

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4361 SSTA SB 231 (FILE 3) - SB 231 (FILE 4)

1240

the authorizing officer. A minimum of \$100,000 per person/ \$500,000 per event public liability insurance is required and the policy must name the State of Alaska, Division of Parks and Outdoor Recreation, as the "additional name insured". All certificates must provide a 30-day prior written notice to the Kenai Area Superintendent, Box 1247, Soldotna, Alaska 99669 (phone 262-5581), of cancellation, non-renewal or material alteration of such insurance or lapse of insurance.

#### 8. SUSPENSION OR REVOCATION

The permittee has read and agreed to the terms of this permit and understands that the breach of any terms is cause for revocation. Further, it is expressly understood and agreed that this permit may be revoked with cause at the discretion of the authorizing officer without compensation to the permittee or liability to the authorizing agency. Grounds for immediate suspension or revocation are:

- A. Loss or expiration of U.S. Coast Guard "6 - Pack" license.
- B. Loss of required liability insurance coverage.
- C. Loss of Alaska sport fishing license by court conviction.
- D. Conviction of gross public safety violation relating to boating activity (i.e., DWI boat operation, reckless endangerment).
- E. Failure to accurately maintain and submit required logbook records.
- F. Guiding in a powerboat with a "drift only" permit.

Grounds for possible suspension or revocation:

- A. Repeated or willful non-compliance with park use permit stipulations.
- B. Conviction of two Alaska State Park violations within a one year period, or three convictions within a five year period.

Grounds for immediate temporary suspension of the guide park use permit by the Kenai Area Superintendent for up to five guiding days:

- A. Violation of laws protecting public peace and dignity within the area covered by the permit.
- B. Citation of any fishing regulation violation (i.e., retain fish over the specified limit, failure to maintain logbook, wanton waste).
- C. Allowing clients to take over-limit, or to continue fishing from the guide boat after retaining a king salmon.
- D. Fishing or allowing clients to fish from a registered guide vessel in a closed area, or during a closed season, or during non-guide hours, or on non-guide

days, or retaining protected species, or using illegal gear or illegal methods and means.

- E. Use of a motor in a "drift only" area except in an emergency.
- F. Allowing a non-permitted guide to operate a registered guide vessel for guiding activities without a permitted guide aboard except in an emergency.

9. NON-EXCLUSIVE USE

This permit shall not be construed as limiting the rights of the authorizing officer to issue similar permits for same or similar activities in the area covered by this permit. The permittee, his or her agents or clients, shall not interfere with free public use or other authorized use of roads, trails, parking areas or other lands and water in the area of their activities. Guides may use state public launch facilities to pick up or return passengers and to launch and retrieve boats.

10. ADVERTISING

It is agreed and understood that this permit does not authorize the permittee to solicit business, advertise, collect any fees or sell any goods or services on lands and water authorized to be used by this permit unless specified on the permit. Further, the permittee shall not make any misrepresentations in his/her advertisements, signs, circulars, brochures, letterheads and like materials regarding this permit.

11. STRUCTURES

No temporary or permanent structures shall be erected in the area under this permit.

12. CLIENT INFORMATION

The permittee agrees to provide clients with information regarding rules, regulations and other information pertaining to the area and with basic safety information relative to the client's visit.

13. ACCIDENT NOTIFICATION

The permittee will notify the authorizing officer immediately after completing a trip of any accidents involving personal injury or of any threatening incidents involving wildlife or incidents involving the loss of equipment such as canoes, rafts, tents or other gear which could create the impression that someone may be lost or in danger.

14. INDEMNIFICATION

The permittee shall indemnify, save harmless, and defend the State, its officers, agents, and employees from liability of any nature or kind, including costs and expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission or negligent act of the permittee relating to its performance of this permit. All legal actions or claims including defense cost resulting from injuries or damages sustained by any person(s) or property arising from the permittee's performance of this permit which will result in joint liability of the State and permittee shall be apportioned on a comparative fault basis. Any such joint liability on the part of the State must be due to the active negligence on the part of the State.

15. QUALITY OF SERVICE

The permittee shall observe such requirements respecting quality and standards of service as dictated by laws or regulations or as is necessary to protect the public health, safety and welfare.

16. RESOURCE PROTECTION

The permittee shall exercise diligence in protecting from damage lands, water, facilities and resources in the permit area and used in connection with this permit.

17. REPAIR OF DAMAGE

The permittee shall be liable for the repair of any damages to lands, water, facilities or resources resulting from the activities of the permittee, his agents, employees or clients.

18. HAZARDS

Rising waters, high winds, falling limbs or trees, wildlife and other hazards are natural phenomena that present risks which the permittee assumes. The permittee is responsible for insuring the safety of the clients under his supervision.

19. COOPERATION

The permittee agrees to cooperate with agency representatives for the purpose of permit compliance and to gather current information on the area.

20. SANITATION

The permittee must dispose of all human wastes and refuse generated by himself or his clients within the permit area in the appropriate facility outside of the permit area.

21. CAMPS AND CACHES

The permittee agrees not to establish temporary or permanent camps or caches within the permit area.

22. FIRES

The permittee is strongly encouraged to use gas or propane stoves for cooking. Ground fires are prohibited. However, dead and down wood may be gathered and fires of wood or charcoal may be built if contained in metal bottom containers (firepan). All fire rings shall be broken up and ashes shall be removed as refuse.

I have read, understand and agree to comply with the above state park use permit stipulations.

\_\_\_\_\_  
Permittee Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Cash

7882 - ACCOUNTABILITY (7-80)

One of the most important responsibilities of each of us is to safeguard assets of the State. Cash is a particularly difficult asset to safeguard because it is relatively easily concealed and readily negotiable. This asset is safeguarded through the use of whatever records and controls are necessary under the circumstances.

Cash collections may be in the form of checks, money orders, bank drafts, lock box receipts, electronic fund transfers, letter of credit deposits, coin and currency. As most cash collections are for revenues, the minimal statewide procedures to establish accountability and safeguards until they are deposited in the Treasury and applied correctly are spelled-out in this part of the manual.

In its broadest application, accountability for cash collections involves three agencies; the agency that receives the money, the Department of Revenue and the Department of Administration. By law each agency is required to account and pay over all money it collects to the Department of Revenue for deposit in the State Treasury. The Department of Revenue is required to submit an accounting of all cash it receives to the Department of Administration. The Department of Administration is required to maintain accounts showing at all times, by funds and other classifications, actual balances of cash, revenues and collections and to adopt a system that prescribes the use and accounting of current receipt documents.

7884 - CONTROL (7-80)

A system of control must be designed around each individual office where cash is collected. In designing this system, the following rules will be observed in order to detect errors and to discourage fraud.

1. Separate the duties of receiving cash, disbursing cash, and reconciling bank statements - Section 7900.
2. Safeguard undeposited collections in a safe, vault, locked filing cabinet or other secure device - Section 7896.
3. Prepare and issue numbered receipts for collections of coin and currency - Section 7886.
4. Endorse checks restrictively on receipt - Section 7888.
5. Maintain a daily record of collections - Section 7892.

6. Deposit collections daily and intact - Section 7904.
7. Remit collections to the Treasury not less often than once a week - Section 7922.

The above minimum requirements will be followed by all State agencies unless written permission to deviate therefrom is obtained from the Department of Administration. However, agencies will not add staff, facilities or services solely to satisfy these requirements without written permission from the Department of Administration. Additional controls will be followed by all State agencies insofar as it is practicable to do so. The question of practicability, considering the materiality of the risk involved, is to be asked and answered by the agency involved.

#### 7886 - ISSUANCE OF RECEIPTS (7-80)

A prenumbered receipt is prepared at least in triplicate and the original is given to a person making a remittance in the form of coin or currency. However, a receipt is not required if the person making a remittance is given a prenumbered document of fixed value such as a license or a permit.

Cash receipts may be prepared and issued for remittances made by checks, money orders and other negotiable instruments if a receipt is requested by the person making the remittance or if a receipt is needed as a posting media in the accounting system or to enhance other controls over the receiving function.

Typically, collections of coin and currency are received over-the-counter. In such cases a receipt is prepared and issued to the remitter on the spot. Whenever coin and currency are received in the mail a receipt is prepared immediately and mailed that day to the person making the remittance.

To enhance the effectiveness of this internal control feature the finance officer of each department will see to it that a record is maintained of the receipts that are available for use in each office of his agency. The finance officer may require that duplicate copies of issued receipts be sent to the central office periodically and he may require the inventory of unused receipts, following somewhat the same guidelines that are currently used for the control of field warrants. In many situations the agency finance officer may find it advantageous to buy all cash receipt forms and to issue them on an as-needed basis to field offices.

#### 7888 - RESTRICTIVE ENDORSEMENTS (7-80)

Checks, money orders and other negotiable instruments are restrictively endorsed at the time of initial receipt. Restrictive endorsements should be placed on checks as they are received over-the-counter or as soon as mail is opened if they are received in the mail. In no event however, may checks be held without restrictive endorsements later than the end of the working day during which they are received.

The form of the restrictive endorsement depends on the nature of the deposit. The following type of restrictive endorsement is placed on all negotiable instruments deposited in the State Treasury system regardless of whether a deposit is made to a bank or directly with the State Treasurer in Juneau. If an agency has any question with regard to the form of a specific restrictive endorsement it should consult with the Treasury Division of the Department of Revenue. The State Treasurer is the only state officer authorized to prescribe a form of endorsement on negotiable instruments received by state agencies.

RESTRICTIVE ENDORSEMENT STAMP

Pay To The Order Of  
Alaska National Bank of the North  
For Deposit Only  
DEPARTMENT OF REVENUE  
Treasury Division  
State of Alaska  
Acct #19005946

Each agency is responsible for ordering necessary rubber stamps to restrictively endorse negotiable instruments on receipt.

7890 - MAIL COLLECTIONS (7-80)

In most agencies cash collections are received in the mail. The person who opens mail is responsible for restrictively endorsing any checks received and preparing receipts for any coin or currency. When this is done appropriate notations are made on letters, applications, tax returns and other correspondence included with the collections; the collections - negotiable instruments as well as any coin and currency - are given to the person who is responsible for preparing the daily record of collections together with copies of cash receipts prepared by the mail opener.

In those operations where a large volume of coin and currency is received in the mail, it is advisable to assign more than one person to the mail opening and receipt preparation process. The people should work together with one acting as an observer of the other.

7892 - DAILY RECORD OF COLLECTIONS (7-80)

Collections received by an agency are entered in a daily record of collections. The daily record of collections is a listing of amounts received with sufficient detail to enable an agency to identify each item. As a general rule the daily record of collections should include the following information:

1. Date of collection.

2. Name of the payer.
3. Amount received.
4. Type of collection - cash, check, money order, etc.
5. Account to which collection is to be credited or purpose of receipt.
6. Receipt number, if any.

In addition there should be room for information on the amount deposited in the bank and possibly both the departmental transmittal and Treasurer's TR numbers.

A suggested format for the daily record of collections is shown in Exhibit 7892. Other formats or information systems may be utilized in lieu of the suggested format, provided that the substitute format or system permits the recording of all necessary data.

Agencies may summarize on the daily record of collections amounts received from remitters for whom receipts are written. Summary information should include the beginning and ending receipt numbers, the amount represented by the receipts and the account to which the collections should be credited or the purpose of the amount received. The total amount shown on the daily record of collections should agree, both in total and in composition, with the amount deposited in the bank as shown on the retained copy of the bank deposit slip. In some situations, departmental finance officers may require that the original or a copy of the daily record of collections be submitted to them for review and for reconciliation with amounts transmitted to the State Treasurer.

#### 7894 - LOCK BOX AND LETTER OF CREDIT (7-90)

Under the lock box system a bank regularly picks up remittances from a designated post office box and immediately deposits them to the credit of the State. The bank then advises Treasury of the amount and the source of the deposit and Treasury prepares a TR. The primary advantage of the lock box system is that it eliminates time in the mail and thus makes cash available from two to five days earlier than it normally would be.

At the present time the State maintains one lock box in Washington. It is used to receive funds disbursed by federal warrants written in the District of Columbia. Perhaps the largest of these sums is PL 874 money for the Department of Education.



A letter of credit is an authorization to draw funds from the federal treasury within a stated amount and time in payment of specified contract or grant costs incurred by the State. Under the letter of credit system the agency requesting a draw prepares a TR in the usual way accompanied by a federal payment voucher on letter of credit. Treasury submits the payment voucher to the federal reserve through a local bank and in this way federal funds are made available within twenty-four hours. Under the letter of credit system whatever additional accounting the federal granting agency may require is provided after the funds have been drawn.

Of the two systems, letter of credit is much faster and should be utilized wherever possible. Even under letter of credit, however, a TR and a payment voucher must be prepared before cash can be received. It does little good to have a rapid collection system unless it is utilized to the maximum extent practicable under the circumstances.

#### 7896 - SAFEKEEPING FACILITIES (7-80)

Undeposited collections are stored in a locked box appropriately secured. Appropriately secured is taken to mean in a locked file cabinet or similar device. In addition to appropriately securing undeposited collections during non-working hours, care must be taken to provide security over coin and currency during working hours. For example, cash boxes or drawers should be locked when the assigned custodian is away from these facilities. Keys to safekeeping facilities are to be secured at all times.

#### 7898 - ACCESS TO SAFEKEEPING FACILITIES (7-80)

Each agency maintains a record of the names of persons having knowledge of the combination of the safe or vault or possession of keys or devices in which cash is stored.

Generally speaking, it is necessary for at least two persons within an agency to be able to access devices in which cash is stored. As the number of persons having knowledge of combinations or access to keys increases, the effectiveness of internal control decreases. Locks and combinations should be changed when an excessive number of employees have knowledge of them or when an employee having such knowledge leaves state service or transfers to another agency.

#### 7900 - SEPARATION OF DUTIES (7-80)

In handling cash no one person may perform more than one of the following types of duties;

1. Receiving and depositing collections.
2. Authorizing disbursements or preparing checks.
3. Reconciling bank accounts.

ASSIGNMENT PLANS

<u>Function</u>	<u>Five Employee Plan</u>					<u>Four Employee Plan</u>				<u>Section</u>
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	
1. Opening mail . . . . .	X					X				7890
2. Restrictively endorsing checks and other negotiable instruments . . . . .	X					X				7890
3. Preparing and issuing cash receipts . . . . .	X					X				7886
4. Preparing collection reports . . . . .		X					X			7892
5. Preparing bank deposit slips . . . . .		X					X			7904
6. Depositing collections in the bank . . . . .	X					X				7904
7. Preparing transmittals of receipts . . . . .		X					X			7924
8. Certifying TR's . . . . .					X				X	7924
9. Preparing checks . . . . .			X				X			7926
10. Signing or authorizing the issuance of checks . . . . .					X				X	7926
11. Reconciling bank statements . . . . .				X				X		7900
12. Preparing bills for collection . . . . .			X				X			7976
13. Maintaining open accounts receivable file . . . . .				X				X		7980
14. Initiating AR adjustments . . . . .				X				X		7982
15. Approving AR adjustments . . . . .					X				X	7982
16. Preparing monthly statements for open accounts receivable . . . . .				X				X		7986
17. Writing collection letters . . . . .				X				X		7980

ASSIGNMENT PLANS

Exhibit 7900  
July 1980

Generally agencies are not involved in the actual disbursement process in field offices. Also, as a general rule bank accounts need not be reconciled in field offices; they may be sent direct to the agency finance officer for reconciliation by his staff. As a consequence, therefore, it should be possible for most agencies to achieve a stronger measure of control than the minimum requirements set forth above.

Whenever sufficient staff is available to achieve a separation of duties in the processing of cash collections, one of the assignment plans illustrated in Exhibit 7900 should be utilized. Duties assigned to one individual in any one of the plans may be assigned other individuals not otherwise involved in processing cash collections.

Whenever it is an agency's responsibility to reconcile bank statements, regardless of whether the bank statements are reconciled at headquarters or at a field office, the bank statements and paid checks will be delivered unopened to the person charged with this responsibility and will be safeguarded by him until the reconciliation is completed. An adequate record of the bank reconciliation will be prepared and after review and approval by the employee's supervisor will be kept on file or sent to the agency finance officer if this is one of his requirements.

#### 7902 - TRANSFER RECEIPTS (7-80)

Whenever collections are transferred from one employee to another a transfer receipt is prepared. Transfer receipts need not be pre-numbered and they may be in whatever form is considered appropriate under the circumstances. When prepared, however, at least three copies shall be used. Three copies permit the following distribution:

1. File.
2. Transferee.
3. Transferor.

Whenever amounts collected are handled by more than one employee, effective control requires that accountability be established as the custody of money changes. If the monies transferred are secured in a locked facility, such as a locked box, and the person to whom the device is given does not have access thereto (an example of this would be deposits in a locked bank pouch being taken to the bank), it is not necessary to prepare a transfer receipt.

#### 7904 - FREQUENCY OF DEPOSIT (7-80)

Collections are banked daily in a depository account prescribed by the State Treasurer. Moreover, if possible, collections should be banked on the day they are received. Only in unusual cases may collections be held over for deposit on the following day. If practicable, agencies should use night depository facilities provided by most banks. Night depository facilities permit an agency to deposit collections after normal banking hours.

Deposit slips are normally prepared in three copies to permit the following distribution:

1. Bank.
2. Agency office.
3. Agency finance office or State Treasurer.

It should also be noted that collections may be deposited more than once a day if conditions warrant.

7906 - DEPOSITING INTACT (7-80)

All collections are deposited intact.

Depositing intact means that the total amount collected is the amount that is deposited. Moreover, the composition of amounts collected may not be altered. Disbursements from collections prior to deposit are not permitted. Standard operating procedures in an agency are used to determine that collections are deposited intact. For example, persons preparing collection reports or deposit slips are required to determine that receipts are being used sequentially and that all are accounted for.

Transmittals7922 - FREQUENCY (7-80)

Cash collections are sent to the Treasury when they exceed \$1,000. However, an office may never keep collections more than a week even if the amount involved is only a few dollars.

As a consequence, some offices transmit collections daily, some several times a week and others weekly. Moreover, within a department some offices may be required to transmit more often than others. The frequency requirement pertains to each office where cash is collected rather than to a department as a whole.

7926 - TRANSMITTAL PROCEDURES (7-80)

Both the transmittal of receipts (TR) and transfer of bank deposits (TD) are used to accomplish the actual remittance of cash to the Treasury. Procedures pertaining to the use of TD's are discussed in Section 7928. Procedures to remit cash with TR's are outlined in this section. TR's are used by all agencies in Juneau and by agencies outside Juneau that bank their collections in local bank accounts.

Agencies in the Juneau area prepare a transmittal of receipts form and hand carry receipts in the form of coin, currency, checks and other negotiable instruments with the TR to the Treasury Division. If an agency transmittal includes coin or currency, staff of the Treasury Division count the coin and currency and initial the agency goldenrod copy of the TR as a transfer receipt. Thereafter, the control and routing of the transmittal of receipts follows the procedure outlined in Exhibit 7926.

Agencies outside the Juneau area deposit their collections in a bank account selected by the Treasury Division of the Department of Revenue. It is important to note that only the Treasury Division may authorize the maintenance of a bank account. As collections are received agencies deposit them in the designated account. When \$1,000 has been deposited, but not less often than once a week, the agency prepares a TR and sends it to the Treasury. Accompanying each TR is a copy of each deposit slip validated by the bank when each deposit was made or a check prepared by the agency payable to the Department of Revenue for the amount being transmitted. Treasury advises each agency of the specific procedures to be followed. In some uses the signature field on the check may be left blank. When received in Treasury the amount of the TR is compared with the total of attached deposit tags or the check. If the totals agree an officer of the Treasury signs the check, if the check was not signed by agency personnel. The distribution of the TR then follows the procedures outlined in Exhibit 7926.

ROUTING OF A TR

	<u>Operation</u>	<u>Yellow Original</u>	<u>Blue Copy 1</u>	<u>White Copy 2</u>	<u>Pink Copy 3</u>	<u>Goldenrod Copy 4</u>
<u>Agency</u>						
Prepares TR showing the total amount of collections being transmitted and appropriate revenue (1) transaction, (2) collocation and (3) receipt code.	1.	XX	XX	XX	XX	XX
Forwards original and first two copies to Treasury together with the money that is being transmitted.	2.	XX	XX	XX		
Sends third copy to Finance for the Finance suspense file.	3.				XX	
<u>Treasury</u>						
Receives original and first two copies from agency with cash remitted.	4.	XX	XX	XX		
Verifies that total money agrees with TR total, banks the cash and assigns official TR number.	5.	XX	XX	XX		
Sends the original and first copy to Finance.	6.	XX	XX			
<u>Finance</u>						
Receives original and first copy from Treasury.	7.	XX	XX			
Records original and removes third copy from its suspense file.	8.	XX			XX	
Sends first copy to agency with Daily Revenue Journal.	9.		XX			
<u>Agency</u>						
Receives first copy from Finance.	10.		XX			
Compares with fourth copy and entry in Revenue Journal.	11.		XX			XX
Files numerically by Treasury assigned TR number.	12.		XX			

ROUTING OF A TR

Exhibit 7926  
July 1980



TR ENTRY DEFINITIONSEntry Definitions

1. This is the date prepared by the agency.
2. This is a 24-character description for each line of coding. This information is keypunched and is part of the transaction as recorded in the journal.
3. Complete account coding is shown for each amount. Agency must be sure that collocation code is authorized for revenues and that three digit receipt code is used instead of three-digit object code.
4. An asterisk designates a prior year receipt.
5. An amount is entered for each line of coding.
6. This is an explanation entered on the lower part of the form below account coding. This explains what the transaction is for. This information is not keypunched and is not entered into the journals.
7. This is the total of all amounts shown for each line of coding.
8. Each TR must be signed by an officer authorized to sign receipt documents. In addition, when collections were received should be entered.
9. The date entered is placed on the form after processing by the Division of Finance.
10. The TR number is assigned sequentially by the Treasury Division in the Department of Revenue.

DIVISION OF FINANCE

# TRANSMITTAL OF RECEIPTS

LIMIT DESCRIPTION TO 24 CHARACTERS  
ADDITIONAL EXPLANATION SHOULD BE  
ENTERED BELOW TRANSACTION AS NEEDED

DEPARTMENT NUMBER

DATE PREPARED

DT 066311

7-5-78

DESCRIPTION	REFERENCE	TRANS CODE	CITY	FUND	ACCT	REPT	ACTY	PROJECT	AMOUNT
Univ Traffic City/Knox	AR 61133	473	12	62	1301	877		*	142.31
{ /JNO	AR 61122	{	{	{	{	{	{	{	313.30
{ /SOLDOTNA	AR 61127	{	{	{	{	{	{	{	26.05
Contract/US DEPT. COM	AR 61016	{	62	1181	875				8,147.00

RECORDING A REALIZATION  
OF PRIOR YEAR BILLINGS  
IN ACCOUNTS RECEIVABLE

db

DOCUMENT TOTAL

→ \* 8,648.66

DATE PREPARED

TREASURY NUMBER

Barbara H. Perreuter

July 12, 1978

TR 13

Exhibit 7926.3 is a properly completed Transmittal of Receipts. If this form had been prepared by an agency in Juneau it would be accompanied by the actual cash making up the remittance. If submitted by an agency outside Juneau it would be accompanied by deposit slips or a check for the total amount shown on the TR.

#### 7928 - DIRECT WIRE TRANSFER (7-80)

Another common method of remitting money to Treasury is by direct wire transfer of bank deposits. Under this system agencies deposit money in bank accounts selected by the Treasury Division of the Department of Revenue. Each day, the bank advises Treasury of the total amount deposited and transfers it to a concentration account within the treasury system. As soon as Treasury is advised of the transfer it prepares a transfer of bank deposits - the equivalent of a TR - for the amount of the transfer and sends the AV portion of the TD to the agency. All such transfers are recorded in department 73. Department 73 posts to a suspense account in the general fund.

As soon as an agency receives its copies of the transfer of bank deposits forms it completes the adjustment voucher portion of the set - yellow and blue copies - and sends the yellow copy to the Division of Finance for recording. This adjustment voucher debits the suspense account and credits designated agency revenue accounts.

A project account is established for each TD number as it enters the system. Exhibit 7928 is a page from the project ledger. If a balance is shown on the inception-to-date total line it means that the amount has not been cleared from the suspense account. If the balance on the inception-to-date total line is zero it means that the TD has been cleared from the suspense ledger. In the example shown there are balances in project codes 001576, 001586 and 001590.

See Section 6186 for additional information on revenue collections transmitted by direct wire transfer.

#### 7930 - CASH IN TRANSIT (7-80)

As of June 30 the Division of Finance asks each agency to submit a report of cash in transit. Cash in transit consists of the following:

1. Cash on hand or in agency bank accounts for which a transmittal of receipts document has not yet been prepared.
2. Cash collections covered by a transmittal of receipts document prepared as of June 30 but not deposited by the State Treasurer until after June 30.

R73-02B-007D  
090378172036

STATE OF ALASKA  
PROJECT LEDGER  
MONTH ENDING 08/31/78

PAGE 1747

REVENUE	ADMINISTRATION	ESTIMATE	73 CASH DEPOSIT TRANSFER					
			RECEIPTS	TRANSFERS	REFUNDS	RECEIVABLES	BALANCE	
COLLOCATION	73120005							
PROJECT	001549							
PROJECT 001549 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	45,342.00-	.00	.00	.00	.00	45,342.00
YEAR TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PROJECT 001533 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	6,084.00-	.00	.00	.00	.00	6,084.00
YEAR TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PROJECT 001557 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	251,487.00-	.00	.00	.00	.00	251,487.00
YEAR TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PROJECT 001561 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	181,039.00-	.00	.00	.00	.00	181,039.00
YEAR TO DATE TOTALS		.00	181,039.00	.00	.00	.00	.00	181,039.00-
PRIOR YEAR TOTALS		.00	181,039.00-	.00	.00	.00	.00	181,039.00
INCEPTION TO DATE TOTALS		.00	.00	.00	.00	.00	.00	.00
PROJECT 001576 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	.00	.00	.00	.00	.00	.00
YEAR TO DATE TOTALS		.00	112,677.25	.00	.00	.00	.00	112,677.25-
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE		.00	112,677.25	.00	.00	.00	.00	112,677.25-
PROJECT 001586 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	.00	.00	.00	.00	.00	.00
YEAR TO DATE TOTALS		.00	83,004.25	.00	.00	.00	.00	83,004.25-
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE TOTALS		.00	83,004.25	.00	.00	.00	.00	83,004.25-
PROJECT 001590 *****								
CURRENT ACTIVITY		.00	.00	.00	.00	.00	.00	.00
PRIOR YEAR ACTIVITY		.00	.00	.00	.00	.00	.00	.00
YEAR TO DATE TOTALS		.00	7,202.00	.00	.00	.00	.00	7,202.00-
PRIOR YEAR TOTALS		.00	.00	.00	.00	.00	.00	.00
INCEPTION TO DATE TOTALS		.00	7,202.00	.00	.00	.00	.00	7,202.00-

A PROJECT LEDGER

Exhibit 7928  
July 1980

STATE OF ALASKA  
TRANSFER OF BANK DEPOSITS

DIVISION OF FINANCE

AGENCY (1)		LOCATION (2)			
BANK (3)		ACCOUNT NUMBER (4)			
DEPOSIT AMOUNT (5)	RETURN ITEMS AMOUNT (6)	OTHER ADJUSTMENTS AMOUNT (7)		DATE TRANSFERRED	
COMMENTS: (9)				TREASURY NUMBER (8)	
				TD 002000	

(24 CHAR)	DESCRIPTION	REFERENCE	TRANS CODE	DEPT	PROG	DIV	ACCT.	RECPT	ACTY	PROJECT	NET TRANSFER AMOUNT
(10)		(11)	403	73	(12)			625			(13)

CERTIFICATION: I CERTIFY THAT THE AMOUNT LISTED IS A TRUE AND CORRECT TRANSMITTAL OF CASH COLLECTIONS.

CERTIFYING OFFICER:

(14)

DATE ENTERED

(15)

THE TR PORTION OF A TD

Exhibit 7928.1  
July 1980

Entry Definitions

The TD (fields 1-15) is prepared by staff of the Treasury Division of the Department of Revenue based on information received by Telex from a designated bank.

1. Name or abbreviation of the department that deposited collections in a designated deposit account.
2. Name of city or abbreviation of location where collections were deposited.
3. Name or abbreviation of the bank.
4. Bank account number, if necessary.
5. Amount deposited.
6. NSF's or other return items.
7. Other adjustments.
8. Date document prepared. This is the same date that funds were transferred.
9. Any necessary comments (explanation) such as identification of NSF's.
10. Description considered necessary such as bank abbreviation and date of wire transfer.
11. The reference number field is typically not used on this part of the form.
12. The remainder of the collocation code. Agency department number in the program number field, a zero in the division field and three digits identifying specific agency location in the account field.
13. The net amount of the transaction. The amount in field 5 less any amounts in fields 6 and 7.
14. Signature of Treasury certifying officer.
15. Date document processed through general accounting is entered in Finance.



Entry Definitions

The AV (distribution of bank deposits, fields 16-26) is prepared by the agency. Information in fields 1-13 on the TD appears as carbon entries on the AV.

16. Date agency prepares the AV.
17. A 24 character description for each line of coding. This information is keypunched and is part of the transaction as recorded in the journal.
18. If the transaction code is 475, the reference is the AR number. If the transaction code is 405, this field is left blank.
19. The transaction code is typically a 405. If the transaction is in realization of a receivable, the code used is 475. If the transaction is an abatement, the code used is (362).
20. Complete collocation code for each line of coding. Collocation code must be authorized for revenues.
21. A three digit receipt code. Do not use object code -- unless the transaction code is a (362).
22. Project coding if used.
23. An amount for each line of coding. If for prior year put flag in front of money amount to record restricted receipts or abatements.
24. Dates when collections were received.
25. Must be signed by an officer of the agency authorized to sign receipt documents.
26. The document total of plus and minus amounts should be zero.
27. Date processed through general accounting is entered by Finance.
28. AV numbers are assigned and entered by Finance.

Using reports of cash in transit submitted by the agencies, the Division of Finance debits an asset account called "Cash in Transit" and credits designated agency revenue accounts. The Division of Finance records its entry by a worksheet technique as of the end of each fiscal year and reverses the amount recorded for the prior fiscal year.

#### 7932 - DISHONORED CHECKS (7-80)

There are times when checks are returned by the bank because of insufficient funds. If an NSF check is returned to the State Treasury a transaction to record the NSF check is prepared by Treasury.

If an NSF check is returned to an agency, it decreases the amount of the next TR that is prepared to remit cash to the Treasury. If the agency has been instructed to send copies of deposit slips with the TR, it should also send a copy of the bank debit memo to permit Treasury to reconcile amounts collected with amounts shown on the TR.

#### 7934 - FOLLOW-UP RESPONSIBILITY (7-80)

Regardless of whether an NSF check is returned to the Treasury or returned to an agency, it is the responsibility of the agency to establish the amount of the check as a receivable and to take action to collect it from the maker. In addition, it is the responsibility of the agency to trace the NSF check to its original TR in order to determine that a proper adjustment is made. Agencies are responsible for making a concerted effort to collect amounts represented by dishonored checks. Accounts receivable resulting from dishonored checks may not be cancelled without approval of the Department of Administration. An NSF check may not be returned to its maker until it is made good.

Petty Cash and Change Funds7942 - PETTY CASH FUNDS (7-80)

Except in unusual circumstances each petty cash fund is in the sole custody of a single employee. The number of such funds is kept to a minimum, if possible not more than one fund in each city where an agency has an office. In addition, the size of each fund is kept small, if possible not more than a few dollars to pay postage due and to meet similar modest needs. Typically, obligations other than these can be satisfied by the use of field warrants.

Once established, each petty cash fund is maintained on an imprest basis. See Section 6280. This means that the amount of the fund remains constant and that the custodian is reimbursed by a general warrant for amounts paid out. Reimbursement is obtained by preparing a voucher supported by satisfactory evidence of such disbursements and submitting it through normal channels to the Division of Finance. See Section 6295.

Reimbursement need be made only as frequently as a fund requires replenishing. With the advent of field warrants, many petty cash funds are nothing more than small cash purchase funds of less than \$50. For a fund this small, monthly reimbursement may be adequate. For a larger fund it may be necessary to reimburse twice a month or even weekly.

Each petty cash fund is counted and balanced periodically by the custodian. This should be done whenever the fund is reimbursed but it must be done not less often than once a month. Also at irregular intervals someone other than the custodian makes a surprise count of the fund to determine that it is intact and that evidences of disbursement made but not yet recorded are proper. In addition, a scheduled count and reconciliation of resources is required as of the end of each fiscal year and whenever there is a change in custodians.

A petty cash fund may not be used to cash checks for the convenience of employees or other persons.

7944 - CHANGE FUNDS (7-80)

Change funds are established and controlled in the same manner as are petty cash funds, but are strictly revolving funds and require no replenishment.

The number of change funds needed by an agency depends on the number of locations where collections in the form of coin and currency are regularly received over-the-counter. If an agency collects coin and currency over-the-counter on an infrequent basis - once or twice a day - a change fund should not be needed.

23/  
✓

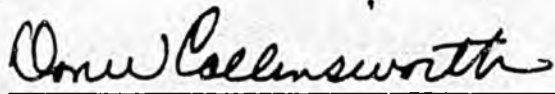
NOTICE OF ADOPTION OF EMERGENCY REGULATION

As required by AS 44.62.250, notice is given that, under authority of AS 16.05.251 and AS 16.05.270, the Alaska Department of Fish and Game adopted, amended, or repealed on this date, as emergency regulations, regulations contained in 5 AAC 01 dealing with subsistence fishing in the Bristol Bay, Cook Inlet, Prince William Sound, and Southeastern Alaska Areas, and in 5 AAC 77, dealing with personal use fishing in the Cook Inlet and Prince William Sound Areas.

This action is not expected to result in an increase in funding.

Copies of this regulation may be obtained by writing to the Department of Fish and Game, P.O. Box 3-2000, Juneau, AK, 99802, or by contacting the department's offices in Anchorage, Soldotna, Homer, King Salmon, Glennallen, Cordova, and Fairbanks.

Date: 5-16-85  
Juneau, Alaska

  
Don W. Collinsworth, Commissioner  
Department of Fish and Game

ADFG · Division of Boards  
Box 3-2000  
Juneau, Alaska 99602

OFFICIAL BUSINESS  
STATE OF ALASKA

STATE PENALTY FOR  
PRIVATE USE



REP MITCH ABOOD  
3102 NORTHWOOD DR  
ANCHORAGE AK 99503

C17006

FIRST CLASS MAIL

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M


NOTICE OF ADOPTION OF EMERGENCY REGULATION

As required by AS 44.62.250, notice is given that, under authority of AS 16.05.251 and AS 16.05.270, the Alaska Department of Fish and Game amended on this date, as an emergency regulation, 5 AAC 01.580(a)(1) to allow all residents of Alaska to subsistence fish in the Tyonek Subdistrict of Cook Inlet.

This action is not expected to result in an increase in funding.

Copies of this regulation may be obtained by writing to the Department of Fish and Game, P.O. Box 3-2000, Juneau, AK, 99802, or by contacting the department's offices in Anchorage and Soldotna.

Date: 5-15-85  
Juneau, Alaska

  
Don W. Collinsworth, Commissioner  
Department of Fish and Game

Don W. Collinworth, Commissioner

Public Communications  
Box 3 - 2000  
Juneau, Alaska 99802  
(907) 465-4113



# Alaska Department of Fish & Game

## NEWS

FOR IMMEDIATE RELEASE

May 16, 1985

### Hunting Regulations Delay Announced

23/1

JUNEAU--The Alaska Department of Fish and Game has announced that the hunting and trapping regulations books normally issued by July 1 each year will not be available until late in the summer.

The recent Madison and Eluska court decisions have forced an unanticipated session of the Alaska Board of Game to consider emergency regulations designed to bring the state into compliance. The board will begin its emergency session on June 10 in the Conference Room of the Fish and Game Building, 1255 W. 8th St., in Juneau.

Although the meeting is open to the public, no public testimony or comments will be taken. Once the board has drafted emergency regulations, they will be circulated for public review and written comment.

#####

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
PUBLIC COMMUNICATIONS SECTION  
P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000

OFFICIAL BUSINESS  
STATE OF ALASKA

STATE PENALTY FOR  
PRIVATE USE



SEN MITCH ABOOD  
3102 NORTHWOOD DR  
ANCHORAGE AK 99503

B65505

# Rural Alaska Community Action Program, Inc.

May 9, 1985

Senator Mitch Abood  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

RECEIVED  
MAY 28 1985

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Dear Senator Abood.

On March 20, 1985 at our regular Board meeting the Rural Alaska Community Action Program (RurAL CAP) passed Resolution 85-06, "In Support of Legislation to Maintain Orderly Harvest of Fish and Game Resources" (copy attached). RurAL CAP urges immediate action to respond to the Madison Supreme Court decision.

HB 288 has been carefully considered in the House: the teleconference hearings, the floor debates, the intensive media coverage, and the bill's ultimate approval May 4 have provided extensive opportunity for public involvement. The time has come for action on HB 288 in the Senate, before adjournment of this session.

The Madison Supreme Court ruling struck down the Board of Fisheries' definition of subsistence, specifically the part that said in order for a person to qualify as a subsistence user, he/she would have to live in a rural area. The court said that this definition did not give the kind of protection to subsistence users that was meant to be given by the State of Alaska's 1978 subsistence priority law.

The Eluska decision basically says that, since no regulations currently exist for subsistence use of game, a subsistence hunter cannot be prosecuted for taking moose or caribou, etc., if the meat is used for subsistence.

The combination of these two decisions makes it impossible for the Department of Fish and Game, and the Boards of Fish and Game to manage the allocation of fish and game resources. The Madison ruling has taken away their authority to regulate the taking of fish and game. Presently, the only thing they can do is to apply emergency regulations, but ONLY if the "sustained yield" of any resource is threatened. The likelihood of the "sustained yield"

of, for example, salmon fisheries that used to be taken mostly by commercial fishermen being threatened is very remote. Therefore, the Madison ruling that says the Board of Fish cannot differentiate between rural and urban to decide who is a subsistence user and who is not, means that just about anyone in Alaska qualifies for subsistence uses of fish and game. This creates a critical situation: the commercial fishermen who rely on fishing for their livelihood will have to wait until the Department of Fish and Game or the Board of Fish says all subsistence users have been satisfied before they will be allowed to take commercial fish. The sports fishermen will have to wait, too. Meanwhile, who is to say WHEN the Board or Department can say, truthfully and with documentation to back themselves up, that ALL subsistence uses have been satisfied?

The Eluska decision further muddies the water: it says, since the Madison ruling makes almost everybody subsistence users, and since there are no regulations for subsistence hunting (because of Madison there cannot be any) then almost anyone can take almost anything in the name of subsistence.

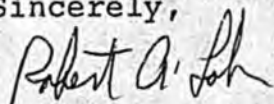
We believe that individual senators are, in fact, concerned about acting on the subsistence issue this session, and for good reason: lack of action this session aimed at correcting the imbalance created by the Madison court decision will result in serious harm to commercial and sports users of especially fisheries resources this spring and summer. Those who have subsisted in rural Alaska will continue to do so and suffer little or no impact as a result of inaction or delay by the Senate in 1985. This inequity is not in the interest of the people of Alaska. No public official could countenance a return to the divisiveness of 1982 when the subsistence repeal effort split the people of this State. By timely, responsible action this session you have the opportunity to defuse a potentially explosive situation.

Our constituency consists of both rural and urban residents; subsistence, commercial and sports users of fish resources; Democrats and Republicans. Their concern over this latest evidence of conflict over resource uses has been expressed to the Directors, and the result was unanimous adoption by the Board of Resolution 85-06. We recognize that the Senate's constituency is likewise diverse, and hope that you as a concerned Senator will

respond to the statewide expression we heard during the House teleconferences of the desire on the part of Alaskan residents that something be done about this issue this year.

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Lohr".

Robert A. Lohr  
Executive Director

Enclosure

RAL:ct

# Rural Alaska Community Action Program, Inc.

Resolution #85 - 06

- ENTITLED: In Support of Legislation to Maintain Orderly Harvest of Fish and Game Resources.
- WHEREAS, the orderly harvest of fish and game resources is essential to the general welfare of rural Alaskans who depend on these resources for a large part of their livelihood; and
- WHEREAS, the Alaska Supreme Court, in Madison, et al. vs. the Alaska Department of Fish and Game, struck down state regulations designed to determine eligibility for subsistence as being inconsistent with state law and legislative intent; and
- WHEREAS, the decision would have the effect of allowing massive increases in the number of subsistence permits which may be issued; and
- WHEREAS, this ruling also has the effect of preventing orderly harvest of subsistence fish and game resources because it diminishes the authority delegated to the Alaska State Board of Fisheries to establish criteria for the eligibility of users; and
- WHEREAS, the ruling broadens the eligibility for subsistence permits to include all residents of the state, because it focuses on the place where customary and traditional uses have occurred, rather than the people who conduct them; and
- WHEREAS, relaxing the eligibility requirements may necessitate emergency closure of commercial and sport harvests due to the influx of "court-created" subsistence users; and
- WHEREAS, the court recognized that the legislature intended to protect subsistence rights in the 1978 statute; and
- WHEREAS, the court, by broadening subsistence access so dramatically, jeopardizes the preference for those who depend most directly on the resource: rural residents of Alaska; and

WHEREAS, Governor Sheffield has introduced legislation that would restore order to the harvest of fish and game by more strictly defining the personal use and subsistence use of fish and game; and

WHEREAS, the subsistence use definitions must include the use of the words "rural" and "residents" in order to protect limited resources from virtually unlimited access by urban residents who have never depended upon fish and game resources for maintaining their way of life;

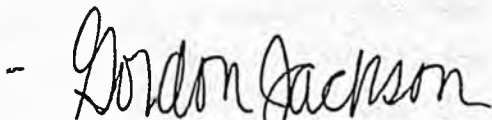
now, therefore, be it


RESOLVED: that the Board of Directors of the Rural Alaska Community Action Program, Inc., endorses Senate Bill No. 231, "An Act Relating to the Taking of Fish and Game for Subsistence and Personal Use," and

be it further

RESOLVED: that the Alaska State Legislature is urged to act immediately on this legislation, in order to maintain harmonious relations among Alaska fish and game user groups.

ADOPTED at a regular meeting of the Board of Directors meeting in Juneau, Alaska, March 20, 1985.

  
\_\_\_\_\_  
Gordon Jackson, President  
Board of Directors

  
\_\_\_\_\_  
Robert A. Lohr  
Executive Director

CSHB 288 (jud) am - a new section:

Sec. — 16.05.255(b) is amended to read:

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting/

*Subsistence*  


a reasonable opportunity for

the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act that adoption of the regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

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unbx

^BC-Sturgulewski-Subsistence, 760

^Pressure Builds On Subsistence as Sturgulewski Breaks With Leadership

^By DEAN FOSDICK=

^Associated Press Writer=

JUNEAU (AP) - Sen. Arliss Sturgulewski has broken with the GOP-dominated Senate leadership by pushing for passage this session of legislation giving all Alaskans subsistence rights to fish and wildlife if they limit their actions to rural areas.

The Anchorage Republican, who announced for governor April 25, wants the subsistence issue taken from the Senate State Affairs Committee, where it has been bottled up for the past two months, and given to Resources, which she chairs.

Sturgulewski has written a draft bill which she said Monday "has the best shot" at resolving problems stemming from conflicting user groups.

She outlined her concerns and her proposed legislation in a letter Sunday to Senate President Don Bennett, R-Fairbanks. That, however, stirred up a tempest among some caucus members - particularly Mitch Abood, who chairs the Senate State Affairs Committee.

"If everyone conducted themselves in a fashion which would break bills out of committee, then we'd have chaos," said Abood, R-Anchorage. "I don't mess with other people's bills and I don't want them messing with mine."

Abood told a reporter he will give the subsistence issue its first Senate hearing Thursday and he may move a bill out of his committee sometime this weekend.

That, however, still would require action by at least two other Senate committees, floor debate and compromise with the House before snipping the issue to the governor.

With lawmakers required to adjourn by midnight Monday, that scenario appears doubtful. Adding some political weight to that conclusion is Bennett's unwavering resolve to delay action on subsistence until next year.

"The pressure is building, but I still don't think it will move," Bennett said Monday afternoon.

The issue wound up with the legislature after the Alaska Supreme Court on Feb. 22 struck down earlier regulations crafted by the state Board of Fisheries. That decision means virtually all Alaskans can qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would allocate the same subsistence rules by statute that had been mandated by the fish and game boards.

But Bennett has argued that lawmakers don't have enough time to deal with the controversial and complicated issue in just two months, and that it needs extensive public hearings before becoming law.

He wants the issue studied over the interim, with action taken next session.

*Sub*

The House, meanwhile, shipped a bill to the Senate on Saturday slightly changed from Sheffield's original measure.

A House amendment would require the Department of Fish and Game by Jan. 1, 1986, to identify trouble spots in personal use, sport or commercial fisheries around the state that may have been caused by the bill's passage. It also would commit lawmakers to deal with those problems next session.

But Sturgulewski indicated she's looking for a permanent solution not a measure requiring a legislative band-aid in 1986.

In a letter Sunday to Bennett, Sturgulewski expressed "grave concerns about the consequences of inaction."

"We are all aware of the ramifications of no legislation," she wrote. "Among these may be: the closing of some of our major sport and commercial fisheries, federal intrusion into the management of our fish and wildlife resources, unprosecuted violations of fish and game laws and potential damage to our resources," Sturgulewski said.

"I realize there are many in our state who discount these dangers, but the combined risks are grave enough to be of serious concern," she said.

Unlike Sheffield's bill, which would return to rural Alaskans the first right to use fish and wildlife for subsistence, Sturgulewski would open subsistence to all Alaska residents.

But there would be some major strings attached. Subsistence hunting or fishing would be confined to rural areas, the game or fish would have to be consumed in the same rural area where it was taken and it would have to be harvested in traditional ways.

That, Sturgulewski said, would avoid problems with the equal protection clause of the U.S. Constitution.

But Bennett accused Sturgulewski is using the issue for political gain.

"She's obviously a gubernatorial candidate and has statewide interests," he said. "She doesn't want to lose any votes about anything. The bill will get just consideration in his (Abood's) committee."

Bennett said he was expecting Sturgulewski to go it alone or still more issues before the session is wrapped up, and he hinted she may face sanctions from her peers in the 16-member Senate majority caucus.

"This is just the first," he said. "Eventually, my colleagues will have to make a decision."

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Honorable Senator Abood,

The madison decision could be a disaster for Commercial fishing in the State of Alaska, especially Cordova. Please support SB#231 or any other legislation that would allow the Fish and Game Board to do their job.

I am a young family man who makes a living as a fisherman; on the Copper River Delta. The Copper River Management Plan was put in effect after massive public testimony and YEARS of work. Please allow it to resolve our local issue as intended.

Thank you.

Sincerely

John K Renner

RECEIVED  
MAY 28 1985

# T.L. Seaward Co.

REAL ESTATE DEVELOPMENT and FINANCIAL CONSULTANTS

4201 Tudor Centre Drive  
Suite 218  
Anchorage, Alaska 99508  
Telephone (907) 563-4550

April 26, 1985

Honorable Mitchell E. Abood, Jr.  
Pouch V  
Juneau, Alaska 99811

*Subsector*  
*M*  
**RECEIVED**  
APR 30 1985

Dear Senator Abood:

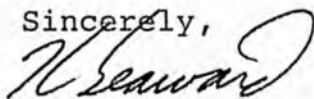
Scott is eight years old and dearly loves to fish. The picture below is at the end of a day in which Scott caught and released twenty salmon.

Please let him fish this summer. He does not know of court decisions or politics, he just knows that he loves to fish and that he loves Alaska. I fear that I could not find the words to explain the reasons if he is not allowed to fish his favorite waterways this year.

On Scott's behalf I urge you to at least pass an interim measure to get us all through this year and allow time for fair and comprehensive legislation to be developed for 1986.

Thank you for your time and consideration.

Sincerely,



Tom Seaward

# 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

*Subsistence*

*[Handwritten signature]*

MAY 06 1985

## Senate Committee on Resources

MEMORANDUM

May 5, 1985

TO: Senator Don Bennett,  
President of the Senate

FROM: Senator Arliss Sturgulewski, *(initials)*  
Chairman, Resources Committee

As you are aware, on Saturday the House, by a one vote margin, passed an amended version of CS for HB 288 (Judiciary), the governor's subsistence bill. Unfortunately, the governor has chosen to present a bill that he must realize has no chance of passage by the full legislature. While warning of the dire consequences if a subsistence bill is not passed, he has steadfastly opposed any amendments which might increase the possibility of developing an acceptable bill.

We are all aware of the possible ramifications of no legislation. Among these may be: the closing of some of our major sport and commercial fisheries, federal intrusion into the management of our fish and wildlife resources, unprosecuted violations of fish and game laws, and potential damage to our resources. I realize that there are many in our state who discount these dangers, but the combined risks are grave enough to be of serious concern.

SB 231, the Senate version of the governor's subsistence bill, is still in State Affairs, its committee of first referral. Because of this, the Resources Committee has not held any public hearings on this issue. However, as chairman of the Senate Resources Committee, I have been actively working on the subsistence problem since the Supreme Court decided the Madison case.

I realize the available time for public hearings will be limited if a bill reaches my committee, and that it is vital the interests of groups on all sides of this issue be considered in trying to find a solution. Because of this, I have attempted to include representatives of as many of those interests as possible in discussions of this problem.

This office has worked with other Senators and Representatives; with officials from the departments of Fish and Game and Law; with representatives of the Outdoor Council and other outdoor groups; with representatives of the Alaska Federation of Natives and other Native organizations; with the United Fishermen of Alaska and other commercial fishing interests; with professional big game guides; and with any one

else who has called or come into my office with concern about this issue.

The result of this work has been an evolutionary series of draft bills and letters of intent. The latest of these drafts and its letter of intent are attached to this memo. By no means do I intend to imply that everyone with whom we have worked is in agreement with this draft or that this effort is a perfect solution. If that were so, we would not be faced with a problem. The draft, however, is an honest attempt to craft a subsistence bill that will pass the legislature, will comply with ANILCA, and will balance the competing interests for our resources.

I wanted to be sure that you had this information before making referrals on HB 288. If the house subsistence bill comes to the Resources committee this session, I anticipate acting swiftly to pass out a committee substitute similar to the attached draft. I stand ready to meet with you and explain the draft bill and my grave concerns about the consequences of inaction.

cc: members,  
Senate Resources Committee  
Senator Mitch Abood,  
Chairman State Affairs Committee

DRAFT LETTER OF INTENT

5/4/85

SENATE CS for HB 288

It is the intent of the legislature in enacting this legislation, to comply with the spirit and intent of The Alaska National Interest Lands Conservation Act, P.L. 96-487 while avoiding possible violations of the equal protection guarantees of Article I, Section 1 and Article VIII, Section 15 of the Alaska Constitution.

This legislation maintains subsistence use as a priority use of Alaska's wild, renewable resources in accordance with ANILCA, and establishes a system of preferences of beneficial uses of these resources. All uses are subject at all times to limitations based on the sustained yield principle and to reasonable regulations as to seasons, catch or bag limits, and methods and means without requiring that uses of lower priority be eliminated first.

If the harvestable surplus of a fish stock or game population is not large enough to provide a reasonable opportunity for all subsistence uses, individual local residents who have a direct and customary dependence upon fish or game populations as a mainstay of their livelihood and who lack available alternative resources have the highest priority of use.

Subsistence uses in rural Alaska by Alaska residents who, in a cost effective manner, use, including consume, their take in the same rural area it was taken, have the next highest priority of use. It is intended that the boards shall have the authority to determine cost effectiveness, considering methods and means of harvest characterized by efficiency and economy of effort and cost, and conditioned by local circumstances.

The boards must establish a mandatory allocation that ensures all Alaskans a reasonable opportunity for sport or personal use fishing or hunting, unless such regulations would jeopardize or interfere with the maintenance of a fish stock or game population or with the continuance of subsistence. In making allocation decisions, the Boards of Fish and Game shall continue to strive to ensure the health and prosperity of commercial, sport, personal use and subsistence uses, while guaranteeing Alaskans a reasonable opportunity to take and use fish stocks and game populations for the full range of beneficial uses.

Original sponsor: Rules/Governor

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IN THE HOUSE

SENATE CS FOR CS FOR HOUSE BILL NO. 288

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date."

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

\* Section 1. FINDINGS. The legislature finds that

(1) nonresidents visiting Alaska take fish stocks and game populations primarily for commercial, trophy, and recreational purposes; Alaska residents, who take fish stocks and game populations for noncommercial purposes, use the stocks and populations primarily for food for personal or family consumption;

(2) the taking of fish stocks and game populations by residents for personal or family consumption is important to the health, safety, and general well-being of all Alaska residents;

(3) the customary and traditional use of local fish stocks and game populations in rural areas of the state is a significant characteristic of the economy of many Alaskan communities and areas because it is cost effective and important to the health, safety, and general well-being of Alaskans;

(4) the taking of fish stocks and game populations for commercial, recreational, and other uses by both residents and nonresidents is important to the economy of the state and particularly to the economies of communities dependent upon commercial fishing; and

(5) commercial fishermen often use a portion of their catch for personal use.

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\* Sec. 2. AS 16.05.251(a) is amended to read:

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.-62) for

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture and transport of fish;

(6) classifying as commercial fish, sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

1 (11) establishing the times and dates during which the  
2 issuance of fishing licenses, permits and registrations and the trans-  
3 fer of permits and registrations between registration areas is  
4 allowed; however, this paragraph does not apply to permits issued or  
5 transferred under AS 16.43;

6 (12) regulating selected stocks in nonrural areas for catch-  
7 and-release sport fishing and regulating selected stocks in rural  
8 areas for catch-and-release sport fishing and subsistence;

9 (13) regulating commercial, sport, personal use, and subsis-  
10 tence fishing.

11 \* Sec. 3. AS 16.05.251(b) is repealed and reenacted to read:

12 (b) The Board of Fisheries shall establish a mandatory alloca-  
13 tion that ensures all residents a reasonable opportunity for sport or  
14 personal use fishing, and shall adopt regulations authorizing these  
15 types of takings in accordance with the Administrative Procedure Act  
16 (AS 44.62), unless the regulations will jeopardize or interfere with  
17 the maintenance of a fish stock on a sustained-yield basis or with the  
18 continuance of subsistence. Takings authorized under this subsection  
19 are subject to reasonable regulation of seasons, catch limits, and  
20 methods and means.

21 \* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

22 (d) The Board of Fisheries shall adopt regulations in accordance  
23 with the Administrative Procedure Act (AS 44.62) permitting the taking  
24 of fish stocks for subsistence uses unless the board determines that  
25 adoption of the regulations will jeopardize or interfere with the  
26 maintenance of a fish stock on a sustained-yield basis. Whenever it  
27 is necessary to restrict the taking of a fish stock to assure the  
28 maintenance of the stock on a sustained-yield basis, or to assure the  
29 continuation of subsistence uses of the stock, subsistence shall be

1 the priority use. Takings authorized under this subsection are sub-  
 2 ject to reasonable regulation of seasons, bag limits, and methods and  
 3 means.

4 (e) If the harvestable surplus of a fish stock is not large  
 5 enough to provide a reasonable opportunity for the taking of fish from  
 6 the stock for subsistence uses, the board shall adopt regulation that  
 7 establish restrictions and limitations on the taking of fish from the  
 8 stock for subsistence uses on the basis of the following criteria:  
 9 (1) customary and direct dependence upon the fish stock as the main-  
 10 stay of one's livelihood; (2) local residency; and (3) availability of  
 11 alternative resources. Subsistence fishing authorized under this  
 12 subsection is subject to reasonable regulation of seasons, bag limits,  
 13 and methods and means.

14 \* Sec. 5. AS 16.05.255(a) is amended to read:

15 (a) The Board of Game may adopt regulations it considers advis-  
 16 able in accordance with the Administrative Procedure Act (AS 44.62)  
 17 for

18 (1) setting apart game reserve areas, refuges and sanctu-  
 19 aries in the water or on the land of the state over which it has  
 20 jurisdiction, subject to the approval of the legislature;

21 (2) establishing open and closed seasons and areas for the  
 22 taking of game;

23 (3) establishing the means and methods employed in the  
 24 pursuit, capture and transport of game;

25 (4) setting quotas, bag limits, harvest levels, and sex,  
 26 age, and size limitations on the taking of game;

27 (5) classifying game as game birds, song birds, big game  
 28 animals, fur bearing animals, predators or other categories;

29 (6) methods, means, and harvest levels necessary to control

1 predation and competition among game in the state;

2 (7) watershed and habitat improvement, and management,  
3 conservation, protection, use, disposal, propagation and stocking of  
4 game;

5 (8) prohibiting the live capture, possession, transport, or  
6 release of native or exotic game or their eggs;

7 (9) establishing the times and dates during which the  
8 issuance of game licenses, permits and registrations and the transfer  
9 of permits and registrations between registration areas and game  
10 management units or subunits is allowed;

11 (10) regulating sport and subsistence hunts.

12 \* Sec. 6. AS 16.05.255(b) is repealed and reenacted to read:

13 (b) The Board of Game shall establish a mandatory allocation  
14 that ensures all residents a reasonable opportunity for the taking of  
15 game for personal or family consumption, and shall adopt regulations  
16 authorizing the taking in accordance with the Administrative Procedure  
17 Act (AS 44.62), unless the regulations will jeopardize or interfere  
18 with the maintenance of a game population on a sustained-yield basis  
19 or with the continuance of subsistence. Takings authorized under this  
20 subsection are subject to reasonable regulation of seasons, bag lim-  
21 its, and methods and means.

22 \* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

23 (d) The Board of Game shall adopt regulations in accordance with  
24 the Administrative Procedure Act (AS 44.62) permitting the taking of  
25 game populations for subsistence uses unless the board determines that  
26 adoption of the regulations will jeopardize or interfere with the  
27 maintenance of a game population on a sustained-yield basis. Whenever  
28 it is necessary to restrict the taking of a game population to assure  
29 the maintenance of the population on a sustained-yield basis, or to

1 assure the continuation of subsistence uses of the population, subsis-  
2 tence shall be the priority use. Takings authorized under this sub-  
3 section are subject to reasonable regulation of seasons, bag limits,  
4 and methods and means.

5 (e) If the harvestable surplus of a game population is not large  
6 enough to provide a reasonable opportunity for the taking of game from  
7 the population for subsistence uses, the board shall adopt regulations  
8 that establish restrictions and limitations on the taking of game from  
9 the population for subsistence uses on the basis of the following  
10 criteria: (1) customary and direct dependence upon the population as  
11 the mainstay of one's livelihood; (2) local residency; and (3) avail-  
12 ability of alternative resources. Subsistence hunting authorized  
13 under this subsection is subject to reasonable regulation of seasons,  
14 bag limits, and methods and means.

15 \* Sec. 8. AS 16.05.940(21) is amended to read:

16 (21) "sport fishing" means the taking of or attempting to  
17 take for personal use or for personal or family consumption, and not  
18 for sale or barter, any fresh water, marine, or anadromous fish by  
19 hook and line held in the hand, or by hook and line with the line  
20 attached to a pole or rod that [WHICH] is held in the hand or closely  
21 attended, or by other means defined by the Board of Fisheries;

22 \* Sec. 9. AS 16.05.940(23) is repealed and reenacted to read:

23 (23) "subsistence uses" means the customary, traditional and  
24 cost-effective taking and use by Alaska residents in rural areas of  
25 wild, renewable resources for direct personal or family consumption as  
26 food, shelter, fuel, clothing, tools, or transportation, for the  
27 making and selling of handicraft articles out of nonedible by-products  
28 of fish and wildlife resources taken for personal or family consump-  
29 tion, and for the noncommercial customary trade, barter, or sharing

1 for personal or family consumption. Wild and renewable resources  
2 taken for subsistence uses must be used in the same area in which they  
3 are taken. In this paragraph,

4 (A) "family" means persons related by blood, marriage,  
5 or adoption, and persons living in the household on a permanent  
6 basis;

7 (B) "rural area" means a historic hunting or fishing  
8 area associated with a community or area in which the taking of  
9 fish stocks and game populations for personal and family consump-  
10 tion is a significant characteristic of the economy of the commu-  
11 nity or area;

12 \* Sec. 10. AS 16.05.940 is amended by adding a new paragraph to read:

13 (28) "personal use fishing" means the taking, or attempting  
14 to take by Alaska residents for personal or family consumption and not  
15 for sale or barter, finfish, shellfish, or other fishery resources  
16 with gill net, dip net, seine, pot, fish wheel, long line, or other  
17 similar means defined by the Board of Fisheries.

18 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
19 10.070(c).



# RECORDS CERTIFICATION

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

James O. Smith  
Signature of Camera Operator

11/24/89  
Date

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FILE 4

288  
RECEIVED  
EMMONAK CORPORATION AND CITY OF EMMONAK  
JOINT RESOLUTION IN SUPPORT OF HOUSE BILL 288 MAY 6 1985

TO ALL MEMBERS OF THE ALASKA LEGISLATURE:

THIS RESOLUTION expresses the most urgent request by the people of Emmonak that House Bill 288 be passed immediately.

Six hundred forty-one people live in Emmonak. Many, but not all, are shareholders of Emmonak Corporation. The primary resource from which our people derive income and subsistence is the lower Yukon fishery. This fishery provides ninety percent (90%) of the cash income for the people of Emmonak. Nearly all other non-governmental enterprises are also dependent upon cash income from this fishery.

The lower Yukon fishery has historically been managed so as to provide adequate fish for subsistence users without conflict with commercial fishermen. This sustained yield management can continue to provide for this balance and for a viable community economy in Emmonak.

Recent developments in the law, particularly as expressed in Madison v. Alaska Department of Fish and Game, Opinion No. 2911 of the Alaska Supreme Court, threaten the destruction of the only viable cash economy in the lower Yukon area. At the present time these developments, unless altered by passage of House Bill 288, may end commercial fishing on the lower Yukon for the 1985 season and possibly thereafter. The impact of this development on our people, both commercial fishermen, subsistence users, and other non-governmental enterprises, will be catastrophic. A substantial portion, if not all of our

population, will find it necessary to seek governmental assistance for the barest of essentials absent the cash incomes derived by the community from commercial fishing operations.

Even those of us who depend on subsistence fishing will be injured due to the destruction of the cash economy of the lower Yukon.

We unanimously have resolved to urge you to pass House Bill 288 as soon as possible. Preparations for the 1985 season have already begun. These preparations require start-up financing which may become unavailable if the current uncertainties following Madison are not resolved immediately.

RESPECTFULLY SUBMITTED to the Legislature of the State of Alaska this \_\_\_\_ day of May, 1985.

EMMONAK CORPORATION  
By its Board of Directors

CITY OF EMMONAK

\_\_\_\_\_  
Martin B. Moore, Chairman

\_\_\_\_\_  
Andrew Kelly, Sr., Mayor

\_\_\_\_\_  
Mr. Billy Charles

\_\_\_\_\_  
Mary Ann Immamak, Vice Mayor

\_\_\_\_\_  
Ms. Elizabeth Carden

attest:

\_\_\_\_\_  
Mr. Raymond F. Waska, Sr.

\_\_\_\_\_  
Secre

\_\_\_\_\_  
Mr. Phillip G. Immamak

\_\_\_\_\_  
Mr. Donald B. Redfox

Mr. James M. Kameroff

Mr. Jacob A. Johnson, Sr.

Mr. Andrew C. Kelly, Sr.

MEMORANDUM

TO: ALL LEGISLATORS:  
For Your Information

FROM: AXEL JOHNSON, EMMONAK  
FORMER STATE REPRESENTATIVE

DATE: MAY 5, 1985

SUBJECT: HB 288, SUBSISTENCE  
(Taken over telephone by Sen. Sackett  
Mr. Johnson's # is 949-1127)

288

AS

"I do not want the identity of the Eskimo, Indians, and Aleuts to be lost, and I feel this will happen if we do not pass the subsistence legislation.

As a former older legislator I beg the Senate to pass the bill.

I am dying (cancer) but I want this for my children and my grandchildren. Our life is subsistence and today there is no other alternative to being able to hunt & fish in order to eat. In 10 - 40 years maybe we will be modernized but right now there is no economy, few jobs, its tough to make ends meet, so we need to hunt & fish.

When we met together in Juneau in 1959 to organize the State we were not Republicans or Democrats - we were just a group of people who were there to set up rules. Things were tough then, but we tried for the whole state.

Again, I plead and pray that the Senate will pass the bill on subsistence.

I thank each one of you very much."

RECEIVED  
MAY 6 1985

Evelyn Hash Pete  
General Delivery  
Copper Center, Alaska 99573

May 6, 1985

TO: All Alaska State Senators

The original people of Alaska suffer the most devious and treacherous of warfare and are not a violent people, we are alert for attacks of violence because we are sovereign; we have hunting and fishing rights; as duly documented into our language and history; and as mandated in United States laws. We are telling you through deed and word we are not selfish people; we share; we can live here together; we must keep the land of Alaska pure to keep our common spirituality; to honor our laws which govern this land intact; it has kept it so for more years than you care to hear; you have ignored our testimony everywhere; we are telling the truth.

You have no jurisdiction here because in 1867, the United States assumed suzerain and fiduciary responsibility over us when it bought the right to trade with us in the treaty of cession. In scrupulous good faith and candor, the United States by their undertaking has the duty to act primarily for another's benefit; our benefit; the original inhabitants of Alaska.

We don't want the repercussions that violence, alcohol, stealing, lying, and killing bring. We are here because we are in practice of the only way to live in Alaska. Our culture is to eat the animals we catch; the fish; to have the most efficient use of our resources; to have the right of quiet enjoyment of our beautiful, peaceful Alaska. Not fearing that any day another one of us is dead, another child is lost, another one of us hasn't the facility to think because of real fear, or loss of capacity to think. We too, have all the rights outlined in the U.S. Bill of Rights. We urge the "State of Alaska" to change its direction to promote the well being of the world.

Alaska is the "old frontier", and the law of the land shall prevail. Blatent, violent, abusive acts are not condoned by Alaska Real people. We urge that House Bill 288 pass by a much higher margin in the Senate; thus showing your adherence to U.S. Laws and to the Law of the Land in Alaska Villages.

Sincerely,



Evelyn Hash Pete  
Tribal Council Member  
Native Village of Chitina

April 30, 1985

2588

810 Ballaine Road  
Fairbanks, Alaska 99701

Dear Legislator:

As professional fisheries and wildlife biologists, we are deeply concerned about the wise management and conservation of Alaska's fish and wildlife resources. Sections of the current Alaska statutes governing those resources seem to deny the use of a management approach that we believe is essential in order to manage those resources safely. In this letter, we identify the statutory sections in question and request legislative action to correct them.

The sections of the statutes of primary concern are those (Sec. 16.05.251 and 16.05.255) which require that a particular consumptive use, subsistence, must remain unrestricted unless the Board of Fisheries or the Board of Game determines that such use, continued without restriction, would jeopardize the sustaining of such use (i.e. would not allow sustained yield). That approach -- unrestricted use unless damage is proven -- is opposite to the accepted and established resource management strategy of the fisheries and wildlife professions.

The consistently reliable approach in connection with consumptive uses of fish and wildlife is a conservative one. In effect, one should manage from an initial position of complete closure, removing restrictions in a safe manner as understanding of the resources increases so that we can be assured that the desired consumptive uses can be accommodated. Current understanding of most wild populations, and of their consumptive harvests, allows us safely to set limited seasons and bag limits. However, even though Alaska has one of the best fisheries and wildlife staffs in the country, the existing specific population data usually are not sufficient to prove, before we can impose restrictions, that unrestricted use is jeopardizing sustained yield. Given the budget constraints presently inhibiting gathering additional information, that situation likely will persist. Hence we should take a conservative approach to managing consumptive uses if we are to guarantee that users, subsistence and others, will have long-term access to fish and wildlife resources.

Another undesirable consequence of the unrestricted approach is that harvests often will occur at times of the year when they have greater detrimental impacts on the fish and wildlife populations than do controlled harvests occurring at specific times. Obvious examples of the need for control over timing of harvests in order to protect resource productive potential exist in the instances of king salmon smolt leaving fresh water, of ptarmigan on the nesting grounds, of cow moose when they have calves, and of sow bears when they have cubs. Many other examples also could be cited. The point is, greater total yields often could be provided if restrictions on seasons, methods and means, etc., could be

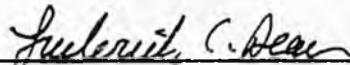
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MAY 6 1985

put in place based on our understanding of population dynamics. The current statutory language regarding controls on subsistence use does not permit such restrictions, even those that conceivably could increase total allowable harvest. We believe such management latitude is necessary, particularly in this day and age when subsistence use does not have the same dire dependence associated with it that was true several decades ago. In addition, subsistence harvesting with steadily increasing use of modern equipment often places the resource in essentially the same risk situation that non-subsistence uses do.

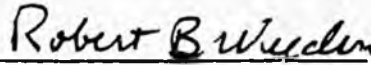
We hope that you will see the need for regaining a conservative, flexible management approach in order to provide long-term protection to resources whose continuation is critical to subsistence lifestyles as well as to all other uses. Wise and responsible management of our fish and wildlife populations requires that we change the current statutory language regarding management of subsistence uses. We request your help in that regard.

Thank you for your concern for Alaska's fish and wildlife.

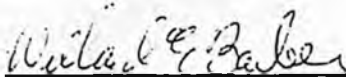
Sincerely,



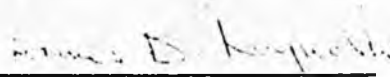
Dr. Frederick C. Dean  
Ph.D., Forest Zoology



Dr. Robert B. Weeden  
Ph.D., Zoology



Dr. Willard E. Barber  
Ph.D., Fisheries



Dr. James B. Reynolds  
Ph.D., Fisheries



Dr. David R. Klein  
Ph.D., Wildlife Management



Dr. Robert G. White  
Ph.D., Zoophysiology and Nutrition

SB 231

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

GENE MADISON, LUCY CASEY, KEN MCGAHAN,  
SR., ANDY JOHNSON, MARGIE KIVI, J. W.  
WARE, DICK FRANCIS, DON GROLESKE, KEN  
JORDON and SHIRLEY DEVAULT,

File Nos. 6824/  
7181

Appellants,

v.

OPINION

ALASKA DEPARTMENT OF FISH AND GAME,  
and ALASKA BOARD OF FISHERIES,

Appellees,

and

THE ALASKA FEDERATION OF NATIVES,

Intervenor.

ALASKA DEPARTMENT OF FISH AND GAME,  
RONALD SKOOG, ALASKA BOARD OF FISHERIES,

File No. 7410

Appellants,

v.

LOUIS GJOSUND, DORA MULCH, and KACHEMAX  
BAY SUBSISTENCY GROUP, INC.,

Cross-Appellees.

[No. 2911 - February 22, 19

Re: Pages 4, 8, 12, 16, 19, 20, 22, 23, 24, 25, 27

Attachment #1

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Victor D. Carlson, Judge, and Third Judicial District, Homer, Paul B. Jones, Judge.

Appearances: Martin Friedman, Homer, Arthur Robinson, Soldotna, for Appellants/Cross-Appellees. Larri Irene Spengler, Assistant Attorney General, Norman C. Gorsuch, Attorney General, Juneau, for Appellees/Appellants. Donald C. Mitchell, Anchorage, for Intervenor/Amicus Curiae.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

MOORE, Justice.

This case arises as a consolidated appeal of two cases. It concerns the validity of a Board of Fisheries' (hereafter board) regulation designed to identify eligibility for subsistence fishing in the Cook Inlet region.

Appellants (hereafter Madison and Gjosund) are two groups of Alaskan residents who live along the Kenai coastline and near Homer. For many years, they have fished with set nets for salmon for their personal and family use. Nonetheless, the board denied subsistence permits to Madison and Gjosund because their use of salmon did not meet the board's regulatory definition of subsistence. Both Madison and Gjosund challenged the regulation as exceeding the scope of the state's subsistence law. In both cases, the trial courts upheld the regulation as consistent with the

SB 231

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THE SUPREME COURT OF THE STATE OF ALASKA

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WARE, DICK FRANCIS, DON GROLESKE, KEN )  
JORDON and SHIRLEY DEVAULT, )

File Nos. 6824/  
7181

Appellants, )

v. )

O P I N I O N

ALASKA DEPARTMENT OF FISH AND GAME, )  
and ALASKA BOARD OF FISHERIES, )

Appellees, )

and )

THE ALASKA FEDERATION OF NATIVES, )

Intervenor. )

ALASKA DEPARTMENT OF FISH AND GAME, )  
RONALD SKOOG, ALASKA BOARD OF FISHERIES, )

File No. 7410

Appellants, )

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BAY SUBSISTENCY GROUP, INC., )

Cross-Appellees. )

[No. 2911 - February 22, 19

Re: Pages 4, 8, 12, 16, 19, 20, 22, 23, 24, 25, 27

Attachment #1

ALASKA COURT SYSTEM NEWS RELEASE

For release Friday, February 22, 1985, 12:30 p.m.

Court Strikes Down Fisheries Regulation

Madison v. Alaska Department of Fish and Game

Supreme Court Opinion No. 2911, File Nos. 6824/7181/7410

Contact: David A. Lampen  
Clerk of the Appellate Courts  
Anchorage (907) 264-0607

[The following was prepared by the office of the Clerk of the Appellate Courts and is not an official statement of the Alaska Supreme Court.]

The Alaska Supreme Court Friday struck down a Board of Fisheries regulation designed to identify eligibility for subsistence fishing in the Cook Inlet region.

Under the regulation, certain residents of the Kenai coastline and an area near Homer were forbidden to fish for subsistence purposes. The regulation had been declared valid by Superior Court Judges Victor D. Carlson and Paul B. Jones.

The supreme court, in an opinion by Justice Daniel A. Moore, Jr., held that the board erred in denying subsistence permits to certain residents who had fished with set nets for personal and family use for many years.

The supreme court found that the board's regulation on subsistence uses was inconsistent with Alaska law because the regulation was too restrictive.

The opinion stated: "Under a statute designed to protect subsistence uses, the board has devised a regulation to disenfranchise many subsistence users whose interests the statute was designed to protect."

END

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Victor D. Carlson, Judge, and Third Judicial District, Homer, Paul B. Jones, Judge.

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Appellants (hereafter Madison and Gjosund) are two groups of Alaskan residents who live along the Kenai coastline and near Homer. For many years, they have fished with set nets for salmon for their personal and family use. Nonetheless, the board denied subsistence permits to Madison and Gjosund because their use of salmon did not meet the board's regulatory definition of subsistence. Both Madison and Gjosund challenged the regulation as exceeding the scope of the state's subsistence law. In both cases, the trial courts upheld the regulation as consistent with the

statutory grant of authority. We hold the regulation invalid since it is inconsistent with AS 16.05.251(b), AS 16.05.940(22) and AS 16.05.940(23) and contrary to the legislature's intent in enacting the 1978 subsistence law.

#### I. SUMMARY OF FACTS

Records indicate that subsistence fishing in Cook Inlet was minimal through the mid-1970s.<sup>1</sup> However, a core group of residents of each Cook Inlet community has traditionally fished for Cook Inlet salmon for subsistence. Participation in the subsistence salmon fishery is most visible in the smaller, more isolated villages, where the subsistence group represents a larger percentage of the population.

In 1977 the board established a comprehensive management policy for Cook Inlet, 5 AAC 21.363, which essentially allocated specific salmon stocks to sports fishermen and commercial fishermen on the basis of seasonal fish movements. See Kenai Peninsula Fisherman's Cooperative

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1. From 1971 to 1977, the average number of subsistence permits issued annually for the Upper Cook Inlet was 87 and the average catch was 405 salmon. Commercial harvest averaged about two million fish per year. However, this statistical data does not necessarily reveal the total subsistence use since many people did not obtain permits and some commercially caught salmon were used for subsistence.

Ass'n v. State, 628 P.2d 897 (Alaska 1981). Although the policy did not specifically refer to subsistence uses of salmon in Cook Inlet, it had a substantial impact on subsistence fishing. Commercial fishermen, accustomed to taking subsistence salmon from their commercial catch, instead obtained subsistence salmon fishing permits in order to fish for their personal and family use after the commercial season was over.

Before 1978, subsistence fishing was defined in AS 16.05.940(17) as fishing for "personal use and not for sale or barter."<sup>2</sup> In 1978, the Alaska State Legislature enacted ch. 151 SLA 1978 (hereafter the 1978 subsistence law). Subsistence fishing was redefined as fishing for "subsistence uses."<sup>3</sup> Subsistence uses were defined as "customary and

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2. Section 4, ch. 131 SLA 1960:

"subsistence fishing": the taking, fishing for or possession of fish, shellfish, or other fishery resources for personal use and not for sale or barter, with gill net, seine, fish wheel, long line, or other means as defined by the Board. *Hand rod hook & line*

3. AS 16.05.940(22), (formerly AS 16.05.940(17)), states:

"subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by

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traditional uses . . . for direct personal or family consumption, and for the customary trade, barter or sharing. . . ." AS 16.05.940(23).<sup>4</sup> Furthermore, the legislation required the board to adopt regulations permitting "subsistence uses" of fish stocks, absent a showing that this use would jeopardize the sustained yield principle. AS 16.05.251(b).<sup>5</sup> Under AS 16.05.251(b), subsistence uses have

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(Footnote Continued)

the Board of Fisheries.

4. AS 16.05.940(23), (formerly AS 16.05.940(26)), states:

"subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis.

5. AS 16.05.251(b) states:

The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board

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priority over sport and commercial uses if the board finds it necessary to restrict the taking of fish to assure the maintenance of fish stocks or to assure the continuation of subsistence uses. If further restrictions are necessary after giving priority to all subsistence uses, the legislature established specific criteria to restrict subsistence uses based on the subsistence user's customary and direct dependence on the resource, local residency and availability of alternative resources. Id. As a result,

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determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

the board could no longer allocate for subsistence uses at its discretion pursuant to AS 16.05.251(a).<sup>6</sup> The

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6. AS 16.05.251(a) states:

The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedures Act (AS 44.62) for

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas and bag limits on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture and transport of fish;

(6) classifying as commercial fish, sport fish or predators or other categories essential for regulatory purposes;

(7) engaging in biological research, watershed and habitat improvement, fish management, protection, propagation and stocking;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

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\* legislature mandated in AS 16.05.251(b) that the board regulate for the protection of subsistence uses as the priority use of fish and game.

The passage of the 1978 subsistence law, combined with adoption of the board's 1977 management policy, heightened public awareness of the state's subsistence fishing provisions. This public interest resulted in a

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(9) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote fish research, management, education and information and to train persons for fish management;

(10) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(11) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

(12) establishing the times and dates during which the issuance of fishing licenses, permits and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43.

substantial increase in the demand for subsistence permits and a corresponding increase in total catch.<sup>7</sup> The board responded to the permit increase by restricting subsistence fishing; it limited areas open to subsistence fishing, length of fishing periods and maximum length of gill nets. Several lawsuits were filed, all of which resulted in decisions unfavorable to the board.

In December 1980, the board held hearings to respond to the 1978 subsistence law and received a considerable amount of testimony on subsistence uses in Cook Inlet. The meeting resulted in the establishment of characteristics for identification of "customary and traditional uses" of Cook Inlet salmon.<sup>8</sup> In addition, the

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7. This chart reflects the trend in Upper Cook Inlet:

	<u>Subsistence Use</u>	<u>Commercial Harvest</u>
	<u>Permits Issued</u>	<u>Salmon Caught</u>
1978	323	3,735
1979	1,161	9,923
1980	1,331	14,775
		5,118,041
		1,923,229
		4,138,648

In 1980, household permits were issued instead of individual permits.

8. With some modification, these characteristics became the basis of 5 AAC 01.597, which states:

CHARACTERISTICS OF SUBSISTENCE FISHERIES.

(a) The Board of Fisheries finds that certain customary and traditional practices

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board decided to "adopt a set of criteria drawn from the

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and procedures associated with the utilization of fish in the Cook Inlet Area can be used to identify subsistence uses. Based on testimony to the board, the following characteristics are those that should be evaluated in the identification of subsistence fisheries:

(1) a long-term, stable, reliable pattern of use and dependency, excluding interruption generated by outside circumstances, e. g., regulatory action or fluctuations in resource abundance;

(2) a use pattern established by an identified community, subcommunity or group having preponderant concentrations of persons showing past use;

(3) a use pattern associated with specific stocks and seasons;

(4) a use pattern based on the most efficient and productive gear and economical use of time, energy and money;

(5) a use pattern occurring in reasonable geographic proximity to the primary residence of the community, group or individual;

(6) a use pattern occurring in locations with easiest and most direct access to the resources;

(7) a use pattern which includes a history of traditional modes of handling, preparing and storing the product without precluding recent technological advances;

(8) a use pattern which includes the intergenerational transmission of activities and skills;

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characteristics . . . and apply [them] to communities, subcommunities, ~~groups~~ and individuals who wish to continue to participate in an established customary and traditional fishing effort in Cook Inlet."

At its March 1981 meeting, the board received written testimony from the public about subsistence uses of Cook Inlet salmon stock. Subsequently, it decided to apply all of the ten criteria to determine "customary and

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(9) a use pattern in which the effort and products are distributed on a community and family basis including trade, bartering, sharing and gift-giving; and

(10) a use pattern which includes reliance on subsistence taking of a range of wild resources in proximity to the community or primary residency.

(b) The board will identify established geographic communities which may be participating in a subsistence system. The board will then apply all of the characteristics in (a) of this section to the communities and to subcommunities, groups and individuals within the communities to determine which uses are customary and traditional and therefore, which communities are eligible for the subsistence priority.

(c) For purposes of this section, a "community" is generally considered to be several households of full-time residents who all reside in a specific geographic area because of common interests.

traditional uses" eligible for the subsistence priority. When the board applied the ten criteria, it determined that no group or community in the Cook Inlet region other than Tycnek, English Bay and Port Graham satisfied all ten of the criteria.\* The board limited the 1981 subsistence catch to these three communities. As a result, the board eliminated from the protection of the state's subsistence statute the majority of Cook Inlet fishermen who formerly fished under subsistence regulations.

Madison and Gjosund challenged the validity of the board's subsistence criteria (now 5 AAC 01.597) on several grounds. They claimed that: (1) the criteria were inconsistent with the statutory language and legislative intent of the 1978 subsistence law; (2) the board failed to comply with the Administrative Procedure Act in adopting the criteria; and (3) their equal protection and due process rights were violated by the board's action.<sup>9</sup> Both courts issued preliminary injunctions compelling the board to authorize personal use fishing for Madison and Gjosund similar to that allowed in the previous year. The board

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9. Since we hold the regulation invalid because it is inconsistent with AS 16.05.251(b) and AS 16.05.940(22) and (23), and contrary to the legislature's intent in enacting the 1978 subsistence law, we need not consider the APA, due process and equal protection issues raised regarding the regulation's validity.

moved for summary judgment on the plaintiffs' first claim. Both trial courts granted summary judgment to the board, after finding the subsistence criteria consistent with the legislative intent "to provide for and protect personal use . . . by persons who reside in rural communities. . . ."

On appeal, Madison and Gjosund seek reversal of the two trial court decisions. They claim that the board did not act within the legislative authority granted by AS 16.05.251(b) and AS 16.05.940(22) and (23) when it adopted the ten characteristics ultimately codified as 5 AAC 01.597.<sup>10</sup>

## II. STANDARD OF REVIEW

We first consider the appropriate standard of review for this case. The legislature enacted AS 16.05.251(b), which requires the board to adopt regulations permitting the taking of fish for "subsistence uses." The legislature then defined subsistence uses as "customary and traditional" uses in AS 16.05.940(23), but it never defined

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<sup>10</sup> Madison and Gjosund also contend that the board exceeded its statutory authority under AS 16.05.251(a) when it established a personal use fishery to accommodate people excluded from the subsistence fishery by 5 AAC 01.597. Because we hold 5 AAC 01.597 invalid, we need not address the issue of the board's authority to establish a personal use fishery.

"customary and traditional." The board developed the ten criteria (now codified as 5 AAC 01.597) to identify customary and traditional uses qualifying for a subsistence priority under AS 16.05.251(b). Therefore, the board interpreted the 1978 subsistence law and devised its regulatory criteria accordingly.

In Kelly v. Zamarello, 486 P.2d 906, 917 (Alaska 1971), we stated that the "reasonable basis approach should be used for the most part in cases concerning administrative expertise as to either complex subject matter or fundamental policy formulations." However, the issues in this case concern statutory interpretation of the words "customary and traditional" and the question whether the board has acted within the scope of its statutory authority. Such issues "fall into the realm of special competency of the courts." Alaska Public Utility Commission v. Municipality of Anchorage, 555 P.2d 262, 266 (Alaska 1976). See also State, Commercial Fisheries Entry Commission v. Templeton, 598 P.2d 77, 80 (Alaska 1979).

In this instance, we are dealing with a question of statutory interpretation and will apply the substitution of judgment standard.

The substitution of judgment standard is applied when the questions of law presented do not involve agency expertise, and, thus, a court need not take the deferential stance embodied in the rational basis test. . . . The standard is appropriate where the

knowledge and experience of the agency is of little guidance to the court or where the case concerns "statutory interpretation or other analysis of legal relationships about which courts have specialized knowledge and experience."

Earth Resources Co. v. State, Department of Revenue, 665 P.2d 960, 965 (Alaska 1983), quoting Kelly v. Zamarello, 486 P.2d at 916 (emphasis added). Application of this standard allows the reviewing court to substitute its judgment about a statute's meaning for the board's interpretation, even if the board's interpretation had a reasonable basis in law. In this case, both trial courts erred by applying the rational basis standard to the board's statutory interpretation.

### III. LEGISLATIVE HISTORY OF THE 1978 SUBSISTENCE LAW

Before 1978, subsistence fishing was defined as fishing for "personal use and not for sale or barter." Formerly AS 16.05.940(17). The 1978 subsistence law redefined subsistence fishing as fishing for "subsistence uses." AS 16.05.940(22). "Subsistence uses" were defined as "the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption . . . and for the customary trade, barter or sharing . . . ." AS 16.05.940(23). The board argues that the legislature intended to narrow the scope of subsistence fishing to mean fishing by individuals residing in those