) a pier, wharf, dock, similar structure, or area of land to which a vessel is or may be secured;

"(ii) an area of land, water, or land and water under and in immediate proximity to a pier, wharf, dock, similar structure, or area of land to which a vessel is or may be secured;

"(iii) any building on or contiguous to a pier, wharf, dock, similar structure, or area of land to which a vessel is or may be secured;

"(iv) any equipment and materials on a pier, wharf, dock, or similar structure, or area of land to which a vessel is or may be secured, or in a building that is on or adjacent to such a structure or land; and

"(v) a deepwater port; but

"(B) does not include facilities operated by the Department of Defense.

"§ 672. User fee authority

"(a) The Secretary, in consultation with affected Federal agencies, may establish a system of fees to recover that portion of the related operating expenses of services, which primarily benefit the users of the services and are beyond those benefits that accrue to the public at large, that are provided or made available by the Coast Guard to -

"(1) the owners, operators, or persons in charge of

"(A) vessels,

"(B) terminals, or

"(C) offshore facilities;

"(2) individuals who are licensed, certificated, or issued merchant mariners' documents by the Coast Guard;

"(3) recreational boat and associated equipment manufacturers;

"(4) manufacturers of materials and equipment approved by the Coast Guard; and

"(5) other users of Coast Guard services.

"(b) In addition to the operating expenses relating to the services authorized to be recovered under this subsection, the Secretary may also recover reasonable administrative and enforcement costs associated with this chapter.

"(c) The operating expenses of the following Coast Guard programs may not be included in the operating expenses to be recovered -

"(1) Enforcement of Laws and Treaties.

"(2) Polar Ice Operations.

"(3) Defense Readiness.

"(4) Waterways management.

(d) The fee schedule prescribed by this section may not conflict with the international obligations of the United States.

"§ 673. Establishment of fees

"(a) The Secretary shall issue regulations to carry out this chapter, including fee schedules.

"(b) The Secretary shall consider the following factors in establishing fees for Coast Guard services -

"(1) the costs of providing the services, excluding that portion of the costs that primarily benefits the public at large rather than the actual users of the service;

"(2) the number of vessels, terminals, offshore facilities, and persons affected;

"(3) the costs of administering and enforcing the collection of fees; and

"(4) the equity and economic impact of the charges to be imposed.

"§ 674. Collection of fees

"(a) The Secretary may collect fees from:

"(1) the owner, operator, or person in charge of -

"(A) a vessel (other than a public vessel) operating in or on waters subject to the jurisdiction of the United States,

"(B) a terminal, located on or adjacent to waters subject to the jurisdiction of the United States, or

"(C) an offshore facility;

"(2) individuals who are licensed, certificated, or issued merchant mariners' documents by the Coast Guard;

"(3) recreational boat and associated equipment manufacturers;

"(4) manufacturers of materials and equipment approved by the Coast Guard; and

"(5) other users of Coast Guard services.

"(b) The Secretary may employ any federal, state, or local agency or instrumentality, or private enterprise or business, to collect fees established under this section. These fee collection services, which shall not include the institution of litigation, may be provided under such reasonable terms and conditions, including reimbursement with proper accounting to the Secretary, as the Secretary and such agency or business agree.

"§ 675. Treatment of receipts

Amounts collected pursuant to this Act shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating, ascribed to Coast Guard activities.

"§ 676. Annual search and rescue verification

"There shall be an annual verification by the Secretary that the amounts spent on Coast Guard search and rescue activities are not less than the amounts collected annually for such purposes.

"§ 677. Exemptions

"The Secretary may grant exemptions from any provision of this chapter or any regulations issued under this chapter.

"§ 678. Liability of the United States not altered

"The collection of fees for Coast Guard services shall not alter or expand the duties and liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time and place.

"§ 679. Penalties

"(a) The owner, operator, or person in charge of a recreational boat who fails to pay a fee prescribed under section 672 of this title is liable to the United States Government for a civil penalty of not more than \$5000 for each occurrence, in addition to any fee imposed.

"(b) The owner, operator, or person in charge of a vessel (other than a recreational boat), terminal, offshore facility, any recreational boat or associated equipment manufacturer; manufacturer of materials or equipment approved by the Coast Guard; or other user of Coast Guard services who fails to pay a fee prescribed under section 672 of this title is liable to the United States Government for a civil penalty of not more than \$25,000 or two times the fee, whichever is greater, for each occurrence, in addition to any fee imposed.

"(c) Any individual licensed, certificated, or issued a merchant mariners' document by the Coast Guard who fails to pay a fee prescribed under section 672 of this title is liable to the United States Government for a civil penalty of not more than \$5000 for each occurrence, in addition to any fee imposed.

"(d) Any person who fails to comply with a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$5000 for each violation.

"(e) The vessel of any owner, operator, or person in charge who fails to pay a fee or penalty, or who fails to comply with a regulation prescribed under this chapter, also is liable in rem for the fee and any civil penalty assessed under this

section, and may be proceeded against in the United States District Court of any district in which the recreational boat or other vessel may be found.

"(f) A certificate, license, permit, approval, or document issued by the Coast Guard is invalid until all required fees have been paid to the United States Government.

"(g) After notice and an opportunity for a hearing, a person found by the Secretary to have violated this chapter or a regulation prescribed under this chapter for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(h) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this chapter until the assessment is referred to the Attorney General.

"(i) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

"(j) The Secretary may deny entry to a port or place subject to the jurisdiction of the United States to a vessel if any required fees have not been paid.

"(k) When requested by the Secretary, the Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States, as amended, (46 App. U.S.C. 91) to the vessel until the fee assessed for Coast Guard services is paid or until a bond is posted for the payment thereof."

(b) The analysis of part I of title 14, United States Code, which is located immediately before chapter 1, is amended by adding at the end the following new item:

"19. User Fees.....671".

Sec. 3. Conforming amendments

(a) Subsection I of the Ship Mortgage Act, Sec. 30 of the Act of June 5, 1920, c. 250, 41 Stat. 1002 (46 App. U.S.C. 927), as amended by the Act of September 16, 1966 (Public Law 89-582, 80 Stat. 795) is amended by striking out the third and fourth sentences.

(b) Section 2110 of Title 46, United States Code (P.L. 98-89, August 26, 1983), is repealed.

## STATEMENT OF PURPOSE AND NEED

The purpose of this bill is to amend Title 14, United States Code, to authorize the recovery of a proportion of the operating expenses incurred in providing certain Coast Guard services. The recovery of the Federal costs of providing services from those who primarily benefit from them has long been established and accepted as sound public policy.

Two major concepts underlie this cost recovery principle. One concerns fairness and equity in the distribution of the Federal tax burden. Those who obtain special services from the government above and beyond those that accrue to the public at large or who use government funded facilities should pay for them; those who do not should not be expected to share the cost. The second has to do with efficiency. For the market to operate as an efficient allocator of resources, the prices of goods and services should reflect their costs. The basic purpose of this legislation is to allocate the costs of providing certain Coast Guard services to those who primarily benefit from them.

User fees are a widely accepted, equitable means of supporting public programs and services. For many years user fees have been the principal means of supporting other transportation

programs. In the 1986 budget, President Reagan proposed to increase or institute numerous types of user fees, including those for certain Coast Guard services.

This proposal would authorize the Secretary of the department in which the Coast Guard is operating to collect from users the operating expenses proportionately allocable to the users of the following Coast Guard services:

1. Search and rescue;
2. Short range aids to navigation;
3. Radionavigation aids;
4. Domestic icebreaking;
5. Commercial vessel safety;
6. Recreational boating safety;
7. Port and environmental safety;
8. Marine environmental response; and
9. Bridge administration.

User fees would be charged only for Coast Guard services which relate to specific, identifiable persons or classes of users. Among the user groups which would be affected by user fees authorized under this legislation are persons who are issued certificates, permits, approvals, licenses, and documents by the Coast Guard and the owners, operators, and persons in charge of:

1. Commercial vessels, both U.S. and foreign flag;
2. Mobile off-shore drilling units and fixed off-shore structures;
3. Recreational boats that operate on waters subject to the jurisdiction of the United States; and
4. Terminals subject to Coast Guard inspections.

Based on a detailed analysis of the programs for which recovery would be sought, the expenses of the programs would be collected on a proportional basis from the various individual users or user groups, either as a charge for a specific service, when the user of the service is directly identifiable, or by an indirect charge in the form of an annual or biennial fee. Every reasonable effort would be made to make the fee

schedules equitable and reflective of the actual expenses incurred by the Coast Guard to provide a specific service or benefit to a particular user or class of users.

In response to concerns that have been raised about previous Coast Guard user fees proposals, the bill includes an accounting of the amounts collected and spent on search and rescue activities. This is designed to demonstrate that the amounts collected from marine users for this purpose do not exceed the costs of providing the services to those users.

Although all Coast Guard services benefit at least portions of the public at large in one way or another, there are some that clearly contribute to the general welfare, with little or no identifiable benefit to specific users. Those will not be subject to cost recovery. Activities to be excluded under this concept are as follows:

1. Enforcement of laws and treaties;
2. Polar ice operations;
3. Defense readiness;
4. Waterways management.

The Coast Guard currently collects as direct charges for Coast Guard services, or receives from user taxes, approximately \$ 16.8 million, less than 1% of its operating budget, from the following sources:

Motorboat fuel tax for recreational boating safety operating expenses .	\$ 15.0 million
Fees for yacht documentation	1.3 million
Fees for issuing certificates of financial responsibility to vessels	.5 million
Marking wrecks and obstructions to navigation	less than .1 million
Total	16.8 million

In addition to the fees currently generated, the Coast Guard, under section 9701 of title 31, U. S. Code, and sections 3317, 3506, and 7114 of title 46, U. S. Code, is authorized to collect additional user fees for the following Coast Guard services:

1. Permits for private aids to navigation;
2. Domestic icebreaking at the specific request of a user;
3. Inspection and examination of small passenger vessels and sailing school vessels;
4. Issuance of certificates, licenses, or permits related to small passenger vessels and sailing school vessels;
5. Providing required copies of laws to passenger vessels;
6. Material and equipment approvals and factory inspections;
7. Inspection of Outer Continental Shelf facilities;
8. Facility inspections;
9. Cargo of particular hazard inspections;
10. Issuance of regatta permits; and
11. Providing regatta patrols.

The proposed legislation will incorporate the above items and will thus result in all categories of users paying for similar services.

It is the policy of the Coast Guard to encourage private commercial provision of certain services which are currently provided by the Coast Guard. To this end, the Coast Guard has sought to establish formal agreements which would delegate specific authority to discharge certain Coast Guard functions to such organizations as the American Bureau of Shipping and the National Cargo Bureau. Examples of authority which the Coast Guard has delegated or might delegate in the future are new construction plan review and inspection of vessels, vessel measurement, Outer Continental Shelf inspection, load line examinations, and other program responsibilities that would lead to the minimization of direct governmental involvement in the maritime industry. Where delegation takes the place of the authority to provide services which are subject to user fees, the Coast Guard will terminate or reduce those fees when the service is performed and financed by the private sector.

However, it is difficult to shift much of the work to the private sector when the Coast Guard is charged with providing the same service at no cost to the user as a result of the

prohibition against charging fees in section 2110 of title 46, U. S. Code. The elimination of this prohibition would permit the delegation of additional services to the private sector.

An evaluation of Coast Guard programs for which expenses may be assessed under this proposed legislation results in the following estimates:

5 YEAR PROPOSED NET RECEIPTS  
BY FISCAL YEAR  
(In Millions of 1986 Dollars)

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
NET RECEIPTS	236	476	476	476	476

Thus, the expenses for which recovery authority is sought represent approximately 13% of all Coast Guard operating expenses, and 9% of the total estimated Coast Guard budget for FY 1986.



# 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 Smith  
Signature of Camera Operator

11/24/89  
Date

HJR

53

Alaska State Legislature

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MEMBER  
HOUSE RESOURCES COMMITTEE  
MEMBER  
HOUSE STATE AFFAIRS COMMITTEE

Representative Roger Jenkins

DISTRICT 11

February 25, 1986

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chairman  
Senate Resource Committee

FROM: Representative Roger Jenkins *Roger Jenkins*

SUBJECT: HJR 53 - Relating to the United States and Soviet Union  
boundary dispute and the resources in the area  
under dispute.

Enclosed is a copy of HJR 53 and related backup for your review.  
I thank you for scheduling the bill on March 7, 1986, and I  
appreciate your consideration in selecting such an early date.

The specific Bering Sea boundary dispute relates to the difference  
between the "straight rhumb line" on a flat map the (USSR position  
and the "curved great circle route" on a globe (US position) as an  
interpretation of the 1867 convention line.

It is my hope that this resolution will help prevent the giveaway  
of a valuable resource area.

Enclosures

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1. HJR 53
2. Letter with enclosures from Senator Frank H. Murkowski dated July 10, 1986
3. Fact Sheet with background attachment on the International Boundary Study dated October 1, 1965
4. Research paper prepared by the House Research Agency dated February 4, 1985
5. Magazine article entitled, "Where Superpowers are 55 Miles Apart: A Boundary Dispute Waiting to Happen," from the National Journal dated 8/7/82
6. Magazine article entitled, "U.S., Soviets Share Claims To Bering Sea," from the Offshore dated April, 1983
7. Map Navarin Basin disputed area.
8. Report from Stockholders for World Freedom dated October 20, 1984
9. Newspaper Article entitled, "Why should we give the Soviets oil-rich turf?" from The Washington Times dated January 18, 1985
10. Newspaper Article entitled, "Why hand oil over to the Soviets?" The Washington Times dated July 4, 1985
11. Newspaper Article entitled, "Groups Oppose Giving Soviets Wrangel, Four Other Islands," All-Alaska Weekly, dated June 14, 1985
12. The Alaska Economic Report article entitled, "Bering Sea 'OCS REPORT'" dated February 28, 1985
13. Press Release by The Conservative Caucus which provides background on the boundary dispute
14. Newspaper Articles entitled, "Soviets harass oil drillers working in Navarin Basin," and "Oil firms to appeal drilling ban," and "An oil prospect by any other name...", Anchorage Daily News dated October, 1985

15. Report from The Stockowners' News dated October 1985
16. Newspaper article entitled, "Alaska fears U.S. giveaway of oil reserve Soviets covet," The Washington Times
17. Paper from California Academy of Sciences on the Discovery of Wrangel Island by Samuel L. Hooper published 1956
18. Map Oil & Gas Resources of Alaska which includes references to the disputed areas
19. Newspaper article entitled, "Lawmakers turn attention to international disputes," Juneau Empire dated February 20, 1986

7

Introduced: 5/12/85  
Referred; Resources

BY JENKINS, THOMPSON, HANLEY,  
BINKLEY, COLLINS, DAVIS, FRANK,  
FURNACE, GRUENBERG, MARROU,  
M.W.MILLER, PEARCE, PIGNALBERI,  
RONGSTAD, SHULTZ, TAYLOR AND  
UEHLING

1 IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 53

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

Relating to the United States and Soviet  
Union boundary dispute and the resources  
in the area under dispute.

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

9 WHEREAS the Navarin Basin oil and gas lease sale in April 1984, re-  
10 sulted in total accepted bids of \$631,200,000, of which \$108,174,000 was  
11 for an area claimed by the Soviet Union; and

12 WHEREAS the winning bidders for the 17 tracts in the area claimed by  
13 the Soviet Union not only are precluded from exploring for oil and gas in  
14 these valuable seabed areas, but their bid deposit money is being held in a  
15 suspense account by the U.S. Department of the Interior and is yielding  
16 only the U.S. Treasury rate of return; and

17 WHEREAS there are hundreds of American jobs at stake at the drilling  
18 sites and at industry support sites; and

19 WHEREAS the question of territorial jurisdiction also has implications  
20 for bottom fishery operations for American fishermen; and

21 WHEREAS the normal depiction of lines on the globe are by the arc of a  
22 great circle, especially when they involve great distances in the open  
23 ocean, such as the 1867 Convention Line marking the boundary between the  
24 United States and Russia; and

25 WHEREAS the U.S. Department of State's International Boundary Study  
26 #14 ("U.S. - Russia Convention Line of 1867"), which was published in 1965,  
27 depicted the 1867 Convention Line by arcs of a great circle; and

28 WHEREAS discussions have been conducted between the U.S. Department of  
29 State and the Soviet Government over this issue since 1981, with the latest

1 round being held in Moscow on July 23 and 24, 1984, with the American  
2 delegation led by Davis R. Robinson, the Legal Adviser of the U.S. Depart-  
3 ment of State; and

4 WHEREAS Article IV, Sec. 3 of the United States Constitution provides  
5 that "The Congress shall have power to dispose of and make all needful  
6 rules and regulations respecting the territory or other property belonging  
7 to the United States"; and

8 WHEREAS the western-most limit to the oil and gas leasing program of  
9 the U.S. Department of the Interior for the Outer Continental Shelf in the  
10 Bering Sea has been set by the U.S. Department of State at the U.S. -  
11 Russia Convention Line of 1867; and

12 WHEREAS the leasing program involving the 1867 Convention Line in the  
13 Bering Sea includes the Navarin Basin and the Norton Basin; and

14 WHEREAS there are highly significant oil and gas deposits estimated by  
15 the U.S. Department of the Interior in these basins; and

16 WHEREAS these potential hydrocarbon energy deposits are a vital part  
17 of the future energy production for the United States and its goal of  
18 energy independence; and

19 WHEREAS the leasing schedule for sales of oil and gas includes the  
20 Navarin Basin in April 1984 and March 1986, the St. George Basin in May  
21 1985 and April 1987, and the Norton Basin in December 1985; and

22 WHEREAS the area is estimated to contain approximately 100,000 tons of  
23 sustainable yield of pollock that is presently being fished exclusively by  
24 foreign fishing fleets; and

25 WHEREAS during the announcement of the Navarin Basin's April 1984  
26 sale, the U.S. Department of the Interior revealed that the Soviet Union  
27 was demanding part of the Outer Continental Shelf in the Navarin Basin and  
28 that the U.S. Department of State was requiring that the proposed oil and  
29 gas lease sales in the area claimed by the Soviet Government be held in

1 abeyance, that is, the bids received and retained but the leases not award-  
2 ed until the matter is resolved; and

3 WHEREAS the Federal Register announcement described the dispute as  
4 follows:

5 "The differing claims relate to differing depictions of the line  
6 established by the 1867 Convention Ceding Alaska between the United  
7 States and Russia. The United States depicts the 1867 Convention Line  
8 as the maritime boundary by arcs of a great circle while the Soviet  
9 Union depicts the 1867 Convention Line as rhumb lines."; and

10 WHEREAS the area of the Outer Continental Shelf demanded by the Soviet  
11 Union between the arc-of-a-great-circle and the rhumb-line depictions in  
12 the Bering Sea amounts to approximately 18,000 square miles; and

13 WHEREAS an agreement to concede this area to the Soviet Union would  
14 contribute to the petroleum production and bottom fishery potential of the  
15 Soviet Union;

16 BE IT RESOLVED that the Alaska State Legislature finds that it is in  
17 the best interests of the United States and of the State of Alaska that the  
18 U.S. Department of State not yield to the demands of the Soviet Union to  
19 set the western-most Outer Continental Shelf limit of the United States in  
20 the Bering Sea by a rhumb-line depiction rather than the arc-of-a-great-  
21 circle depiction of the U.S. - Russia Convention Line of 1867; and be it

22 FURTHER RESOLVED that this resolution not be construed as a commentary  
23 upon the merits of the use of the U.S. - Russia Convention Line of 1867 as  
24 the maritime boundary between the United States and the Soviet Union but be  
25 understood as the sentiments of the State of Alaska on the interests of the  
26 United States in adhering to the arc-of-a-great-circle depiction in the  
27 diplomatic discussions regarding the question; and be it

28 FURTHER RESOLVED the United States Department of State is urged to  
29 adopt a firm stance and aggressively pursue a resolution of the Bering Sea

1 Boundary dispute favorable to the interests of the government and the  
2 people of the United States.

3 COPIES of this resolution shall be sent to the Honorable Ronald  
4 Reagan, President of the United States, to the Honorable George Bush,  
5 Vice-President of the United States and President of the U.S. Senate; to  
6 the Honorable George Shultz, Secretary of State; to the Honorable Donald  
7 Hodel, Secretary of the Interior; and Mr. William Bettenberg, director,  
8 Minerals Management Service; to the Honorable John S. Herrington, Secretary  
9 of Energy; to the Honorable Malcom Baldrige, Secretary of Commerce; to the  
10 Honorable Walter B. Jones, Chairman, House Committee on Merchant Marine and  
11 Fisheries; to the Honorable John C. Danforth, Chairman, Senate Committee on  
12 Commerce, Science and Transportation; and to the Honorable Ted Stevens and  
13 the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,  
14 U.S. Representative, members of the Alaska delegation in Congress.

FRANK H. MURKOWSKI  
ALASKA

2

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COMMITTEE ON ENERGY AND  
NATURAL RESOURCES  
COMMITTEE ON FOREIGN  
RELATIONS  
COMMITTEE ON VETERANS'  
AFFAIRS  
SELECT COMMITTEE  
ON INDIAN AFFAIRS  
SELECT COMMITTEE  
ON INTELLIGENCE

## United States Senate

WASHINGTON, DC 20510

July 10, 1985

The Honorable Roger Jenkins  
P. O. Box 6727  
Anchorage, Alaska 99502

Dear Roger:

I was sorry to miss you when you stopped by my Washington office on June 14th. My aide, Tom Roberts, relayed your comments on the issue of the U.S.-U.S.S.R. maritime boundary to me. I want to commend you on the Resolution you introduced in the State Legislature regarding the discussions on our maritime boundary and I appreciate your contacting me about this issue. This letter is to let you know I am also concerned about the issue and to share with you the information I have on the subject.

As you know, since 1981 the United States and the Soviet Union have held four rounds of discussions on the line established by the 1867 U.S.-U.S.S.R. Convention ceding Alaska. U.S. participation in these discussions has involved extensive coordination with all concerned governmental agencies. These talks are largely technical, involving the determination of how the line should be drawn, in arcs of great circles, as the U.S. has been drawing it or in rhumb lines, as the Soviets have been interpreting it.

The question of Soviet sovereignty over the five islands is not connected to the boundary negotiations over the Convention Line and the Navarin Basin. I am in regular contact with officials who are negotiating this maritime boundary matter, and have received a briefing from the Conservative Caucus, the organization that asserts that the U.S. should claim sovereignty over the islands. I have had the Congressional Research Service and the Senate Intelligence Committee research the topic and have found the following to be the facts:

With regard to the islands, Henrietta, Jeannette, Bennett, Wrangel, and Herald, have been considered by both countries to be on the Soviet side of the U.S.-Russia Convention Line of 1867. They are not being claimed by the United States and are not being discussed in the ongoing talks. For your information, I have enclosed a copy of the brief that the State Department prepared for me explaining the history of sovereignty claims of the islands. During a recent State Department briefing, it was pointed out that the U.S. never made an objection when the Soviets formally claimed these islands in the 1920's nor at any time thereafter. Although the U.S. has never officially recognized the Soviet claim, we have never claimed the islands, either.

The Honorable Roger Jenkins  
July 10, 1985  
Page Two

Regarding the Navarin Basin issue, after carefully studying the issue, the State Department believes that keeping the 1867 Convention line best furthers the full range of U.S. interests, including the maximization of our resource interests in the Basin. As you know, the Department of Interior has proceeded with taking bids for leases in the Navarin Basin and is holding the bids in escrow for five years pending settlement of the discussions on the Convention line. Exploratory drilling is taking place this summer in the Navarian area. The majority of the Navarin Basin is currently on the U.S. side of the Convention line, and the State Department has let me know in briefings that their object in participating in the discussions is to keep it that way. I trust that you will recognize that in the context of current U.S.-Soviet relations, it is crucial that this matter be handled carefully. It appears to me, however, that the American officials conducting these talks are fully aware of the historic and strategic interest involved in the boundary area, such as you detail in your resolution.

I will continue to monitor the talks to ensure that any agreement reached reflects U.S. and Alaskan interests. Please be assured that I will not support any agreement which illegally or unjustly cedes U.S. territory.

With warmest personal regards,

Sincerely,



Frank H. Murkowski  
United States Senator

cc: Cosponsors of Alaska Legislature H.J.Res. 53

Enclosure

FRANK H. MURKOWSKI  
ALASKA

COMMITTEE ON ENERGY AND  
NATURAL RESOURCES  
COMMITTEE ON FOREIGN  
RELATIONS  
COMMITTEE ON VETERANS'  
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ON INDIAN AFFAIRS  
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# United States Senate

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July 10, 1985

The Honorable George P. Shultz  
Secretary of State  
Department of State  
Washington, D.C. 20520

Dear Secretary Shultz:

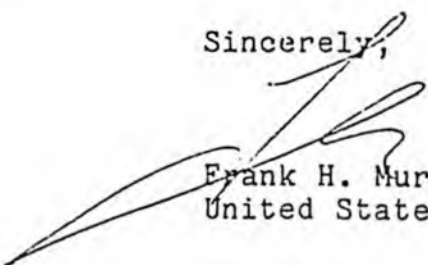
I am enclosing a resolution (HJR 53) that has recently been introduced in the Alaska House of Representatives regarding the ongoing discussion between the United States and the Soviet Union over the maritime boundary between the two countries. This resolution has been cosponsored by 17 of the 40 members of the State House.

I would appreciate it if you would provide a full, up-to-date situation paper on the issue to the Alaska representatives who have cosponsored this resolution. Additionally, I am requesting the details in the Lomen Brothers' foreign claims case. These were the Alaskan businessmen who lost property in the Soviet invasion of Wrangel Island in 1924. The interests in this claims case were sold to Mr. Mark Seidenberg in 1976.

Thank you for your prompt attention to this matter. I look forward to your reply.

With best wishes,

Sincerely,

  
Frank H. Murkowski  
United States Senator

Enclosure: Alaska Legislature House Joint Resolution 53

cc: Cosponsors of Alaska Legislature House Joint Resolution 53

Ms. Liz Verville  
Office of the Legal Adviser

## WRANGEL ISLAND

Wrangel Island is an island of approximately 3,700 square miles found in the Chukchi Sea, north of Siberia, approximately 200 nautical miles west of the line established by the 1867 Russia-United States Convention Ceding Alaska. (This island is not to be confused with Wrangell Island in the Alexander Archipelago of southeast Alaska.) Although U.S. citizens were reportedly involved in the early exploration and discovery of Wrangel Island and the island was listed in some early publications such as the U.S. Geological Survey's 1906 Geographic Dictionary of Alaska, extensive research by the Department of State has not produced any evidence that the United States has ever formally asserted a claim to Wrangel Island, protested Russian and Soviet claims dating from 1916 and 1924, respectively, or protested Soviet occupation of the island dating from 1924.

Wrangel Island is named for the Russian explorer Baron von Wrangell (or Wrangel), who unsuccessfully attempted to locate this island in the early 1800's. Dates of discovery of the island are variously listed as 1849 by a British ship, the H.M.S. Herald and 1881 by Captain Hooper of the U.S. Navy vessel Corwin. The British crew of the Herald reportedly saw Wrangel Island but did not land on it. After several attempts to land on the island by other American vessels and whaling ships, Captain Hooper is reported to have landed on the island and raised the American flag in 1881. Later in 1881, the crew of another U.S. vessel, the Rodgers, also reportedly landed on the island and mapped it.

In 1911, a crew from the Russian vessel, the Vaigach, reportedly landed on the island, surveyed it and erected a beacon which served as an astronomical positioning station. This led to a formal claim to the island by the Russian Government in 1916. The United States reportedly acknowledged receipt of the Russian note but made no substantive response.

In the early 1920's the Arctic explorer Vilhjalmur Stefansson reportedly formed a Canadian company and under its auspices organized a private expedition to occupy Wrangel Island, apparently with the intention of establishing British or Canadian sovereignty. Several successive Stefansson expeditions, including some U.S. citizens, occupied Wrangel Island. Stefansson, however, was unable to interest either the Canadian Government or the British Government in asserting a claim.

After having attempted to assert its claim to Wrangel Island by requiring a 1923 relief ship to call at a Soviet port on its way to Wrangel Island, the Soviet Union in 1924 formally asserted a claim to Wrangel Island by diplomatic note transmitted to the United States and other countries. Extensive research has not produced any evidence of a U.S. reply to this note.

In 1924, an American company, Lomen Bros., of Nome, Alaska reportedly purchased whatever rights the Stefansson group had acquired in Wrangel Island. Representative Sutherland of Alaska wrote to Secretary of State Hughes informing him of the purchase and asked what attitude the United States Government was likely to assume in the matter of sovereignty over the island. In July, 1924, the Acting Secretary of State replied that the Department did not desire to express an opinion respecting the question of the international status of Wrangel Island and that the Department also refrained from expressing approval or disapproval of a project which, it understood, was entirely commercial in nature.

In August, 1924, the crew of the Soviet vessel Red October arrived on Wrangel Island, hoisted the Soviet flag and transported the occupants to Siberia. Since that time, the Soviet Union has occupied Wrangel Island. In addition, the Soviet Union reasserted a formal claim to the island in 1926 via a decree transmitted to the United States and other governments. In the early 1940's, the Senate considered resolutions requesting reports from the Secretary of State concerning whether or not the United States had a valid claim to sovereignty over Wrangel Island. In 1940 and 1941, the Secretary of State responded that the United States had not formally claimed sovereignty over Wrangel Island and that it was desirable to avoid raising the question of sovereignty.

Although the United States has never formally recognized Soviet sovereignty over Wrangel Island and has from time to time indicated that it has not formally relinquished any claim, extensive research has not produced evidence of any formal U.S. assertion of a claim to the island, or of any U.S. protest of the Soviet claims to or occupation of the island.

## HERALD, BENNETT, HENRIETTA AND JEANNETTE ISLANDS

Herald Island is an island of approximately 10 square miles located in the Chukchi Sea, north of Siberia, near Wrangel Island. Bennett, Henrietta and Jeannette Islands have areas of approximately 64, 5 and 7 square miles, respectively, and are located in the East Siberian Sea north of Siberia. Herald Island was reportedly discovered by a British Captain, Captain Kellett, in 1849. Bennett, Henrietta and Jeannette islands were reportedly discovered by the crew of the U.S. vessel Jeannette in 1881, although the vessel apparently only sighted but did not land on Jeannette Island. Although these islands were apparently listed in the 1906 Geographic Dictionary of Alaska, and some may have been listed in some subsequent publications of a similar nature, extensive research has not produced any evidence that the United States Government has ever formally asserted a claim to any of these islands or protested Russian or Soviet claims (from 1916 and 1924 respectively) or activities with respect to the islands.

A brief description of events with regard to each of these islands follows.

### Herald Island

After the British discovery of Herald Island in 1849, the crews of several U.S. vessels reportedly landed on the island, including crews of the Vincennes in 1855 and Corwin and Rodgers in 1881. Perhaps because the crews were aware of the British discovery, none of them are reported to have claimed the island for the United States.

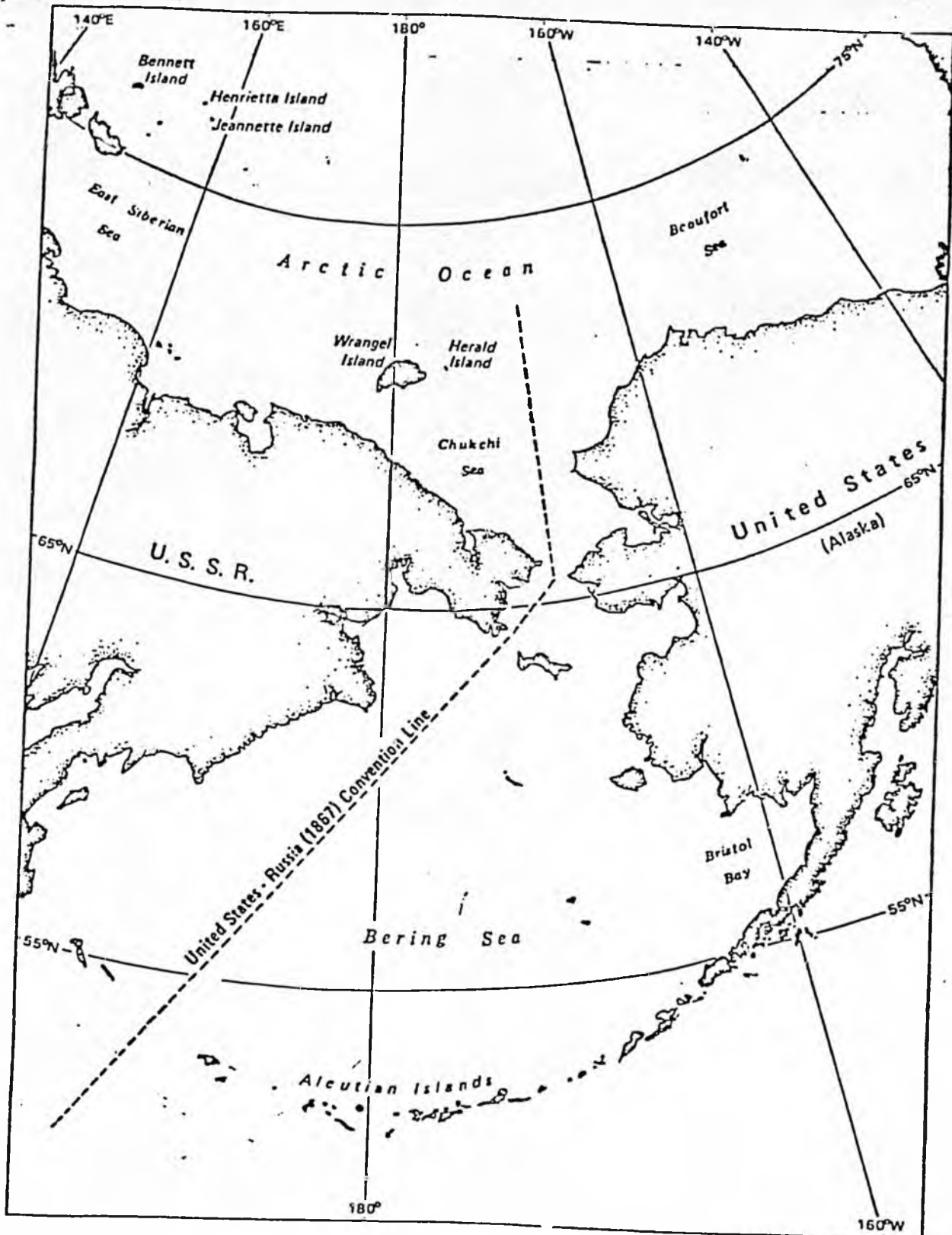
In 1916, the Russian Government formally asserted a claim to Herald Island via diplomatic note. The United States reportedly acknowledged receipt of the note but made no substantive response. In 1924, there were press reports that two U.S. citizens had landed on Herald Island and claimed it for the United States. The State Department responded to a 1926 Congressional inquiry concerning the expedition by stating that the Department was not prepared to make any statement with regard to the international status of the island.

In 1924 and 1926 the Soviet Government asserted claims to Herald Island by diplomatic note and decree, respectively, which were transmitted to the United States and other governments. In 1926 and again in 1934, crews of Soviet vessels are reported to have landed on the island and planted the Soviet flag. Although the United States has never formally recognized Soviet sovereignty over Herald Island, extensive research has produced no evidence of a U.S. claim to the island or of any U.S. protest of Soviet claims or activities.

Bennett, Henrietta and Jeannette Islands

Crews of several Russian ships reportedly landed on Bennett Island in 1902 (when a Russian expedition is reported to have stayed for approximately three and a half months) and 1913. In addition, in 1914, the Russian crew of the vessel Vaigach is reported to have received orders to survey Henrietta and Jeannette islands and to hoist the Russian flag; however, ice apparently prevented the expedition from carrying out these orders. Thereafter, in 1916, the Russian Government asserted a claim to all of these islands by diplomatic note. The United States is reported to have acknowledged receipt of the note but no evidence has been found of a substantive reply.

In 1924 and again in 1926, the Soviet Government also asserted claims to these islands by diplomatic note and decree, respectively. Research has produced no evidence of U.S. response to these claims. In 1937, the Soviet vessel Sadko is reported to have visited all the islands and to have raised the Soviet flag on Henrietta and Jeannette islands. In addition, in 1956, a Soviet expedition reportedly reached Bennett Island by air and remained there for three to five months. Although the United States has never formally recognized Soviet sovereignty over any of these islands, extensive research has produced no evidence that the United States has ever formally asserted a claim to the islands or protested Soviet claims or activities with regard to them.



5816 10-84 STATE(GE)

# Here Are The Actual Facts On The So-called "Boundary Line" With The Soviets Next To Alaska:

In  
the  
State  
Dept.'s  
own  
words:

This International Boundary Study is one of a series of specific boundary papers prepared in the Office of the Geographer, Department of State, in accordance with provisions of Bureau of the Budget Circular No. A-16, Exhibit D.

Government agencies may obtain additional information and copies of the study by calling the Office of the Geographer, Room 8744, State Department Building, Department of State, Washington 25, D.C. (telephone: Code 182, Extension 4507).

## INTERNATIONAL BOUNDARY STUDY

No. 14 (Revised) October 1, 1965

### U.S. - RUSSIA CONVENTION LINE OF 1867

Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. According to Boggs<sup>1/</sup> "Most lines in water areas which are defined in treaties are not boundaries between waters under the jurisdiction of the contracting parties, but a cartographic device to simplify description of the land areas involved ...". He further describes such a line being a "line of allocation" of land. For example, all land areas to the east of the Convention line in question belong to the United States; to the west to the U.S.S.R. without regard to the water areas involved.

with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used. Furthermore, labeling of the line as "U.S. - Russia Convention of 1867" is recommended.

Furthermore, in keeping

<sup>1/</sup> Boggs, S.W., "Delimitation of Seaward Areas under National Jurisdiction," American Journal of International Law, Vol. 45, No. 2 April 1951, footnote 2, page 240.

*note: Mr. S. Willemore Boggs was the State Department's own Special Adviser on Geography.*

International Straits of the World  
Volume I "Northeast Arctic Passage"  
Published 1978, Sythoff & Noordhoff  
By William E. Butler, M.A., J.D., Ph.D  
Professor of Comparative Law, University of London  
Dean of Faculty of Law, University College, London

"The Russo-American Convention line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

*What could be plainer language about America's rights to her Alaskan oil-rich seabeds?*

This International Boundary Study is one of a series of specific boundary papers prepared in the Office of the Geographer, Department of State, in accordance with provisions of Bureau of the Budget Circular No. A-16, Exhibit D.

Government agencies may obtain additional information and copies of the study by calling the Office of the Geographer, Room 8744, State Department Building, Department of State, Washington 25, D.C. (telephone: Code 182, Extension 4507).

INTERNATIONAL BOUNDARY STUDY

No. 14 (Revised)

U.S. - RUSSIA CONVENTION LINE OF 1867

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The Geographer  
Office of Research in Economics and Science  
Bureau of Intelligence and Research

# The State Department's "1984" Version of U.S. Sovereignty Over Oil-Rich Seabeds in Bering Sea:

Federal Register / Vol. 49, No. 53 / Friday, March 18, 1984 / Notices

10065

16. Jurisdiction. The United States claims exclusive maritime resource jurisdiction over the area offered. The Soviet Union claims such jurisdiction over a portion of the area. The differing claims relate to differing depictions of the line established by the 1867 Convention Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arcs of great circles while the Soviet Union depicts the 1867 Convention Line as rhumb lines. Representatives of the United States and of the Soviet Union have had discussions in an effort to resolve their differences. It is anticipated that there will be further such discussions.

## Soviet boundary talks begin

WASHINGTON (AP) - A team of American diplomats began negotiations in Moscow Monday over the boundary between the two nations in the Bering Sea.

The exact line is in dispute because of differences in the way each country interprets the language of the 1867 convention under which the United States bought Alaska from Russia.

The boundary was described in the articles of the convention but no maps were attached. The United States believes the line is described by a great circle while the Soviet Union says it should follow a constant compass bearing.

The long-standing but generally dormant dispute was brought to the public's attention earlier this year when the U.S. held an oil and gas lease

sale which included tracts in the disputed area.

Although most oil companies stayed away from the area known as the Navarin Basin, a consortium of Shell and AMOCO offered \$100 million dollars for 18 tracts there. The government said before the sale it won't allow any exploration until it is determined who owns the ocean floor.

Although the federal government may decide at any time not to lease the disputed area . . . the companies won't be able to withdraw their bids or get their money back, with interest, for five years.

The decision to open the talks is seen by diplomatic observers as another in a series of steps taken in recent days by the Reagan administration to try to improve relations with the Soviet Union.

↑  
← This is the State Department's cover story -- and false premise. It doesn't even mention fighting for America's 200-mile economic zone on the oil-rich outer continental shelf!

Is this more important than America's energy independence and national sovereignty?

THE NOME NUGGET.

Nome, Alaska July 26, 1984

## I. U.S. - RUSSIA CONVENTION LINE OF 1867

Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. According to Boggs<sup>1/</sup> "Most lines in water areas which are defined in treaties are not boundaries between waters under the jurisdiction of the contracting parties, but a cartographic device to simplify description of the land areas involved ...". He further describes such a line being a "line of allocation" of land. For example, all land areas to the east of the Convention line in question belong to the United States; to the west to the U.S.S.R. without regard to the water areas involved.

Early in 1955, a group of U.S. cartographic experts in the ACC/MAP<sup>2/</sup>, after a rather long period of consultation and deliberation, issued the "Coordinate Positions for the Plot of U.S. - Russia Convention of 1867." This document, which is reproduced in part below, has been adopted as the standard description for the cartographic representation of the Convention line. Its re-issue in this series results from the large number of questions on the line which have been raised in recent months from offices unfamiliar with the original document.

## II. TREATY

The only treaty establishing a so-called "boundary" between the United States and the modern Union of Soviet Socialist Republics is the Convention Ceding Alaska concluded March 30, 1867 with ratification advised by the Senate on April 9, 1867 and proclaimed by the President on June 30, 1867. The Convention line, as given below, marks the limit, to the east of which, the Emperor of Russia ceded all territory or claims to territory in North America. The 1867 Convention's territorial article on the western limits of the Alaskan cession reads as follows:

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly

<sup>1/</sup> Boggs, S.W., "Delimitation of Seaward Areas under National Jurisdiction," American Journal of International Law, Vol. 45, No. 2 April 1951, footnote 2, page 240.

<sup>2/</sup> The Map Sub-Committee of the Air Coordinating Committee.

direction, so as to pass midway between the island of Attou and the Copper island of the Kormadorski couplet or group, in the North Pacific ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

In the Convention, 193° West Longitude coincides, of course, with 167° East Longitude. The modern names for selected places mentioned in the Convention are as follows:

<u>Convention Name</u>	<u>Modern Name</u>
Krusenstern or Ignalcook	Little Diomede Island
Ratmanoff or Noonarbook	Big Diomede Island or Ostrov Ratmanova
Frozen Ocean	Arctic Sea
Cape Choukotski	Mys Chukotskiy
Attou Island	Attu Island
Copper	Ostrov Mednyy
Kormadorski couplet	Komandorskiye Ostrova

### III. SUMMARY

The wording of the Convention is rather precise. The principal question left unsolved is whether the lines between the fixed points should cartographically be expressed as "rhumb lines" or as "great circle lines". It was decided that great circle lines should be understood by the Convention wording of "straight lines" on the earth and the ACC/MAP group resolved:

"The lines between points herein described are great circles except those lines which connect adjoining points on the same parallel shall follow the parallel."<sup>3/</sup>

The Coordinate Positions for the Plot were listed as follows:

#### Coordinate Positions for Plot of U.S. - Russia Convention Line of 1857

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Mys (Cape) Chukotski, southeast extremity	64° 14'.2 N	173° 05'.5 W
St. Lawrence Island, northwest extremity	63° 47'.3 N	171° 45'.8 W
Medny (Copper Island) eastern extremity	54° 32'.2 N	168° 00' E
Attu Island, western extremity	52° 55'.3 N	172° 26'.8 E

<sup>3/</sup> The actual wording applied to ADIZ boundaries in the vicinity of the Convention line. The significant point is made first and applied to the Convention line.

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Initial Turning Point	65° 30'.0 N	168° 58' 22".587 W <sup>u/</sup>
Turning Point No. 2	64° 12'.3 N	172° 00' W
Mid Point between Medny and Attu Island	53° 45'.0 N	170° 16'.0 E
End Point, southwestern ex- tremity of Convention line	50° 36'.4 N	167° 00' E
5° increments of longitude along great circle arcs	65° 04'.2 N	170° 00' W
	62° 59'.4 N	175° 00' W
	60° 33'.5 N	180°
	57° 28'.0 N	175° 00' E
	53° 31.0 N	170° 00' E
Starting point of Convention Line	72° 00' N	168° 58' 22".587 W

It should be noted that the original Convention language stated that the line "proceeds thence due north, without limitation, into the same Frozen Ocean". Since the United States does not support so-called "sector claims" in the polar regions, the northernmost point for the representation of the Convention line was agreed to be 72° 00' N. Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used. Furthermore, labeling of the line as "U.S. - Russia Convention of 1867" is recommended.

The plotted points, it should be remembered, are subject to minor modification resulting from improved surveys, changes in datum, alteration in the spheroid, etc.

<sup>u/</sup> This value was given erroneously in the distributed ACF (IAP) minutes as 168° 50' 22".587 W. and copied in the original edition of this study instead of the correct value, 168° 58' 22".587 W.





ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 4, 1985

MEMORANDUM

TO: Representative Roger Jenkins

FROM: *Gretchen Keiser*  
Gretchen Keiser, Legislative Analyst

RE: U.S. - U.S.S.R. Boundary Dispute in the Bering Sea  
Research Request 85-121

David Garrison of your staff requested that we report on the status of the negotiations between the United States and the U.S.S.R. regarding the disputed boundary in the Bering Sea. This memorandum summarizes the information obtained from: 1) the U.S. State Department, which is responsible for the negotiations; and 2) the Minerals Management Service within the U.S. Department of the Interior, which has offered oil leases in the disputed area under its Outer Continental Shelf (OCS) Oil and Gas Leasing Program.

Mr. David Colson, a legal advisor in the State Department, indicated that the last meeting between the two countries to negotiate a settlement of the boundary dispute was held in July 1984. To his knowledge, no future meeting has been scheduled at this time. However, he indicated that future meetings are considered necessary in order to resolve the dispute. Mr. Colson was reluctant to speak about the terms of negotiation, but did indicate that the U.S. had presented a proposal to the Russians which was a modification of our original position. The U.S. position has been that a great circle line delineates the boundary, as described below. He hastened to add, however, that a suggestion that the U.S. was willing at this time to compromise at a geographical middle point in the disputed territory may be assuming too much flexibility in the U.S. position.

Mr. Lee Thormahlen, of the OCS Survey Group in the Minerals Management Service, provided some background information which may be of interest to you. The dispute stems from inexact language incorporated in the Convention of 1867 when the Russians transferred Alaska to the U.S. The U.S. interprets the treaty such that a great circle line should be drawn between two geographical points in the Bering Sea. Conversely, the U.S.S.R. maintains that the treaty should be interpreted as meaning that a rhumb line be drawn between the same two points. If one draws these two lines on a Mercator projection, the great circle line would

Representative Jenkins  
February 4, 1985  
Page Two

be a curved line toward the North Pole whereas the rhumb line would be a straight line. The two lines are roughly 100 miles apart at the widest distance.

Mr. Thormahlen also indicated that the U.S. - U.S.S.R dispute is not an isolated case. All U.S. boundaries with Canada, Mexico and Cuba are currently under some degree of litigation. In these cases, there were no treaties signed between the countries, unlike the Convention of 1867 between the U.S. and U.S.S.R.

We hope this information is useful to you. Please contact us if we can be of further assistance.

GK

# Where Superpowers Are 55 Miles Apart: A Boundary Dispute Waiting to Happen

The boundary line in the Bering Sea leaves some potentially oil-rich areas on the U.S. side, and the Soviet Union could make an issue of it.

BY CAMERON LA FOLLETTE

The Bering Sea, which separates Alaska from Siberia, is a formidable place of roaring winter storms, barren coasts—and oil and gas. The Geological Survey estimates that 15 per cent of undiscovered, recoverable U.S. oil and up to 11 per cent of its gas may lie beneath the chilly Alaskan waters.

These precious energy reserves may, however, be imperiled by sensitive questions over the boundary between the United States and the Soviet Union that runs through the Bering Sea. Neither country is talking publicly about the possibility of a boundary dispute, but U.S. officials recognize that one could erupt, especially if the energy deposits can be verified.

U.S. and Soviet officials have reportedly held informal discussions on the border issue. Oil and gas have already caused a heated boundary dispute between the United States and Mexico and inflamed a dispute between the United States and Canada that centered on fishing rights.

The potential boundary dispute in the Bering Sea is obvious from a stiff note in a recent Geological Survey report on undiscovered, recoverable oil and gas: "With reference to the international boundaries of the offshore regions, the United States has not yet resolved its offshore boundaries with its neighboring states. . . . The lines used in preparing this report are for purposes of illustration only. . . ."

The current boundary was set in the 1867 treaty by which czarist Russia ceded Alaska to the United States. This was before nations began to extend control over their Outer Continental Shelves, comparatively shallow slopes that are extensions of land masses. The shelves are often rich in oil and gas.

The 1958 Geneva Convention on the Outer Continental Shelf envisioned a scheme for setting boundaries, where needed, between coastal states. The continental shelf claimed by most nations extends 200 miles, and the convention decided that this would do for nations with more than 400 miles of open sea between them. For nations with fewer than 400 miles, the boundary would be equidistant between the countries.

The United States and the Soviet Union are only 55 miles apart at the Bering Strait. This raises the question of whether the 1867 boundary is still the line between the two nations or whether a new one should be fashioned under the 1958 convention.

A State Department official responded: "We consider the 1867 treaty line to be the boundary. We don't consider there to be a dispute over that."

And Los Angeles lawyer Robert Krueger, a participant in the United Nations's Law of the Sea negotiations, said: "I think the equidistant boundary . . . is a non-issue. I don't think the State Department has a timetable for dealing with this, but you can infer that since oil and gas leases are being proposed right up to the international line, the boundary must be settled."

But Thomas Hovet, a University of Oregon political scientist who specializes in international law, was more cautious. "One could argue under international law that because nobody disputed the boundary, it is a fact," he said. "But the U.S. should prepare arguments on both sides and settle on the one most beneficial. Either side could shift ground later if they don't agree to something now."

As unsettled as the law may seem on this question, both countries appear content to regard the 1867 line as the outer continental shelf boundary. Soviet policy tends to support treaties of long-standing,

and any major change would create a diplomatic furor that neither country welcomes.

## EXPLORATORY CHILL

The current boundary cuts through Navarin and Barrow Arch, potentially two of the richest oil basins in the Bering Sea. The other two important basins, Norton and Hope, probably do not extend to the international line. Changing the boundary to conform with the convention would probably shift the line east, putting a larger portion of the Navarin Basin in Soviet waters. But until some exploration takes place, actual effects cannot be known.

Doubts over the boundary could cast a chill on exploration. John Garrett, a consultant to Gulf Oil Exploration and Production Co., said: "Gulf would not take a lease, even if offered, if they felt another Administration might give it to the Soviets. Oil companies will take risks on many things, but not international jurisdiction disputes. We would not go into an area until we knew there was a settled regime."

But another oil company official said: "The oil industry's general attitude is that the U.S. government has asserted sovereignty over these continental shelf boundaries. If they put leases up for bid, we'll bid. If there's an ownership problem, that's the government's problem. The focus of industry people in Alaska is operations and technology difficulties."

Jim Jackson, an attorney in the American Petroleum Institute's general counsel's office, said his organization had not studied the issue.

The Interior Department's Bureau of Land Management, which handles oil and gas leasing, plans to offer its first lease in the Bering Sea's Norton Basin in November 1982, with the next in 1985. The first Navarin Basin lease is planned

for March 1984 and the second for 1986. The first Barrow Arch sale is listed for February 1985 and the second for 1987.

This is not the first time the bureau has dreamed of Bering Sea leases. They first showed up in 1973 leasing plans, scheduled for 1978, and the bureau has proposed leases in at least one of the Bering Sea basins almost every year since 1973. But the leases were never sold because of changes in Administrations and, recently, a slack demand for oil.

### EXERTING CONTROL

When Russia ceded Alaska to the United States for "seven million two hundred thousand dollars in gold," the treaty included a description of the western limit of the Alaska territory. A map accompanied the description.

The map and boundary sufficed until countries began to proclaim control over their Outer Continental Shelves. The United States in 1945 became the first nation to do so. President Truman claimed the continental shelf "as an extension of the land mass of the coastal nation and thus naturally appurtenant to it..."

The 1958 convention was convened to bring order out of the increasing chaos brought on as other nations followed the U.S. lead. The convention defined the continental shelf as the seabed and subsoil of areas adjacent to the coast but outside the territorial sea, which is usually three miles and is generally considered an extension of a nation. In the Outer Continental Shelf, by contrast, control is limited to exploitation.

The convention tried to smooth the waters on an increasingly controversial issue: how to determine the boundaries between nations when less than 400 miles of sea separates them or they are adjacent to each other. It specified that the boundary shall be determined first by "agreement between the two states," by some other way if another boundary line is justified "by special circumstances" or, if these methods do not suffice, by using the equidistance principle.

There are about 50 continental shelf boundaries around the world. "As a general rule, opposite states generally do use the equidistance method in delimiting their Outer Continental Shelf boundaries," said Robert Petrowski, an attorney in the Washington law office of

Northcut Ely, which specializes in Outer Continental Shelf boundary delineations.

The question between the United States and the Soviet Union is whether the 1867 boundary can serve as an "agreement" under the 1958 convention.

### ALLOCATING THE SHELF

There are several ways to look at the current boundary in the Bering Sea. Some argue that the 1867 treaty of cession did not establish a boundary at all but merely a "line of allocation." This means that the countries agreed to the line only to divide the lands between them. If this is the case, the two nations should either negotiate a new treaty to set

allocation "There's a line there, it's mutually accepted by both countries. There's no shooting over it," said Ruy Arnaudo, Pacific fisheries officer for the State Department.

Complicating matters is the 1969 Vienna Convention on the Law of Treaties, which the United States has not ratified. This convention specified that if there are two treaties on a subject, the latter one generally takes precedence. The Soviet Union could thus argue that the 1958 convention overruled the 1867 treaty. But many argue that the two treaties do not cover the same subject; the Alaska treaty allocated land while the convention concerned methods of allocating Outer Continental Shelves.

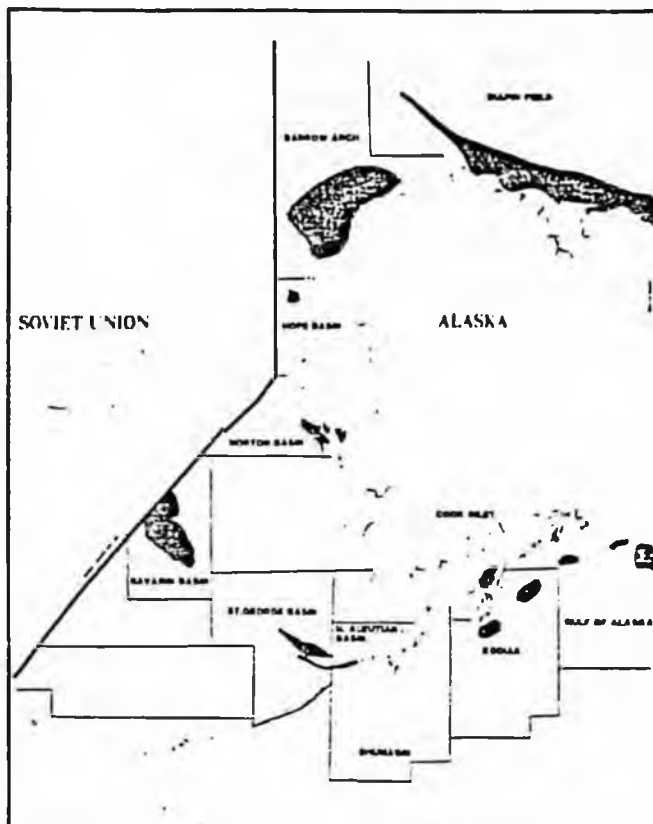
The Vienna convention also stated that treaty provisions cannot conflict with certain fundamental rules of international law. If the Soviet Union favored an equidistant boundary, it could argue that use of the equidistance principle is a peremptory norm of international law.

But that is still in dispute. In its 1969 North Sea Continental Shelf cases, the International Court of Justice ruled that the 1958 Geneva Convention did not crystallize equidistance as a necessary part of continental shelf doctrine. Many states use variations of equidistance to get more equitable settlements, and the court gave its blessing to that approach both for opposite and adjacent countries.

Nobody will know how much is at stake in the Bering Sea until exploration begins. Oil and gas estimates vary greatly. The Bering Sea is considered to be at the technological edge of Outer Continental Shelf drilling because of ice.

"There's no particular problem with water depth," said Hank Rosenthal, Atlantic Richfield Co.'s public relations manager for Anchorage. "There will be problems with sea ice for exploratory drilling several months of the year. We can probably build a permanent structure that can withstand the ice pressure." Rosenthal added that only "a substantial discovery" would justify the cost.

Because the stakes are so high for oil companies wishing to drill in the Bering Sea, the government needs to assure stability. But neither country is willing to change the status quo without good reason. That may happen after someone sinks some wells. □



Changing the 1867 boundaries (above) to conform to a 1958 convention would probably favor the Soviet Union. The shaded areas are likely Outer Continental Shelf oil fields.

the boundary or settle for an equidistant boundary as the convention urged.

But international law evolves slowly, and practices followed for 115 years carry heavy weight. Thus the 1867 line, even if originally conceived as a line of allocation, may have evolved into a true boundary out of practice. "Lines used for one purpose can crystallize into another purpose," said Petrowski. "If countries use a line to define their spheres of interest, it's easy to see how it would happen."

This is happening to some extent in the Bering Sea. A 1976 agreement between the United States and the Soviet Union on fisheries acknowledged the present boundary as the official one for fisheries



# U.S., SOVIETS SHARE CLAIMS TO BERING SEA

Robert B. Krueger  
Nossaman, Krueger & Knox

**T**he Outer Continental Shelf underlying the Bering Sea may contain some of the largest undiscovered petroleum reserves in the world. Recent estimates indicate the region may hold as much as 30 billion bbl out to a depth of only 200 meters.

A prime prospect in the area is the Navarin Basin—one of the lease sale regions extending predictably into both the U.S. and Soviet portions of the Bering Straits, thus raising significant issues of international law. Lease sales will also be affected by the situation, since any sale in the

Bering Sea could be complicated by national security issues or overlapping claims by the Soviet Union.

Since the 1958 Geneva Convention which claims those "submarine areas adjacent to the coast to a depth of 200 meters as Continental Shelf," offshore technology has developed to a point that most of the area is now exploitable. And both the Soviet Union and the U.S. should be presumed to have rights to petroleum in the Bering Sea out to the boundary line.

To determine the extent of the area the U.S. may offer for lease, it will be necessary to establish the boundary line between the nation and the Soviet Union. It will also be necessary to

attempt to resolve the potential complementary problems of the exploration and development of the Bering Sea area and of the treatment of a petroleum resources which straddle the boundary line between the two nations, as they probably will.

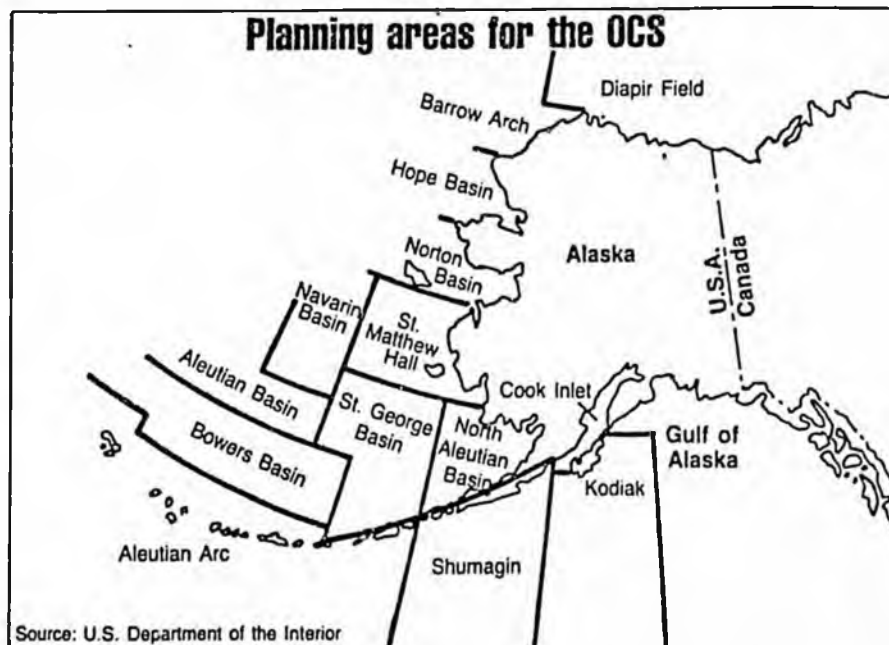
## Discussion topics

When U.S.-USSR discussions began six years ago concerning fishery boundaries, the two groups were drawn to the 1867 treaty. Reports then indicated the Soviets and U.S. agreed the 1867 line controls the question of delimitation of the continental shelf.

In general, the boundaries of the zone are measured 200 nautical miles from the baseline. However, for some portions of the waters adjacent to the United States, including the Bering Sea, a 200-nautical-mile zone could conflict with the rights of other states such as Mexico, Cuba, Venezuela, and the USSR.

Although both countries seem to agree the line delimits shelf areas, they are still unable to agree on how to actually draw the line. The Soviet Union has taken the position that the boundary should be drawn by using rhumb-lines, a more traditional technique at the time of the treaty.

The U.S. contends the more modern great circle method of calculation should be used. Quite a large discrepancy results from the use of these two different methods of delineation: An area over 15,000 sq miles in the highly promising petroleum region is in question.



**Many area operators have long held that most promising tracts off the East Coast probably lie in deep and very deep waters.**

technology in deeper waters will become proven is for the industry to be given the opportunity to apply it where a real need exists."

Modification work on Sonat Offshore's deepwater vessel, fresh from a record-breaking summer in the French Mediterranean, is now under way to enable the ship to work in 7,500 ft. Shell expects use of the Discoverer Seven Seas will cost about \$230,000 a day.

**Upcoming sale**

Mid Atlantic activity will also be spirited later this month when OCS Sale 76 is held for unleased blocks located 300-350 nautical miles off the coasts of Massachusetts down to North Carolina. The auctioned territory will cover about 50 million acres.

According to the Interior Department's Minerals Management division, the sale area of most interest is located between the 20-6,000 ft water depth contours along the edge of the Continental Shelf and on the Continental Slope from 30 to 140 nautical miles offshore. MMS notes that industry interest is consistent with a pattern that has been developing along the entire Atlantic OCS—that is, a shift in interest to deeper waters that lie over a postulated buried petroliferous reef.

"Nearshore areas hold little to no interest," says MMS.

The drilling scorecard in the Baltimore Canyon has collected a lot of dust. From 1978 to 1981, nine operators drilled a total of 27 dry holes. The only shadow of success appeared on the southeast flank of the Baltimore Canyon four years ago, when Texaco tested hydrocarbon signs in Block 598. Further drilling, however, failed to produce more proof.

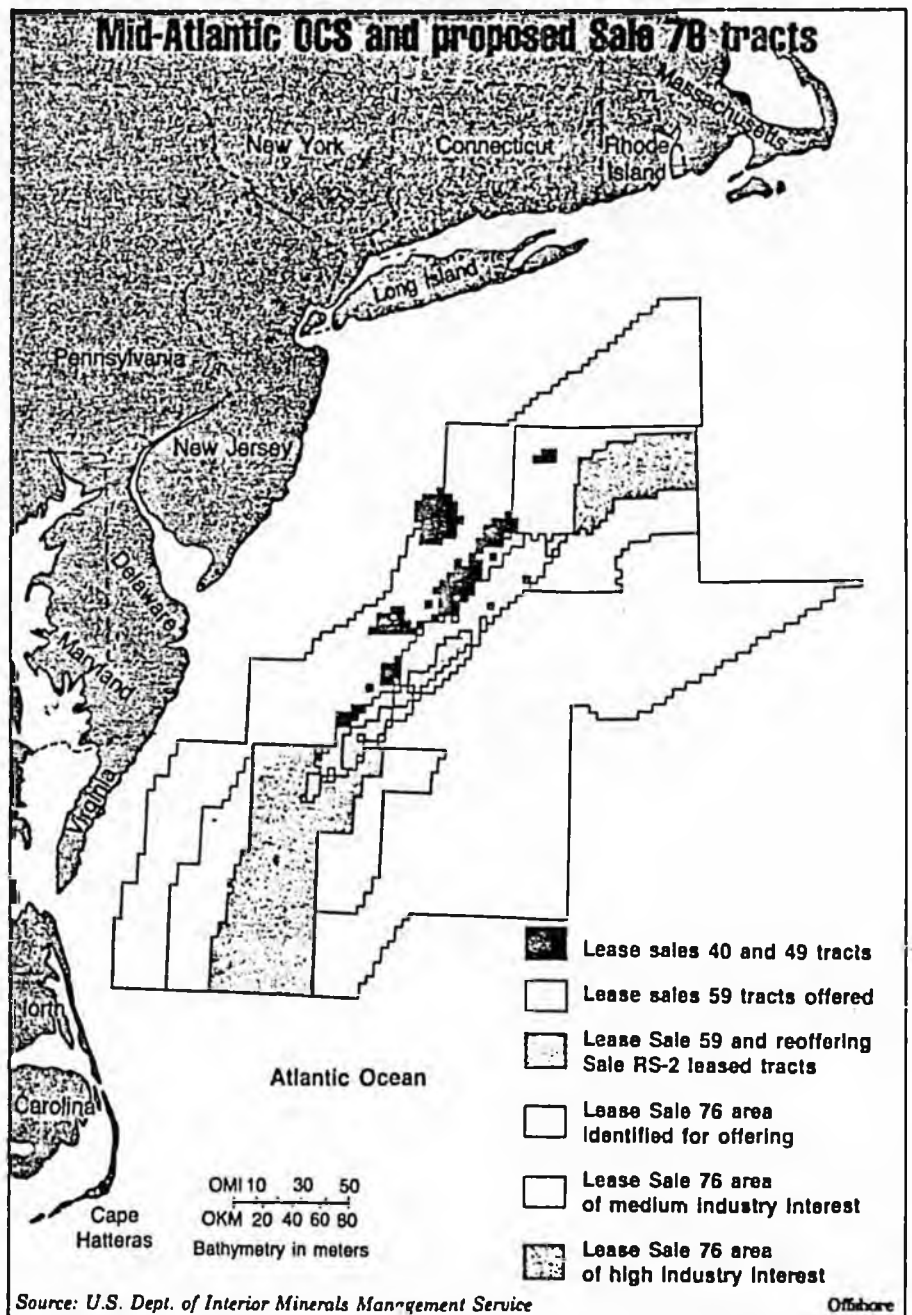
Chevron will start the East Coast revival ball rolling this spring by spudding an exploration well 40 miles off Cape Hatteras, North Carolina. The company has leased the Sedco 472 drillship to drill the first wildcat in 2,100 ft of water in Block 510. The well has been targeted to 16,000 ft.

This project will mark the first drilling in the South Atlantic in three years. Operators originally spent about nine months in the area drilling six very expensive and very dry holes.

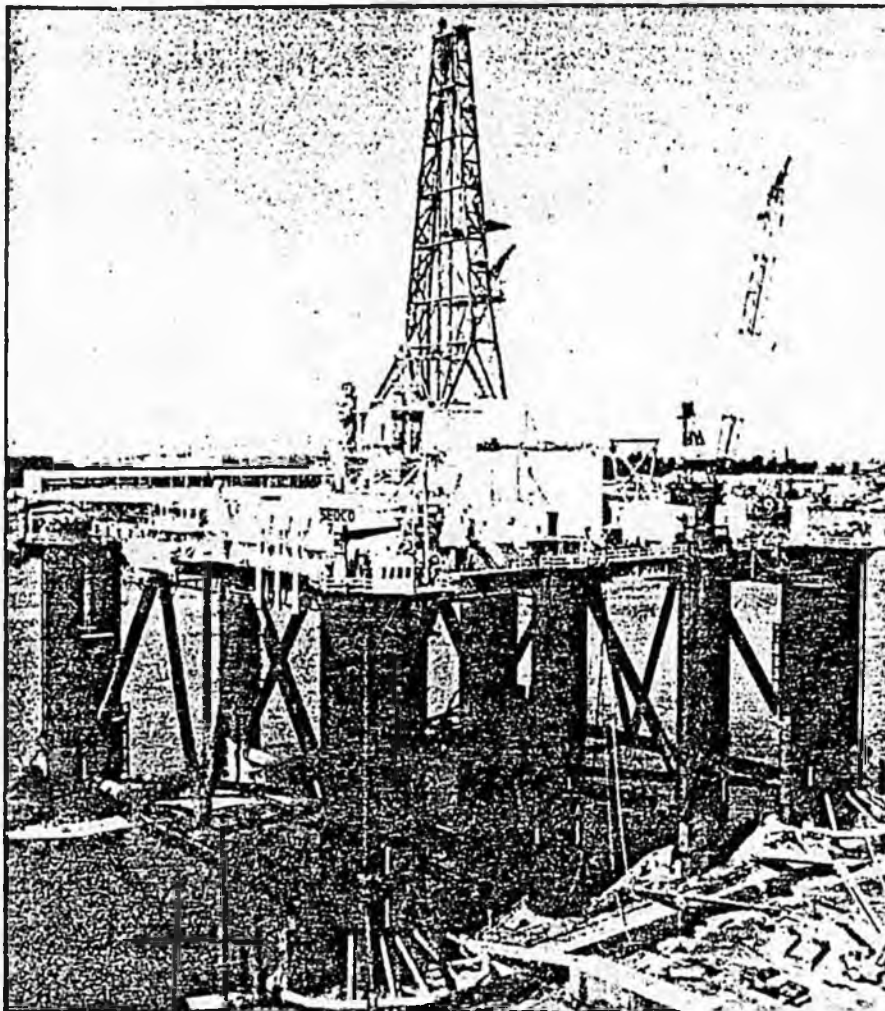
News from the northern half has been equally quiet since last August, when Shell exited the Georges Bank basin after drilling its second dry

hole in the trough. The company was one of five operators who spent almost 14 months and a total of \$1 billion for what turned out to be eight duds.

The MMS has since revised reserve estimates for the North Atlantic based on this new geological data. Figures have been pared down to 56 million bbl of oil and 280 billion cu ft of gas. □



**To determine the extent of the areas the U.S. may offer for lease, it will be necessary to establish a boundary line between the nation and the USSR.**



*Serco's 708 semisubmersible is currently drilling a COST well in the North Aleutian Shelf off Alaska for the Atlantic Richfield Company.*

As a large portion of the Navarin Basin may lie in the disputed area, it is vital that this issue be cleared up in the near future. The U.S. and USSR could consider creating a buffer zone, or perhaps an interim regime that will permit exploration and provide the framework for future development and resource sharing.

#### Security matters

From the standpoint of national security, the Bering Sea is a very sensitive area to both the U.S. and the Soviet Union—a factor which could lead to protracted negotiations over the location of the boundary line for reasons other than control of natural resources.

Until boundary negotiations have been concluded, it would seem logical to permit interested companies and state agencies interested in resource development to conduct geophysical and limited geological operations in the disputed area. The fact that such operations would provide intelligence other than that limited to resource development would complicate this approach.

Bilateral discussions between the Soviet Union and the U.S. on the subject of the shelf are planned for this year. An interesting element is that the agencies conducting the negotiations, the Foreign Ministry in the USSR and the State Department in the U.S., have consistently taken

the position that geophysical operations beyond the territorial sea are a freedom of the high seas not requiring the approval of any state, regardless of their internal regulations.

There are reasons to believe the Bering Sea issue will be resolved before OCS Lease Sale No. 83, scheduled for March, 1984. A most interesting aspect of the negotiations will be on the issue of shared structures, especially since informed observers believe some of the Navarin Basin structures are very large, of very high potential, and extend into the Soviet side.

If these problems are dealt with deftly and if political circumstances permit, a joint U.S.-USSR shared resources program could develop with U.S. firms quite active on both sides of the boundary due to the acknowledged lead national firms have in offshore technology. More importantly, it could be a key element in again attempting to establish some common purposes with the Soviet Union.

To those companies interested in exploration and development of the Bering Sea, particularly the Navarin Basin, it seems obvious that Soviet interests should be examined with equal care and sensitivity as those of our own government. Although these initially extend to geophysical operations, the central issue to be examined is that of development arrangements.

It is relevant that there are current negotiations between the Soviet Union and the U.S. government related to these issues. Hopefully, the nation's petroleum industry will support and assist these discussions in a cohesive fashion.

The Soviet Union and the United States are, of course, unique in their positions as world powers. The Bering Sea may provide a setting for accommodation and cooperation that will mutually assist in other areas.

It would be interesting to see what the two countries might do as petroleum partners. Similar interests have made other relationships more viable. □



# STOCKHOLDERS for WORLD FREEDOM



## NEWS

ISSN 0739-2389

Report No. 17E  
20 October 1984

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SEVERAL CANDIDATES PROTEST GIVEAWAY OF 5 ALASKAN ISLANDS TO SOVIET UNION, STATE SEN. BENNETT AND MEMBERS OF ALL PARTIES CALL FOR RESOLUTION AGAINST, DECRY TOTAL INDIFFERENCE BY SEN. STEVENS & MURKOWSKI AND CONGRESSMAN YOUNG

Several Alaskan candidates and political party officials are protesting the U.S. State Department's plan to give away to the Soviet Union five Alaskan islands and tens of thousands of square miles of oil-rich outercontinental shelf, it was reported by Carl Olson, Chairman of Stockholders for World Freedom, headquartered in Alexandria, Virginia.

"This potential surrender is opposed by representatives of all parties--Democrat, Republican, Libertarian, and Populist. Many complain that they cannot get Senators Ted Stevens and Frank Murkowski and Congressman Don Young to take a position in opposition to the giveaway," Olson summarized from questionnaires that candidates and party officers filled out on the giveaway issue.

State Senator Don Bennett (Rep.-Fairbanks) said he would support a resolution in the State Legislature to stop the giveaway of the five Alaskan islands of Wrangell, Herald, Bennett, Henrietta, and Jeannette to the Soviets, along with the vast outercontinental shelf containing billions of barrels of oil reserves.

State Senate candidate Edna Armstrong Devries (Rep.-Palmer) strongly opposes the giveaway and would support such a resolution in the State Senate.

Objecting to the giveaway plan included State House of Representatives candidates Stewart Brandon (Lib.-Nikishka), Virginia Collins (Rep.-Anchorage), John Davis (Lib.-Soldotna), Peter Goll (Dem.-Haines), and Joyce Munson (Rep.-Anchorage).

Joining in the call to keep the Alaskan territory within U.S. jurisdiction are Populist Party leaders Rudy Voigt of Fairbanks and Leon Erickson of Anchorage, and Republican National Convention Alternate Delegate Carolyn Glover of Anchorage.

"The absence of any stated position whatsoever by Alaska's two U.S. Senators and Congressman is especially disturbing, since their offices were contacted on repeated occasions since July with a full account of the State Department's giveaway intentions," Olson complained. "At one point in a seminar for Congressional interns last summer in Washington, it was reported that Senator Stevens became very visibly upset at the entire topic when a young intern posed the topic of the island giveaway, and refused to answer the question or even promise to look into the matter."

State Department officials led a U.S. delegation to Moscow for the week of July 23 to 27 for the purpose of firming up details of the giveaway. Its rationale was a new interpretation of the old 1867 U.S.-Russia Convention Line, which it decided to elevate to the status of an international boundary. The basic trouble with

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*The Stockholders for World Freedom promotes the idea that stockholders can help fight anti-capitalist forces and can support human freedoms around the world by discussing and voting on these issues at their annual meetings. Model resolutions and directions for submitting them are available free upon request. For a \$25 annual membership, quarterly news reports will be sent.*

this position is that it surrenders not only the five Alaskan Arctic islands, but it abandons the valid U.S. claims to tens of thousands of square miles of oil-rich outercontinental shelf.

At stake in a real, practical sense are billions of barrels of probable oil reserves that would go to support the Soviet war machine, losses of hundreds of Alaskan jobs, surrender of militarily strategic areas, and a defeat for American diplomatic prestige.

Already four major petroleum companies (ARCO, Shell, Amoco, and UNOCAL) have been deprived of their ability to exercise the oil and gas leases that they submitted the winning bids on in the Navarin Basin of the Bering Sea, because of the State Department's intent on yielding up these oil-rich seabeds to the Soviet Union. A half million stockholders are being adversely affected by this surrender policy, since their companies bid \$108,000,000 for the leases, which would be expected to yield up several times that investment in return.

The State Department's position was revealed in the Federal Register of March 16, 1984 (pp. 10056 and 10068) which declared that the U.S. accepted the old 1867 U.S.-Russia Convention Line as the maritime boundary. This represented a total reversal of the U.S.'s firm foreign policy for decades. As a matter of fact, in its own Boundary Study No. 14, titled "U.S.-Russia Convention Line of 1867", the State Department declared, "Furthermore, in keeping with the policy that the (1867) line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."

"Even though Alaska has a small population in comparison with the rest of the United States, it has immense resources and invaluable strategic value to America," Olson declared. "I only hope that Alaskans lead the fight to keep the state from being given away piecemeal to the Communist bosses in the Kremlin."

# Why should we give the Soviets oil-rich turf?

If you were responsible for the disposition of a parcel of U.S. territory roughly four times the size of California and believed to contain upward of 25 billion barrels of untapped oil reserves, what would you do with it?

Well, if you worked for the U.S. Department of State, it apparently would be logical to give it to Moscow. Incredible as it seems, that's what a negotiating team from Foggy Bottom is preparing to do with about half of America's outer continental shelf.

The parcel lies to the east of the "1867 Convention Line." This line was used in the purchase of Alaska from Russia to establish what was being purchased. It was not, however, intended as an official boundary between the two nations. In fact, as recently as 1965 a State Department publication on interna-

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tional boundaries stated unequivocally that the 1867 Convention Line should *never* be designated on maps as the boundary between the United States and the U.S.S.R.

More important, not just the outer continental shelf is involved in the giveaway. Above it lie a number of islands long-recognized as U.S. territory. One, however — Wrangel Island — has been a bone of contention between the two superpowers for more than six decades.

The official U.S. claim is based on the 1881 discovery of the island by a group of Americans. It was the site of an active commercial enterprise through the early 1920s.

There is no doubt about the validity of the U.S. claim to the territory; all the traditional international requirements for establishing sovereignty have been met. In 1924, however, the Soviet Union decided that Wrangel Island belonged to them and sent a force of soldiers, along with the gunboat *Red October*, to occupy it. The Soviets took prisoner

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U.S. attempts to resolve the dispute were considerably complicated by the fact that we did not recognize the Communist government at that time. Eventually, 12 survivors were returned to the United States. But the U.S. government never relinquished sovereignty over Wrangel

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This underscores the illegality of the Soviet actions on Wrangel Island, and the validity of the U.S. claim to that territory. The United States has a similarly strong claim to the area lying between Wrangel and the 1867 Convention Line — the area Foggy Bottom seems so anxious to cede to our adversaries.

What makes the State Department's move more disturbing is the secrecy involved. While negotiations have been under way since 1981, it was not until the Department of the Interior decided to hold an offshore lease sale of the outer continental shelf that the talks came to light.

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Navarin Basin (part of which lies to the east of the boundary the Soviets are pushing). But State notified Interior they might not be able to honor the leases awarded, because the United States might cede title to the territory to Moscow. Interior had to explain to the companies that their \$21 million in escrow funds to secure the leases would be in limbo until the talks were concluded or five years had passed, whichever came first.

No one seems to know just how, in less than 20 years, the United States came to relinquish its claim to the outer continental shelf east of the 1867 Convention Line, not to mention the five islands.

More important, no one seems able to explain why we are so anxious to give up the enormously rich oil potential of the territory, or the strategic asset of five islands so close to Soviet shores.

Most of all, no one seems willing to explain why this was going on in secret for so long. Perhaps it's time someone did.

Milt Copulos is a Trustee of The Conservative Caucus Research, Analysis & Education Foundation, Inc.

FRIDAY, JANUARY 18, 1985/N

The Washington Times

# Why hand oil over to the Soviets?

The State Department persists in negotiations to surrender to the Soviet Union vast areas of oil-rich seabeds in the Bering Sea and Arctic Ocean, territory long considered to be under U.S. sovereignty.

Why? Because "the United States never made formal claims," said a State Department spokesman. An unnamed diplomat called it "another step ... by the Reagan administration to try to improve relations with the Soviet Union."

Whatever the rationalization, the fact remains that this quiet diplomacy could result in the loss of up to 25 billion barrels of oil reserves very important to national security. Even more damaging would be U.S. surrender to illegal Russian claims.

The argument centers on the interpretation of the U.S.-Russia Convention Line of 1867, established when the United States purchased Alaska. Contrary to historical evidence, the *American Journal of International Law*, and its own geographer, the Reagan State Department would now define this "convention line" as the international boundary between the two countries.

The "convention line," however, is not an international boundary, and in 1951 the State Department's own special adviser in geography, S. Wintmore Itoggs, said so in plain language: "Most lines in water areas which are defined in treaties are not boundaries between waters under the jurisdiction of the contracting parties, but a cartographic device to simplify description of the land areas involved. ..." (*American Journal of International Law*, Vol. 45, April 1951, p. 240).

Mr. Boggs described such a line simply as a "line of allocation" of land. Therefore, the land areas to the east of the convention line of 1867 belong to the United States; and land

areas to the west belong to the Soviet Union without regard to the water areas involved. Moreover, since this line does not constitute a state boundary, the cartographic symbol for an international boundary should never be used.

This principle was reaffirmed by the State Department Office of the Geographer's *International Boundary Study*, Oct. 1, 1965, and again by William E. Butler, professor of comparative law, University

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of London, in 1978: "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remains to be negotiated."

Under quiet negotiations with Moscow in July 1981, Washington would accept the 1967 convention line as the official boundary and eventually draw it as a rhumb line instead of a great circle, thereby giving the Soviets even more oil reserves on the continental shelf. But more important, the State Department would extend this line into the Arctic Ocean as the boundary line and surrender five strategic islands that lie to the westward: Wrangel, Herald, Jeannette, Henrietta, and Bennett -- all discovered and claimed for the United States long after the 1867 purchase



of Alaska from the Russians.

The largest islands, Wrangel and Herald, are in the outer continental shelf with vast petroleum potentials. Wrangel was once considered as a prime site for a U.S. air base. U.S. claims to the other three islands, some 900 miles west of Point Barrow, Alaska, resulted from the heroic Jeannette expedition of 1879-81 under Navy Lt. Commander George Washington De Long.

Documents and land records of the state of Alaska, the U.S. Navy, and the Treasury Department (Revenue Cutter Service) trace the American origins of these five islands. An international court ruling in 1959 under the International Claims Settlement Act established U.S. claims to Wrangel Island, and underscored the illegality of Soviet claims.

Thirty five years earlier, in 1921,

Alfred J. Lomen had filed his claim against the Soviets for confiscating his property on the island. Mr. Lomen was one of 13 Americans engaged in processing furs in the early 1920s. In 1924 the Soviets sent the gunboat *Red October*, seized the Americans and their property, and sent them to Siberia, 90 miles away. The new Soviet nation claimed the island. However, after a long delay, the court awarded compensation to the Lomen family, thereby providing yet another validation that the island is U.S. territory.

The current State Department negotiations have apparently ignored America's 200 mile economic zone, which would give the United States exclusive maritime resource jurisdiction -- meaning maritime oil rights 200 miles offshore from U.S. territory. Further complicating the State Department's surrender plan is the acceptance by the Interior Department of millions of dollars in escrow funds from four U.S. oil firms bidding on tracts in the disputed areas.

This scheme for appeasing the Soviet Union whose empire already spreads over one fifth of the Earth's land and controls another fifth would cede 2,000 square miles of strategic islands and oil beds four times the size of California, or 630,000 square miles of energy sources.

This cannot be done constitutionally without the consent of Congress, which alone can dispose of U.S. territory (Art. IV, Sec. 3, of the Constitution). It must not be done without full debate and disclosure.

Do the senators and representatives in Congress understand what the State Department is up to? And, have they been asked to intervene?

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*The Pioneer* 50¢

# ALL-ALASKA WEEKLY

Claiming State Department in Secret Negotiations . . .

## Groups Oppose Giving Soviets Wrangel, Four Other Islands

18,000 Square Miles Area Said Rich in Oil and Fishery Resources



Secretary of Interior Donald Hodel, center, talks with Roger Burdell, of the Alaska Hunters Association, left, and Borough Mayor Bill Allen shortly before opening of a broadcast meeting Monday at Tawana Inn.

### \$108 Million Placed In Escrow, Lease Fees For Disputed Area

By Tom Snapp  
Editor

The national organizations, the Conservative Caucus Foundation, the Daughters of the American Revolution, and the Military Order of the World Wars, along with seventeen members of the Alaska House of Representatives are urging the U.S. State Department to take a strong stand regarding the U.S.-Soviet Union boundary dispute involving an 18,000 square mile area in the Arctic Ocean and Bering Sea considered rich in oil and fishery resources.

The area includes five islands, Wrangel, Beaneet, Herald, Henrietta and Jeanette.

The groups claim the U.S. State Department has been in secret negotiations with the Soviet Union for years and has already made concessions to the Soviet Union, including use of the 2,000-square-mile Wrangel Island.

The groups, which claim the U.S. owes the area in question, vehemently opposes giving any of it to the Soviet Union and instead is calling on Congress to hold hearings to investigate the activities of the State Department.

On May 12 this year, seventeen members of the Alaska House of Representatives introduced a resolution, House Joint Resolution 53, on the subject. While the resolution did not pass this session and was left stranded at the end of the legislative session in the House Resources Committee, reportedly it will be revived at the beginning of next year's session.

The resolution explains the background of the dispute this way:

"The Navarin Basin oil and gas lease sale in April 1984 resulted in total accepted bids of \$681,200,000, of which \$105,174,000 was for an area claimed by the Soviet Union.

"The winning bidders for the 17 tracts in the area claimed by the Soviet Union not only are precluded from exploring for oil and gas in these valuable leased areas, but their bid deposit money is being held in a suspense account

—Continued on page 3

## Man, 19, Girl, 14, Charged With Killing Three Elderly Alaskans

A 19-year-old Anchorage girl and her 14-year-old boyfriend, Cornell Boyd, also of Anchorage, were arrested this week on charges of murdering three elderly Alaskans on April 23.

The pair, who have also been charged with a string of Anchorage burglaries, are charged with slaying Plumbing supply businessman Tom Faccio, 63, his wife, Ann Faccio, 70, and Ann's sister, Emma Elliott, 76. They were found in their East Anchorage home the morning of April 23. All three had been shot through the head, execution style.

The case which baffled police for quite some time was finally broken when Boyd and the girl were identified through the Crimestopper program

which at the time was offering a \$50,000 reward.

Court papers describe the young pair as having been living together for two months, crashing in vacant rooms and apartments, and buying food and drugs from the loot of their burglaries.

Both Boyd and the girl have been seen frequently at a state-owned housing project near Chester Creek and C Street. Boyd's family still lives there. The girl is named as a runaway, and her parents have moved away.

On May 10 police nabbed the pair in the process of burglarizing two apartments at 207 W. 27th Avenue. The girl was captured as she came out Boyd made his escape.

The girl was taken to police headquarters where she was in the midst of giving a taped confession of participating with Boyd in a series of burglaries dating back to February when Boyd called the station to find out what was happening to her.

Police kept Boyd on the line long enough until the call could be traced to the Sears Mall. Police moved in to arrest him but Boyd spotted them and eluded them in a one-hour chase across town. He was arrested the next day on seven burglary charges and two theft of weapon charges.

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Why? Because "the United States never made formal claims," said a State Department spokesman. An unnamed diplomat called it "another step . . . by the Reagan administration to try to improve relations with the Soviet Union."

Whatever the rationalization, the fact remains that this quiet diplomacy could result in the loss of up to 25 billion barrels of oil reserves very important to national security. Even more damaging would be U.S. surrender to illegal Russian claims.

The argument centers on the interpretation of the U.S.-Russia Convention Line of 1867, established when the United States purchased Alaska. Contrary to historical evidence, the *American Journal of International Law*, and its own geographer, the Reagan State Department would now define this "convention line" as the international boundary between the two countries.

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Do the senators and representatives in Congress understand what the State Department is up to? And, have they been asked to intervene?

G. Russell Evans is a retired U.S. Coast Guard captain.

MILT COPULOS

# Why should we give the Soviets oil-rich turf?

If you were responsible for the disposition of a parcel of U.S. territory roughly four times the size of California and believed to contain upward of 25 billion barrels of untapped oil reserves, what would you do with it?

Well, if you worked for the U.S. Department of State, it apparently would be logical to give it to Moscow. Incredible as it seems, that's what a negotiating team from Foggy Bottom is preparing to do with about half of America's outer continental shelf.

The parcel lies to the east of the "1867 Convention Line." This line was used in the purchase of Alaska from Russia to establish what was being purchased. It was not, however, intended as an official boundary between the two nations. In fact, as recently as 1965 a State Department publication on interna-

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FRIDAY, JANUARY 18, 1985/11

The Washington Times

Claiming State Department in Secret Negotiations . . .

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# Giving Soviets . . .

-Continued from page 1

by the U.S. Department of the Interior and is yielding only the U.S. Treasury rate of return.

There are hundreds of American jobs at stake at the drilling sites and at industry support sites.

The question of territorial jurisdiction also has implications for bottom fishery operations for American fishermen.

The normal depletion of fish on the globe are by the arc of a great circle, especially when they invade great distances in the open ocean, such as the 1867 Convention Line marking the boundary between the United States and Russia.

The U.S. Department of State's International Boundary Study No. 14 ("U.S.-Russia Convention Line of 1867"), which was published in 1965, depicts the 1867 Convention Line by arc of a great circle.

Discussions have been conducted between the U.S. Department of State and the Soviet Government over this issue since 1981, with the latest round being held in Moscow on July 23 and 24, 1984, with the American delegation led by Davis R. Robinson, the Legal Advisor of the U.S. Department of State.

Article IV, Sec. 3 of the United States Constitution provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The Westernmost limit to the oil and gas leasing program of the U.S. Department of Interior for the Outer Continental Shelf in the Bering Sea has been set by the U.S. Department of State at the U.S.-Russia Convention Line of 1867.

The leasing program involving the 1867 Convention Line in the Bering Sea includes the Norton Basin and the Norton Basin; there are highly significant oil and gas deposits estimated by the U.S. Department of Interior in these basins; and these potential hydrocarbon energy deposits are a vital part of the future energy production for the United States and a goal of energy independence.

The leasing schedule for sales of oil and gas includes the Norton Basin in April last year and the St. George Basin in May, this year, and the Norton Basin in December of this year.

The area is estimated to contain about 100,000 tons of sustainable yield oil that is presently being fished exclusively by foreign fishing fleets.

"During the announcement of the Navarin Basin April 1984 sale, the U.S. Department of Interior revealed that the Soviet Union was demanding part of the Outer Continental Shelf in the Navarin Basin and that the U.S. Department of State was requiring that the proposed oil and gas lease sales in the area claimed by the Soviet Government be held in obedience, that is, the bids received and retained but the leases not awarded until the matter is resolved.

The Federal Register announcement described the dispute as follows:

The differing claims relate to differing depictions of the line established by the 1867 Convention Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arc of a great circle while the Soviet Union depicts the 1867 Convention Line as a straight line. "The arc of the Outer Continental Shelf demanded by the Soviet Union between the straight-line depiction and the Bering Sea amounts to about 18,000 square miles."

In their resolution, legislators urge the U.S. Department of State "not to yield to the demands of the Soviet Union" and urge it to adopt a firm stance and aggressively pursue a resolution of the dispute favorable to the interests of the government and the people of the United States.

In a resolution adopted by the 94th Congress of the Daughters of the American Revolution in April this year, that organization claimed:

"The Soviet Union is now occupying Wrangel Island, without the consent of Congress, and the existence of a special espionage training facility has been discovered on United States Territory.

The United States is also considering transfer to the Soviet Union of the outer Outer Continental Shelf in the Bering Sea and the Arctic Ocean, which contains some 15,400 square miles of petroleum-rich seabeds with an estimated four to twenty-five billion barrels of oil in addition to vast deposits of heavy metals.

In a resolution passed by the Military Order of the World War in January of this year, it is claimed the "Arctic Alaskan Islands of Wrangel, Bennett, Hennetta and Jeanette were discovered and claimed in the name of the United States, under international law during the period of 1879-1881 and the island of Herald was discovered and claimed in the

name of Great Britain in 1849 and subsequently ceded to the United States."

The resolution claims the Soviet Union looted the island of Wrangel, taking all Americans prisoner in 1924 and confiscating all property real and personal in violation of international law.

The U.S. State Department, it says, as late as 1973 made the unequivocal statement "The United States has not relinquished its claims to Wrangel Island." But it says the U.S. State Department has been conducting secret negotiations with the Soviet Union, without participation of the Departments of Interior, Energy, or Defense, since at least 1981 on surrender of this sovereignty. And it adds that the Constitution of the U.S. provides that only the Congress, by treaty, signed by the President and debated and ratified by the Senate, may surrender American real estate and seabeds.

The State Department is dose-mouthed about Wrangel Island. Scott Hayes, who has been involved in discussions with the Soviets for many years over the dispute, says information about the talks is classified.

The three islands, Bennett, Hennetta, and Jeanette, were discovered and claimed for the United States by Navy Commander George Washington DeLong in an 1879-1881 expedition to which a monument still stands at the U.S. Naval Academy in Annapolis, Md. The three islands are well known as the DeLong Islands.

In 1881 an American flag was raised over Wrangel Island by the U.S. Revenue Marine, but no claim of ownership was made. In 1911, the Russians first visited Wrangel and erected a beacon. In 1921, Canadian explorer Vilhjalmur Stefansson tried to colonize the island but that venture ended in disaster, when most of the members died. In 1923, Stefansson tried again but this time the Russians removed the colonists from the island. Neither the U.S. or Canada asserted a claim of ownership, but Stefansson sold whatever interest he had in the island to the Lomen Brothers of Nome.

Mark Sedenberg, a resident of Alexandria, Va., in 1976 arranged with Ralph Lomen, one of the Lomen Brothers that claimed to be owners of the island, to trade a square foot of Alaskan land he had acquired near Anchorage for 93,000 acres on Wrangel so he could challenge the Soviet presence there.

The U.S. Claim to Wrangel Island study done for the State Dept. in 1976, says the island was first sighted by American captain Thomas DeLong in 1867, the year the

United States purchased Alaska. Another American, Carlin Hooper, landed on the island and claimed it for the U.S. in 1891, according to the study.

In the mid-70s, the executor of Mildred Lomen's will filed a claim with the State Department regarding Wrangel Island. The executor was told that U.S.-Soviet scientific studies taking place at the time on Wrangel Island involved many birds and migratory birds and did not affect ownership.

The studies emanated from an agreement, the Protocol of Anchorage, signed September 19, 1974 by the United States and the Soviets.

On August 27, 1974 the U.S. and U.S.S.R. met in Moscow to work up the proposed protocol, which if approved would grant Russia formal use of Wrangel Island without going to the U.S. Congress, with only approval by the Department of State.

At 10:30 p.m. September 19, 1974 at the Westward Hotel

in Anchorage, the proposed protocol was approved and signed by V. Danneberg and Vyacheslav Kozlovskiy for the U.S.S.R. and Ronald U. Stooop and Harold T. Jorgensen for the U.S. On November 24, 1974 Gerald Ford, president of the United States, at the direction of Secretary of State Henry Kissinger approved it at Vladivostok, U.S.S.R.

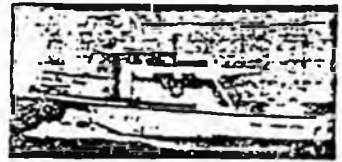
On December 12, 1974, in Moscow, Russia's Train signed for the U.S. government as a memo "in the field of environmental protection" which included the protocol signed in Anchorage on September 19. The memo was also signed by Y. Lavel for the Russian government.

On April 14, 1975 there was a ceremony held at the Bethel Alaska airport in which Russia was given the formal use of Wrangel Island in the protocol of Anchorage, signed Sept. 19, 1974, the U.S. made a big concession. For the first time, it referred to the disputed real estate as "Soviet Island Wrangel."

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# Chena Flood Control . . .

-Continued from page 2

been 18,000 acre-feet, retained in June 1984.

The project had been operated four times previously once in 1981 and three times in 1984. The Memorial Day weekend operation was the first time the Corps had used the project to prevent snow melt flooding. Rain caused high water in an previous operations.

The Chena normal volume during the end of May is 3,000 cubic feet per second. The Corps estimates that the river would

have swollen to 14,000 cfs in downtown Fairbanks if the gates had not been closed on May 23. This compares to 64,000 cfs that flooded Fairbanks in August 1967 causing property damage worth \$65 million in 1967 dollars.

Though the 1967 flood was the worst it was not the only flood in Fairbanks history. Between 1945 and 1967, more than 11 major floods inundated the city, an average of one every four and a half years.

The Chena River Levee

Flood Control Project is the Army Corps of Engineer's latest civil works project in Alaska. Its main features are an 8.6 mile-long Tanana River levee and drainage channels.

Except during periods of flooding, there is no flow of water. When the project is activated, the flood gates in the outlet works are lowered, impounding excess Chena River water in the floodway behind the dam. During major floods, water in the floodway would

-Continued on page 4

# The Alaska Economic Report

## Twelve Exploration Wells, But "No News"

Feb. 28, 1985  
No. 3/1985

### BERING SEA "OCS REPORT"

Twelve 'major' exploration wells were drilled by six companies and partners in two Bering Sea OCS sale areas last year. Reports are that some companies may once again try their luck in St. George Basin and Norton Sound next summer and fall, but the major emphasis will now shift to the Navarin Basin OCS sale area.

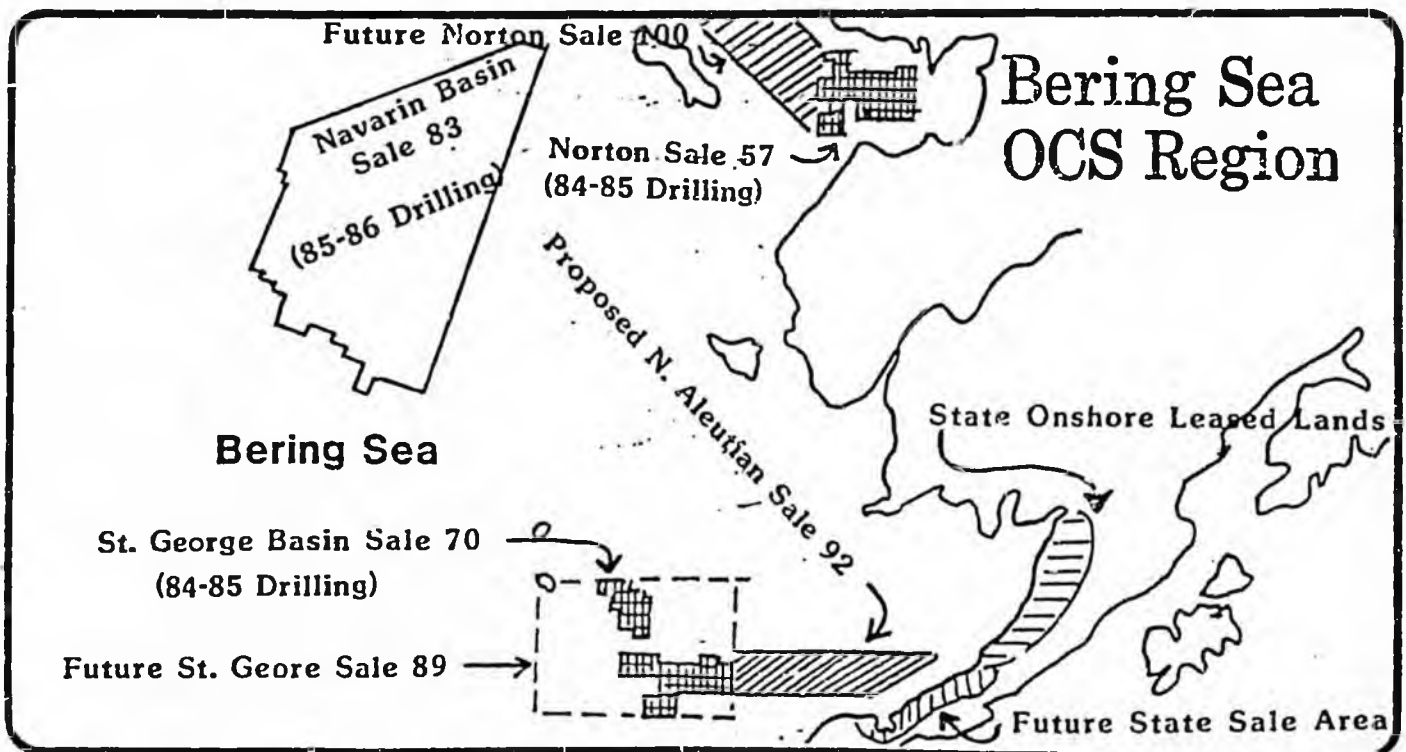
#### No News Is "No News"

So far companies have declined to release much information concerning results of their Bering Sea OCS efforts, but 'no news' is not necessarily 'bad news.' The releasing sales scheduled in both Norton Sound and St. George mean firms are naturally inclined to keep information tight.

However, 'no news' is also not 'good news,' since it likely means that no firm active in the Bering Sea hit a probable commercial find. Federal SEC rules require such finds to be disclosed if they are likely to have a specified percentage of impact on a firm's assets. Some companies could avoid disclosure due to their large assets.

#### Norton Sound

Exxon drilled two wells in Norton Sound last summer, disclosed that one of the wells proved 'dry,' but has made no disclosure on the second well. Reports are that Exxon will drill at a third well in Norton Sound this summer. (Cont'd page 8)



# Alaska News Summary (Continued)

ANCHORAGE SCHOOL BILL HITS \$260 MILLION FOR 1985-86 YEAR: The Anchorage school budget approved by the school board and sent to the Anchorage Borough Assembly has cracked a quarter billion dollars. The budget would require a 'slight' school mill increase from 4.27 mills to 4.33 mills, but that assumes that state school support holds together amidst the current revenue cutbacks. If state support is cut then the budget would have to either be cut or taxes increased, or both. Additionally, projections first projected new taxable property in the borough would be \$828 million, but those estimates have now been revised to \$563 million in new taxable property.

ALASKA STATE BANK SETS A RECORD: Alaska State bank posted a new record for itself with 1984 net income of \$3.2 million, a 33% increase over the previous year (1983). Bank assets increased from \$177 million to \$184 million over the same period.

UNITED BANK WASILLA UNIT GOES 'FULL SERVICE:' The United Bank of Alaska's Wasilla Branch began offering full service banking March 4th. David Andrews was named vice-president and manager of the Wasilla facility.

UNITED BANK ASSETS UP \$418 MILLION: United Bancorporation's assets rose \$418 million in 1984, a \$109 million or 35% jump over the year before. Net income was \$5.02 million.

NEW ALASKA PACIFIC BANK PRESIDENT: Michael J. Burns, formerly director of a Mid-western bank in Illinois, has been named president of Alaska Pacific bank, replacing ~~Tom Bohan~~. Alaska Pacific Bank had assets of \$520 million for 1984.

## Bering Sea Exploration (Continued)

(from page 3) Reportedly ARCO has no plans to drill again in Norton Sound this summer.

### St. George Basin

Six companies drilled nine wells in St. George Basin this last summer and fall, and one well by Shell Oil Company is 'still drilling' in St. George. Exxon and ARCO both drilled two wells in the north eastern area near the Pribilof Islands, while the two Shell wells are in the central area. Gulf, Mobil, and Chevron all drilled one well. The exploration effort in St. George was pretty broadly spread across the six areas that drew leasing interest.

At this time it is unclear whether any of the companies will drill this summer, although some firms might shift to a new area. However, if companies have found an interest from 1984 work, they will likely be reluctant to 'tip off' others to their exceptional interest, since the St. George 'releasing' sale is set for September of this year.

### The Navarin

The exploration emphasis this summer will shift to St. George Basin, with an advance supply base now being readied on St. Paul Island in the Pribilofs. Exxon was the first to get its Navarin exploration plan into MMS, and approval of those plans may come soon. Industry sources say Exxon, ARCO, and Shell/Amoco will each drill two wells in the Navarin next in the 1985 season.

### Approaching Sales

Companies also face three new oil lease sales in the Bering Sea in the next year. Two are essentially 'releasing' sales. The St. George Sale No. 89 is scheduled to be held in September, and the Norton Sound Sale No. 100 is slated for March, 1986. The final EIS on St. George is due out in April, and the draft EIS for Norton Sound is to be released soon. The big sale this year, is the controversial North Aleutian Sale No. 92, set for December. This sale could draw state and other litigation.

# PRESS RELEASE



The Conservative Caucus  
Research, Analysis & Education  
Foundation, Inc.

450 Maple Avenue East, Vienna Virginia 22180

FOR IMMEDIATE RELEASE  
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GIVEAWAY OF FIVE ALASKAN ISLANDS AND EXTENSIVE OIL-RICH SEABEDS TO THE  
SOVIET UNION PLANNED BY THE U.S. STATE DEPARTMENT;  
25 BILLION BARRELS OF OIL INVOLVED; PUBLIC TREATY DEBATE REQUESTED

"The State Department appears ready and willing to surrender five strategic Alaskan islands and hundreds of thousands of square miles of oil-rich Alaskan outer continental shelf to the Soviet Union without full public debate and Senate ratification of a treaty," according to Carl Olson, Executive Vice President of The Conservative Caucus Research, Analysis & Education Foundation, Inc., of Vienna, Virginia.

"This giveaway of literally billions of barrels of America's oil reserves and Alaskan sovereign territory makes the Panama Canal fiasco look insignificant in comparison," Olson declared.

This giveaway was the subject of a high-level State Department delegation which went to Moscow for the week of July 23-27, 1984, headed by the department's Legal Adviser Davis Robinson and supported by his staff members Elizabeth Verville and Scott Hajost, and by Harry Marshall and Richard T. Scully of the department's Bureau of Oceans and International Environmental and Scientific Affairs, and by Robert W. Smith of the Office of the Geographer.

Secret negotiations over this surrender of sovereignty have been conducted since at least 1981. They came to light in March of this year when the Department of the Interior announced the proposed leasing of oil-rich seabeds of the outer continental shelf in the Navarin Basin off the coast of Alaska in the Bering Sea. At the instruction of the State Department, the Department of the Interior was unable to guarantee that the successful bidders for these oil and gas leases would be able to keep their leases, since this area was being actively considered for turnover to the Soviet Union. As it turned out, four energy companies (Shell, ARCO, Amoco, and UNOCAL) were so certain of rich petroleum finds that they bid \$108,000,000 for leases in the seabed tracts that are currently being held hostage to the State Department's negotiations. Because of the potential giveaway, these companies have over \$21,000,000 tied up in deposits with the Department of the Interior for an indefinite time period, hundreds of potential jobs are imperilled, and hundreds of millions of dollars of revenues and billions of barrels of oil are at stake.

The enormous size of the giveaway of strategic oil reserves is reflected in official Department of the Interior estimates. The oil-rich outer continental shelf off Alaska is equal in area to six Californias--or three-quarters of the entire U.S. outer continental shelf. Seabeds equal

to about twice the size of California lie to the east of the 1867 Convention Line, and seabeds equal to about four Californias lie the west in the vicinity of the Alaskan islands of Wrangell, Herald, Bennett, Henrietta, and Jeannette. The estimated hydrocarbon reserves of the seabeds to the east of the 1867 Convention Line are 12.2 billion barrels of oil equivalent. (The Navarin Basin alone contains 1.9 billion barrels of reserves.) To the west of the 1867 Line, which has twice the area, the reserves have not been officially estimated, but it would not be unreasonable to place them at twice the amount for the area to the east of the line. Or, in other words, the State Department is contemplating giving away about 25 billion barrels of oil equivalent to the Soviets.

The State Department's basis for the giveaway involves its novel (and incorrect) portrayal of the "U.S.-Russia Convention Line of 1867", which was used in the purchase of Alaska from Russia in 1867 for \$7,200,000.

This stance by the State Department appeared in the Federal Register notice of the leasing of the Navarin Basin (p. 10065, March 16, 1984). In paragraph 16, under the heading "Jurisdiction", was the following language: "The differing claims relate to differing depictions of the line established by the 1867 Convention Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arcs of great circles while the Soviet Union depicts the 1867 Convention Line as rhumb lines." There is no question in the State Department's position that the 1867 Convention Line is "the maritime boundary".

Contradicting this characterization is a mass of historical evidence and even the State Department's own words. In the State Department's International Boundary Study No. 14 (revised 1965) on "U.S.-Russia Convention Line of 1867", the language is very clear:

"Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. ...

"Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."

So far, the State Department has failed to explain how the United States has relinquished its claim to the islands and seabeds between 1965 and 1984. No treaty, agreement, or other public understanding had been cited for this surrender of American sovereignty.

Even as late as 1978 the noted authority Dr. William E. Butler, Professor of Comparative Law at the University of London, wrote in the book International Straits of the World, Volume 1 "Northeast Arctic Passage" as follows:

"The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

The five Arctic Alaskan islands--Wrangell, Herald, Bennett, Henrietta, and Jeannette--were never considered in the purchase of Alaska. Four had not yet been discovered in 1867. Americans discovered and claimed them on Arctic expeditions in following decades. Herald Island was discovered

and claimed by the British in 1849, and was later acquired by the United States.

Bennett, Henrietta, and Jeannette Islands were discovered and claimed by U.S.N. Commander George Washington DeLong aboard the Jeannette in the 1879-81 expedition. The islands still bear his name (the DeLong Islands), and the U.S. Naval Academy in Annapolis has a monument to that expedition.

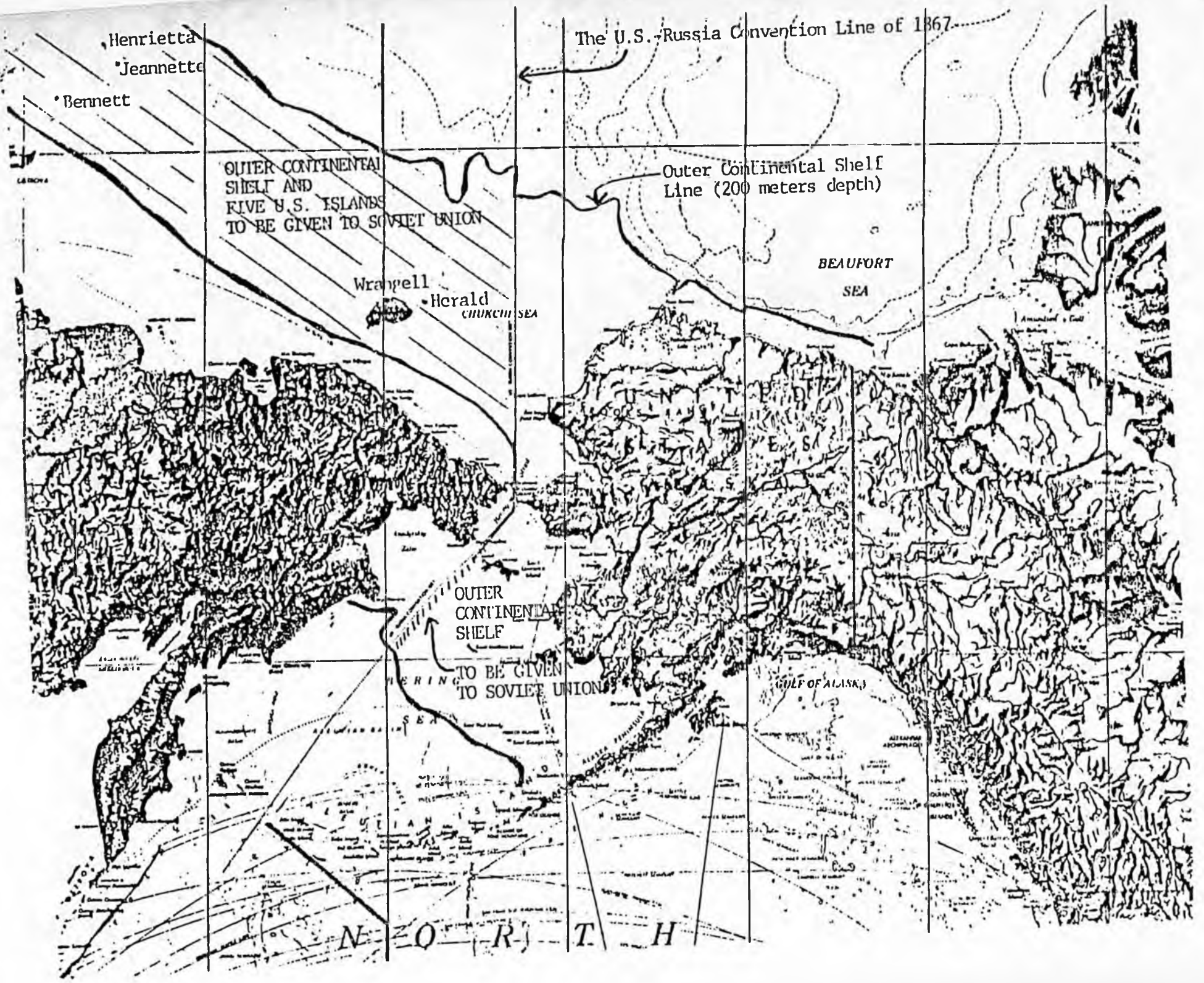
Wrangell Island, the largest of the five with an area of 2,800 square miles (the size of Rhode Island and Delaware combined), was discovered and claimed on August 12, 1881, by Captain Calvin Leighton Hooper aboard the U.S. Revenue Marine (Coast Guard) ship Thomas Corwin. Among the landing party on Wrangell Island was the famed explorer John Muir, who wrote of his trip in the book The Cruise of the Corwin. Various surveys, expeditions, and settlements were made on Wrangell Island in the next four decades by Americans. This ended when the Soviet Union invaded the island with a landing of infantry from the ship Red October on August 20, 1924, and took as prisoners the 14 Americans of the Lomen Brothers Company's fur settlement and confiscated all the gear, pelts, and other property. The 12 surviving Americans were eventually released from their imprisonment in Vladivostok. The Soviets currently maintain slave labor camps on the island.

It is significant to note that in the State Department's reissue of the book Digest of International Law by Green Haywood Hackworth in 1973, the unequivocal settlement is made: "The United States has not relinquished its claim to Wrangell Island."

Numerous efforts by various parties, including the owners of Wrangell Island, have been made over the decades to take back their property and collect damages for the unlawful occupation by the Soviet Union. Unfortunately, the State Department has not seen fit yet to honor those claims or even the decision by the Foreign Claims Settlement Commission in 1959 in favor of the Lomen Brothers.

"This impending giveaway of the five islands and the enormous tracts of oil-rich outer continental shelf to the Soviets demands the most searching public scrutiny and debate. It must be made an issue for a national decision-making," Olson stated. "The State Department is not empowered to surrender American real estate and seabeds. Only the Congress has that power. It must be brought up in the form of a treaty, signed by the President, and debated and ratified by the Senate in order to receive the full force of law. The Constitution cannot be ignored in this potentially massive cession of strategic American interests so close to home."

In an ironic comparison with the apparent lenient attitude that the State Department has exhibited toward the Soviets over the seabed boundaries, the State Department has adopted a hardline position toward our ally Canada over the seabed boundary between Alaska and Canada in the Arctic. This position came to light with the leasing on August 22 of the Diapir Field which borders Canada. The Federal Register announcement of July 23, 1984 (p. 29726) noted a "Jurisdictional Dispute" with Canada over some of the blocks being offered. Although the notice did not say so explicitly, the U.S. position is that the seabed boundary should reflect the "equidistant" theory of boundaries, while the Canadians want a more favorable drawing of the line. While this dispute continues, the three petroleum companies which bid on these leases (Union Oil Co. of Calif., Amoco Production Co., and Shell Western E & P Inc.) will have their bid money deposit lie in escrow. Their total winning bids for the four blocks totalled \$5,105,000--a substantial affirmation of the rich nature of the Arctic Alaskan outer continental shelf.



Henrietta  
Jeannette  
Bennett

The U.S.-Russia Convention Line of 1867

OUTER CONTINENTAL SHELF AND FIVE U.S. ISLANDS TO BE GIVEN TO SOVIET UNION

Outer Continental Shelf Line (200 meters depth)

Wrangell  
Herald  
CHUKCHI SEA

BEAUFORT SEA

OUTER CONTINENTAL SHELF

TO BE GIVEN TO SOVIET UNION

GULF OF ALASKA

NORTH