

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5594 STRA HCR 46 - HJR 6

OFFICIALS SPEAK ON CHANGING C.R. N. W. TO HIGHWAY

Dr. Gruening And Ike Taylor
Brought Here Saturday
For Meeting

President Hansen of the chamber of commerce, in introducing Dr. Ernest Gruening at the special meeting of the chamber held Saturday, stated that he had discussed at length many matters pertaining to the welfare of Alaska. "I can honestly say that I believe we have, in Dr. Gruening, a sincere friend, one who has the future of Alaska at heart and one who will give one hundred per cent backing to any proposition that has merit," said Mr. Hansen.

Saturday's meeting was an open forum chat with Dr. Gruening and Ike P. Taylor regarding the various phases of converting the roadbed of the Copper River & Northwestern railway into a government highway when the railroad is abandoned. Dr. Gruening, Mr. Taylor and Mr. Hansen had just returned from Kennebec by speeder, a trip which was taken for the benefit of giving Dr. Gruening first hand knowledge of the railroad and the country which it traverses.

In commenting on the proposal, Dr. Gruening said that the interior department, of which his office is a sub-department, was greatly distressed at the news of the closing of the great Kennebec mines; that they also realized that the ceasing of operations of the railroad with its 200 to 300 employees and a monthly payroll of \$20,000 to \$40,000 is not only a serious blow to the town because of the decreased revenues but also to the territory because of the lessening of industrial activity.

"I cannot make any commitment at this time regarding the conversion of the railroad bed into a highway," said Dr. Gruening. "There are so many factors involved that a careful study would have to be made of the proposal."

In the first place, he said, the department has no idea of what the attitude of the Kennebec people would be toward disposing of the roadbed. Such a project would also involve the appropriation of vast sums of money by congress, even under the most favorable construction conditions. When such a project is

bring in this connection, he pointed out that if the people here would obtain an appropriation from the territorial legislature it would show that the territory itself was backing the proposal and would have a tremendous effect on the congress.

A point in favor of the conversion which has been somewhat overlooked in the past, was advanced by Dr. Gruening when he stated that the time is not far distant when thousands of tourists will be coming to Alaska to get out into the open and rub elbows with our mountains and other scenic wonders. He said that he had been greatly impressed by the scenic possibilities of the railroad belt and believed it offered a field for tourist development. This, however, would take time and money, if, he said, the railroad were to operate another ten years, and then cease operation, the tourist angle would be a tremendous argument in favor of the conversion.

Speaking from the practical standpoint, Ike Taylor, chief engineer of the road commission, pointed out that the problem of maintenance would be a big one and that the original construction would be no small item. He estimated that the cost of preparing the roadbed for travel after rails and ties were removed would amount to a minimum of \$1,000 per mile.

Mr. Taylor also pointed out that there were many other communities in the territory that had been waiting for years for roads and he doubted whether the road commission would consider the conversion proposal at all now.

George McDonald, Dr. W. H. Chase, Walter Hodges, Senator Urquhart and others presented to Dr. Gruening and Mr. Taylor a complete picture of what such a road would mean to this district, showing that the highway would furnish an efficient means of shipping to and from the interior, that the government's needs and those of the people would be met, that the highway would tap one of the most highly mineralized areas in the world, that the district out of Cordova included an area of 170,000 square miles which

or many years has provided 50 per cent of the revenue for carrying on territorial functions, that the road could traverse a belt which could well be made a national park, that the fine, water-grade roadbed which cost \$17,000,000 to build could be used by the expenditure of a comparatively insignificant sum.

The Cordova Daily

PUBLISHED TEMPORARILY THREE TIMES WEEKLY ON MONDAYS,

Vol. 24—No. 271

IRON TRAIL ENDS 27-YEAR CAREER; LAST TRAIN IN

Railroad Serving Kennecott Mines Ceases Operations After Colorful Period

The last train ever to run over the Copper River & Northwestern railway arrived in Cordova this afternoon. The famous "Iron Trail" and the equally famous Kennecott Copper Corporation mines which it has served so faithfully for more than 27 years have quit a life of intense activity and have entered upon that inert state known as past history.

Few are the persons who could review the remarkable history of these famous institutions without a tinge of sadness at their closing. Books could be written—and, indeed, have been written—based upon the many unusual aspects of railroad and its building.

The growth of these great enterprises dates back to 1900 when a party of prospectors, camped at the foot of the Kennecott Glacier moraine, saw the outcropping of ore near the top of the mountain that became the "Glory Hole" of the famous Kennecott copper mine.

The men who financed the Copper River & Northwestern railway were M. Uggensheim Boss and J. Harpurt Murgan, who with their friends had formed a working combination known as the Alaska Syndicate and whose first purchase was that of the Don-juan mines under the ownership of the Kennecott Mines company for a consideration of \$3,000,000. This combine was concerned about the necessity of building a railroad to reach its property and also to open up what was considered a rich mineral belt running to the north and south of the Chitina, Nizina and other rivers.

Other concerns had been probing into the possibilities of railroad building to the interior of Alaska and a road up the Copper river was talked about as early as 1901; a company was formed but lack of money soon prompted the abandonment of the project. In the same year a syndicate of New York and Pennsylvania capitalists made a survey from Valdez through Keystone canyon over

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In the opinion of M. J. Heney, a railroad contractor, the most feasible route to the Tanana valley and the copper mineral belt was from Cordova and up the Copper river. During the latter part of 1905, both Mr. Heney and Samuel Marchinson did extensive reconnaissance work on this line. After acquiring terminal grounds at Cordova and certain rights up the Copper river, Mr. Heney secured financial assistance and formed the Copper River railroad. He commenced construction of a road in 1906. He built a small wharf with a trestle approach at Cordova, graded five miles and laid four miles of track.

In 1906, Engineer M. K. Rogers of the Alaska Syndicate had decided that the cheapest route was by way of Valdez and started to build from there. The difficulties of getting through the canyon soon brought discouragement; however, about this time the valuable coal deposits at Katalla drew the attention of the syndicate and they decided to suspend the Valdez project and build from Katalla. Active work was started in the spring of 1907. Efforts to construct a breakwater and secure a suitable harbor met with unsatisfactory results after trestles had been built, 10 miles of grading done and eight miles of track laid.

In June, 1907, the syndicate secured the services of E. C. Hawkins, formerly chief engineer of the White Pass & Yukon railroad. He made a survey of all projects and finally decided that Cordova offered more advantages than any other point.

CORDOVA, ALASKA, FRIDAY, NOVEMBER 11,

Iron Trail Ends 27-Year Career; Last Train In

(Continued from Page 1)

kins' decision and purchased the property and rights of Mr. Heney, who was given the contract for building the railroad which was afterwards known as the Copper River & Northwestern railway.

From that was started the building of what has been said by many great engineers to be one of the most unique and difficult jobs of railroad building in the annals of railroad construction on the North American continent. For nearly 24 years men numbering into the thousands, from the highest official to the laborer who shoveled mud or snow, gave the best that was in them. At times more than 6,000 men were employed.

At 3:30 p. m. on Wednesday, March 29, 1911, the "copper spike" was driven at the Kennecott mine, 186 miles from Cordova, announcing to the world the completion of the great project. Early in April the first trainload of copper ore steamed into Cordova and to the terminus at the Ocean wharf. Since that time more than half a billion dollars worth of copper has been extracted from the mines.

It has been estimated that more than 40 million dollars was spent by the syndicate in surveys, purchases and construction of the railroad.

The Copper River & Northwestern numbers many workers who have been in its employ for a long period of years. Among those who are still in service (according to the most reliable information obtainable) who were working when the railroad was completed in March, 1911, and the positions they occupy at present, are: Adrian Carlson, trackwalker; John Day, locomotive engineer; R. J. DeLeo, assistant superintendent; Archie Field, electrician; Wm. Hayes, wharf watchman; Arthur Holt, locomotive engineer; Henry Huffman, trackwalker; O. L. Larsen, conductor; Fred Luppy, roadmaster; Geo. Rott, conductor, and John Vinquist, bridge foreman.

Holton, Hoffman, Luppy and Rott were present at the driving of the "copper spike."

The first resident officials in charge of the operation of the railroad were: K. C. Hawkins, chief engineer; J. R. Van Cleave, superintendent; H. J. Barry, general freight and passenger agent; W. J. Ford, auditor; I. W. Young, storekeeper, and E. Wornicke, division engineer.

F. A. Haney, present superintendent of the road, has been here since April, 1924, and J. V. Lydick, the present auditor, has been here since April, 1924.

Project File

AGREEMENT OF COMPROMISE AND SETTLEMENT
(Copper River Highway)

This agreement is entered into by the following parties, through their respective authorized representatives and/or attorneys:

ALASKA CONSERVATION SOCIETY, a nonprofit corporation, and SIERRA CLUB, a nonprofit corporation (hereinafter referred to as "PLAINTIFFS");

STATE OF ALASKA, DEPARTMENT OF HIGHWAYS, (hereinafter referred to as "STATE DEFENDANT"); and

UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, and UNITED STATES DEPARTMENT OF THE INTERIOR (hereinafter referred to as "FEDERAL DEFENDANTS").

This agreement shall take effect upon its execution by all parties to the agreement.

RECITALS:

A. There is pending in the United States District Court for the District of Alaska an action entitled "Alaska Conservation Society and Sierra Club, Plaintiffs, v. William T. Coleman, Individually and as Secretary of Transportation, et al., Defendants" (No. A-73-33), in which PLAINTIFFS seek declaratory and injunctive relief against STATE DEFENDANT and FEDERAL DEFENDANTS with respect to further construction of the Copper River Highway. Reference is made to the amended complaint and other pleadings on file in said action for further description of the

action.

B. There is also pending in the United States Court of Appeals for the Ninth Circuit an interlocutory appeal by PLAINTIFFS (No. 73-2576) from the denial of a preliminary injunction against further construction of the Copper River Highway by the District Court in the above-referenced action. Said appeal has not been fully briefed or argued and no decision has been entered therein.

C. On September 17, 1973, the United States Court of Appeals for the Ninth Circuit granted an injunction pending appeal against further construction of the Copper River Highway. On September 4, 1974, the terms of said injunction were modified by a further order of said Court of Appeals. Said injunction, as modified, is in effect at the present time and imposes significant restraints upon further construction of the Copper River Highway. Reference is made to the orders of the United States Court of Appeals entered on September 17, 1973 and September 4, 1974 and to other papers on file in said appeal for the exact terms of said injunction.

D. Prior to the filing of the above-referenced action, STATE DEFENDANT had completed reconstruction of the Copper River Highway, subsequent to the Alaska earthquake of March 27, 1964, in a manner which permitted public traffic to approximately milepost 33 of said Highway.

E. STATE DEFENDANT is presently eligible for federal emergency relief funds under 23 U.S.C. §125 for further reconstruction of portions of the Copper River Highway damaged or

destroyed by the Alaska earthquake of March 27, 1964. If said funds are not promptly utilized by STATE DEFENDANT for such reconstruction, the funds may become unavailable for use by STATE DEFENDANT.

F. PLAINTIFFS are prepared to withdraw their objections to the construction or reconstruction of the Copper River Highway by STATE DEFENDANT as far as milepost 49, provided that all the terms and conditions of this agreement are fulfilled. STATE DEFENDANT and FEDERAL DEFENDANTS are prepared to fulfill such terms and conditions.

G. PLAINTIFFS, STATE DEFENDANT and FEDERAL DEFENDANTS desire to compromise and settle the above-entitled action and the interlocutory appeal therein upon the terms and conditions set forth in this agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. PLAINTIFFS will not object through legal action or otherwise to the construction or reconstruction (hereinafter "construction") by STATE DEFENDANT of the Copper River Highway to milepost 49, at the south end of the Million Dollar Bridge, to standards not exceeding those for federal-aid secondary highways. In planning and carrying out such construction, STATE DEFENDANT will cooperate with the Alaska Department of Fish and Game and all other federal and state agencies having responsibility for management of the Copper Delta Game Management Area, and will endeavor to accomplish such construction in a manner which minimizes environmental damage to the Copper River Delta and the said Management Area. Plaintiffs expressly reserve

any lawful objections and/or rights of legal action they may have with respect to construction of the Copper River Highway beyond milepost 49.

2. Except as set forth in paragraph 3 of this agreement below, STATE DEFENDANT and FEDERAL DEFENDANTS will not engage in any construction of the Copper River Highway beyond milepost 49 prior to whichever of the following shall first occur:

- (a) December 18, 1978; or
- (b) final legislative action by the United States Congress pursuant to the Alaska Native Claims Settlement Act of 1971 to determine the public lands status of all lands along the proposed route of the Copper River Highway which have been withdrawn by FEDERAL DEFENDANT UNITED STATES DEPARTMENT OF THE INTERIOR pursuant to Section 17 (d) (2) (A) of said Act. Any legislative action by the Congress shall not be considered final unless and until it is approved by the President of the United States or becomes law without the President's approval.

During the time period provided for in this paragraph, STATE DEFENDANT will close the Copper River Highway to all public traffic beyond milepost 49 by means of a barrier at the south end of the Million Dollar Bridge sufficient to prevent unauthorized use of the Bridge.

3. PLAINTIFFS will not object through legal action or otherwise to such restoration of, or repairs to, the Million Dollar Bridge as may be necessary: (a) to prevent further structural damage to the Bridge from causes other than the use of said Bridge by public traffic, or (b) to enable STATE DEFENDANT to use the Bridge as a means of access to and from STATE DEFENDANT'S existing maintenance camp located at milepost 52 of the Copper River Highway in connection with the construction to milepost 49 described in paragraph 1 above. PLAINTIFFS expressly reserve any lawful objections and/or rights of legal action they may have with respect to restoration or reconstruction of the Million Dollar Bridge for the purpose of carrying public traffic on the Copper River Highway.

4. During the time period provided for in paragraph 2 above, STATE DEFENDANT will close the "Chitina local access road" which proceeds south from Chitina along the Copper River to all traffic beyond O'Brien Creek, located approximately five miles south of Chitina. The closure will be effected by means of a barrier sufficient to prevent unauthorized use of the road. Public use of the campground located at O'Brien Creek will be permitted.

5. As soon as funding can be obtained, and during the time period provided for in paragraph 2 above, STATE DEFENDANT will conduct a regional transportation study of the Prince William Sound area and surface transportation routes to the interior of Alaska. The study will consider and compare all reasonable alternative methods of transportation within said region, including the Copper River Highway and the Marine

Highway System. The study will be released to the general public when completed.

6. As soon as possible and during the time period provided for in paragraph 2 above, STATE DEFENDANT and FEDERAL DEFENDANT UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, will prepare and issue a supplemental environmental impact statement pursuant to Section 102 (2) (C) of the National Environmental Policy Act of 1969, which statement will analyze and compare the environmental and other impacts of the several possible alternative routes of the Copper River Highway beyond milepost 82. These DEFENDANTS will also prepare and issue a statement and certification pursuant to Section 4(f) of the Department of Transportation Act of 1966 with respect to the possible use of lands included in national or State historic sites for construction of the Copper River Highway beyond milepost 82. A reasonable opportunity for public comment on said statements will be provided before said statements are issued in final form.

7. Neither this agreement nor any of its recitals or provisions shall be construed as an admission by any of the parties hereto. This agreement is intended as a compromise and settlement of the existing litigation between the parties and shall not be used as evidence against any of the parties in any proceeding other than a proceeding arising out of an alleged breach of this agreement.

8. Promptly upon execution of this agreement, all parties hereto, through their respective attorneys, will execute

and file a stipulation in the United States District Court that the amended complaint in the above-entitled action brought by PLAINTIFFS may be dismissed without prejudice, except as to all matters concluded by this agreement. The said stipulation will provide that said District Court retain jurisdiction of the action for the sole purpose of enforcing this agreement between the parties, in the event that such enforcement should be required.

9. Promptly upon entry of an order by the United States District Court approving the stipulation for dismissal provided for in paragraph 8 above, PLAINTIFFS will file a voluntary dismissal of their pending interlocutory appeal in the United States Court of Appeal. All parties will bear their own costs and attorneys' fees incurred in the litigation between them to date.

10. Upon proof in a court of competent jurisdiction that this agreement has been breached, a preliminary injunction may issue to restrain such breach without proof by the party or parties complaining of such breach that irreparable injury is likely to result from said breach.

11. This agreement may be modified only in writing and by agreement of all parties hereto.

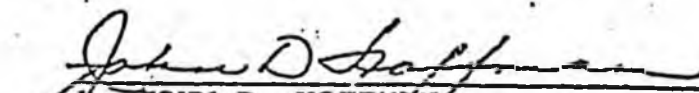
12. This agreement shall be binding upon the successors and assigns of the parties, including without limitation any State or federal agency which may succeed by law to the duties of the STATE DEFENDANT or the FEDERAL DEFENDANTS in regard to the

subject matter of this agreement.

13. For purposes of expedition, the parties will execute this agreement on separate signature pages which will thereafter be affixed to the original. The original will be attached to the stipulation provided for in paragraph 8 above and filed with the United States District Court. Each party will be provided with one counterpart of the agreement and each of said counterparts shall be the legal equivalent of the original.

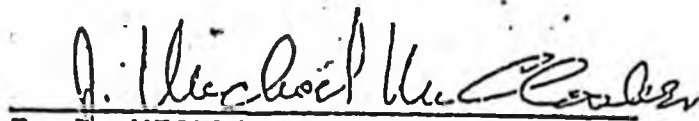
Dated: June 19, 1975

ALASKA CONSERVATION SOCIETY,
a nonprofit corporation, and
SIERRA CLUB, a nonprofit corporation


By JOHN D. HOFFMAN,
their attorney

Dated: June 19, 1975

SIERRA CLUB, a nonprofit corporation


By J. MICHAEL McCLOSKEY,
Executive Director

Cordova Chamber of Commerce

P.O. Box 99
Cordova, Alaska 99574
(907) 424-7260



Honorable Governor Steve Cowper
Office of the Governor
Juneau, Alaska 99801

March 30, 1988

APR 7 1988

Dear Governor Cowper:

Near the turn of the century, the discovery of rich copper deposits in the Wrangell Mountains near the present town of McCarthy spurred construction of a railroad from Cordova up the Copper River to Chitina and from Chitina east through the Chitina River Valley to the Bonanza Mines. The Copper River and Northwestern Railway operated from 1911 through 1938, when the mines closed. The railroad abandoned the route and returned the right of way to the people for use as railroad, road or tram. Before the railroad stopped operations, the Cordova Chamber began trying to have the railbed along the Copper River converted to a roadway.

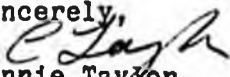
The Chamber has supported this idea continuously from 1938 to the present time. This is evidence of a continuous and lasting support of the Copper River Route #10. The Cordova Chamber of Commerce remains a staunch advocate for development of the Alaska highway system. Construction of the ground transportation system of Alaska is not a luxury, it is not even optional, it is imperative for the maintenance and improvement of commerce. This alone should be sufficient economic justification for construction of the highway.

Historically the earliest trails and roads were built by subscription and maintained by tolls in Alaska. Our pioneering spirit hasn't died, although it has tarnished during the fifty year struggle with nature and man to complete the road.

Many times in the past the Cordova Chamber has called on friends in the rest of the state to add their voices to ours in calling for renewal of our ground transportation link. The Native Corporations, our neighboring Chambers, our neighboring cities once again have added their voice. The people of Alaska want to visit the North Gulf Coast, and the Cordova Chamber of Commerce as always is thankful for their continuing support. Cordova wants to take her place as a full equal amongst her neighbors; to greet her neighbors in the same friendly spirit that exists throughout the GREATLAND.

We urge you, Governor Cowper, to aid Cordova with a "build" decision for the Copper River Highway. Your assistance and support for Alaska State House of Representative Co-Resolution 46 would be one way you could express this support.

Sincerely,


Connie Taylor
President

COPY

cc: Senator Dick Eliason, Senator Willie Hensley, Senator Jan Faiks,
Senator John Binkley, Senator Paul Fischer, Senator Rick Uehling,
Senator Jim Duncan, Senator Fred Zharoff, Senator Lloyd Jones,
Senator Jack Coghill, Senator Tim Kelly, Senator Mitch Abood,
Senator Bettye Fahrenkamp



City of Cordova

"The Friendly City"

APR 11 1988

April 6, 1988

Senator Lloyd Jones
P.O. Box V, MS 3100
Juneau, Alaska 99811

Dear Senator Jones:

I would like to thank you for taking the time to talk to me last week about Cordova's #1 issue - the Copper River Highway.

We in Cordova appreciate the fact that there is not an abundance of money available to fund this (or any major) project, but we earnestly believe that a Pioneer Access Road could be completed in three or four years at a total cost of \$11-12 million. If the toll road resolution passes, this could be a low cost/no cost option for funding that may open up potential for access to other Alaska communities.

Your support is needed now in the appropriation of approximately \$300,000 to the DOT&PF, FY 89 Budget, which will be necessary to restore Mile 50 to Mile 72 back to the condition it was in 15 years ago. I am assured by our Legislative Delegation, Senators Jay Kerttula and Mike Szymanski and Representative Bette Cato, that they will continue to take a strong position supporting our highway.

Mitch Gravo will be bringing you a token of our appreciation, a can of our locally produced "Skinless Boneless Salmon" an item we are justifiably proud of. It is our goal to ship this product by road to our Alaskan neighbors and the Lower 48 within the next few years.

Thank you again for your support.

Sincerely,

CITY OF CORDOVA

MEERA KOHLER
Councilwoman

cc: Senator Kerttula
Senator Szymanski
Representative Cato

John Killoran

17767 Sanctuary Drive
Eagle River, Alaska 99577
(907) 694-2216

April 22, 1988

The Hon. Lloyd Jones, Chairman
Committee on Transportation
Alaska State Senate
Post Office Box V
Juneau, Alaska 99811

APR 25 1988

Dear Senator Jones:

The proposal to finally finish construction of the Copper River Highway as a 62-mile "Pioneer Access Road" from the present end to Chitina is now in your Senate Committee on Transportation where it has remained since being unanimously passed by the House of Representatives over one month ago.

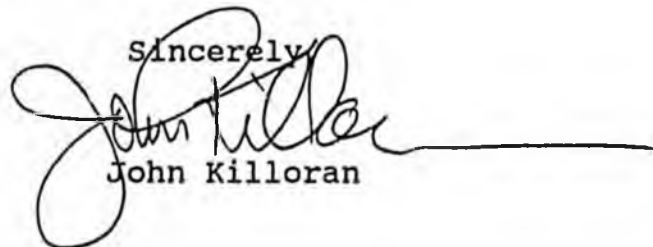
I wrote you initially on March 24th, urging your priority consideration, and passage of House Concurrent Resolution 46.

Nearly three weeks ago, the Alaska Department of Transportation and Public Facilities released its comprehensive "Compendium Report on the Copper River Highway" which most favorably illustrates why the completion of this road is long-overdue. The sound public policy for revenue-short Alaska in using revenue bonding to be repaid through user fees (tolls) is also extremely sound. After all, is that not how the bulk of operating and maintenance fees of the Marine Highway System have historically been derived?

Please render sound and wise judgement on this issue now, in time for its passage by the Senate before the end of the 1988 Legislative Session. The access to this beautiful, historic, and wonderful region of our State should be a milestone of achievement in this session of the Alaska Senate.

Thank you for your personal consideration in this matter. Please help get House Concurrent Resolution 46 passed favorably in your Senate Committee on Transportation, and in the full Senate.

Sincerely,



John Killoran

Attachment

By road to Cordova

THE SUSPICION is that the legislature this year will do nothing — again — about providing the state with a road linking Cordova to the rest of Alaska.

A ton of money will be spent on a lot of other projects — as it has been for a quarter of a century — and the prospect of completing the Copper River highway to the coastal town of Cordova will be no more a reality than a midsummer day-dream.

It's one of the mysteries of the universe. We'll come up with answers to UFOs before a Cordova road is built. The common cold probably will be a thing of the past before any Alaskan can drive a pickup or a sports car to Cordova from Anchorage or Fairbanks or Palmer or Kenai or North Pole. In fact, we may drive to the real north pole before we'll be able to bundle up the kiddies and go for a weekend drive to Cordova.

But more than a holiday excursion is at stake here. Commerce and trade and communications are the heart of the issue — that, and an ability to bring some people of the state closer to other Alaskans.

IT WILL BE a long time — if ever — before there is a road to Juneau. Not in several lifetimes is it likely there will be surface transportation to Nome and Kotzebue and Barrow — barring the eventual extension of the railroad into one or more of the western and northern regions of Alaska.

But reaching Cordova isn't that big a deal.

We're a golf-ball shot away now — and have been

for years.

There's no insurmountable geographic problem. No Mount McKinley stands in the way. No Cook Inlet bars the access.

The cost isn't even that great, given the fact that we talk all too often in Alaska in terms of multi-multi-million dollar projects.

In this case, the Department of Transportation and Public Facilities says a gravel road of nominal width (18 feet, it suggests) could be built for \$18.4 million.

THERE'S that much money sloshing around in various legislative slush funds.

A little belt tightening here and there in Juneau's governmental operation and the construction funds could be had without pinching much of anything.

What's the reason for not moving ahead? Why should there be further delay?

Certainly not because a majority of Cordova residents are opposed to whatever lifestyle changes might occur if a road were constructed. There are still some holdouts, to be sure. But from what we hear, most Cordova residents have long ago come to the conclusion that the positives outweigh the negatives.

The only answer then is that most of the legislators don't care.

They have other designs on \$18.4 million. Money not spent in Cordova is money they can get a piece of to put into some other pet project in their home districts. So what if it doesn't serve a statewide purpose, as would a road linking Cordova to the rest of the state.

Monday, March 28, 1988, The Anchorage Times

Elaine Atwood
Assistant Publisher

Robert B. Atwood
President and Publisher

William J. Tobin
Vice-President, Editor-in-Chief

March 24, 1988

The Hon. Lloyd Jones, Chairman
Senate Committee on Transportation
Post Office Box V
Juneau, Alaska 99811

Dear Senator Jones:

This letter is to express my strong support for approval by your committee, and passage by the Legislature, of the House-approved resolution calling for the Governor to direct the Department of Transportation and Public Facilities to build a toll road linking the existing Copper River Highway to the Edgerton Highway at Chitina.

I am pleased to read, in the Anchorage Times, of your support for opening access over this route. As you probably are aware the Times has taken a forceful editorial position in favor of this project.

Not only will this be a long overdue action to eventually provide an essential road link for the community of Cordova, but it is of interest to many others. Those Alaskans, such as myself, who access this area for pleasure or to visit friends, will applaud your actions. Twice a week ferry service costing hundreds of dollars for a family round trip is hardly "adequate" access for Cordovans or other citizens of this State.

The characteristics of the road described in the newspaper, and the methodology for funding and maintaining the completed road, is adequate and appropriate for the traffic. For too long we have geared our decisions to well-meaning planners and "kill it with kindness" isolationists who spoke of hundred-million dollar projects with high speed expressways. Having driven my motorhome on the existing Copper River Highway, which is gravel surfaced and approximately the width proposed for the remaining link, I believe it is completely adequate for safe travel by those who would use this road.

Please use your influence to pass this resolution, and the accompanying measure authorizing the DOT&PF to issue revenue bonds for the project, without further delay so that it can become law in this session. The time has come for action to complete this essential road link for Alaska. Thank you.

Sincerely,

John P. Killoran

enclosure

SENATE COMMITTEE REPORT

FURTHER

FINANCE

3/18/88

DATE TURNED INTO OFFICE

4/26/88

Mr. President:

TRANSPORTATION

Committee considered

CSHCR 46 (FIN)

Copper River toll road

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee attached or [] adopted fiscal note(s)

[] new [] updated or previous

zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

[] Committee Backup attached

between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest on the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid under the call of the bonds or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on the outstanding bonds to the date of the call or retirement. (§ 1 ch 162 SLA 1984)

Sec. 37.15.710. Bonds as legal investments. Toll facilities bonds are legal investments for all banks, trust companies, savings banks, savings and loan associations, and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees, and other fiduciaries. The bonds may be accepted as security for deposits of all money of the state and its political subdivisions. (§ 1 ch 162 SLA 1984)

Sec. 37.15.720. State toll facilities. The state is authorized to acquire, construct, equip, and maintain toll bridges, highways, roads, crossings, and causeways found to be necessary by the commissioner of transportation and public facilities. (§ 1 ch 162 SLA 1984)

Sec. 37.15.730. Knik Arm Crossing. Notwithstanding the provisions of AS 37.15.720 the first state toll facility to be financed under AS 37.15.610 — 37.15.760 is the Knik Arm Crossing near Anchorage if the following conditions are met:

(1) the department submits to the governor and the legislature a feasibility study that finds that the crossing is financially feasible and able to produce revenue adequate to repay the bonds with which it is financed;

(2) if financing in addition to revenue bonds is anticipated, the department submits to the governor and legislature a finance plan to include an estimate of the total cost of the project and a description of the sources of money that will be used to finance the total cost of the project; and

(3) the office of management and budget reviews the feasibility study and the finance plan, if required, and reports its findings and recommendations to the governor and legislature not later than 90 days after the study and plan are received by the office. (§ 1 ch 162 SLA 1984)

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HCR 46
Publish Date: _____

REQUEST _____
Revision Date: _____
Title: House Concurrent Resolution 44
Relating to a Copper River Toll Road
Sponsor: Cato
Requestor: Cato

Agency Affected: DOT&PF
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		*	*	*	*	*
CAPITAL		*	*	*	*	*
REVENUE		*	*	*	*	*

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		*	*	*	*	*

POSITIONS:

FULL-TIME		*	*	*	*	*
PART-TIME		*	*	*	*	*
TEMPORARY						

ANALYSIS: The use of a toll authority is not established procedure in the department. The assumptions expressed in this analysis represent the department's initial reactions to this concept and may need modification to more accurately reflect the opportunity costs of money, the pay back terms and other financial assumptions. In addition, federal aid funds for construction may have to be re-paid prior to establishing a toll.

* See attached page, typewritten analysis dated 2-26-88.

Prepared by: David W. Truax/Lynn J. Harnisch Phone: 474-2431/451-2210
Division: DOT&PF Regional Director, Northern Region Date: 2-25-88

Approved by Commissioner: Mark S. Hickey *MSH* Date: 2-29-88
Agency: DOT&PF

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

ASSUMPTIONS

- A) Toll Checkpoint
- 1) One toll checkpoint would be needed to collect tolls.
 - 2) Checkpoint costs were based on similar costs for a checkpoint on the Dalton Highway.
 - 3) A checkpoint for year round occupancy would be more expensive as it would require additional insulation, permanent utilities systems, larger living quarters, etc.
- B) Pioneer Road
- 1) Would be 18ft. wide, screened gravel surface and have trestle type bridges. The cost for this work assumes that 18ft. wide road could be constructed so that it was safe and maintainable and that only minimal reconstruction on the existing railbed would be necessary. Should any of these parameters be forced to change, during the course of actual design, the cost could increase substantially. Cost increases would depend on the type of changes that were necessary.
- C) Federal Aid Secondary
- 1) Would be 28ft. wide, crushed gravel surface and have standard bridges. The cost is based on current construction costs for typical gravel surface Federal Aid secondary roads. Assumes construction of access road from the Million Dollar Bridge, Mile Post 49, to Chitina.
- D) Copper River Bridge
- 1) To keep per vehicle tolls to a minimum, it was assumed that the estimated \$7,500,000 to construct a bridge across the Copper River, adjacent to the Million Dollar Bridge, would be done with Federal discretionary bridge funds. Therefore, this particular cost does not appear in the overall capital costs. If discretionary funding cannot be obtained, the \$7,500,000 construction cost would have to be added to the total capital costs of the project. This would increase the per vehicle toll for capital costs payoff by \$7.00 for seasonal and \$4.00 for year-round.
- E) Maintenance Station
- 1) In order to distribute the added mileage evenly, one additional station would be needed in the Tasnuna River area and additional equipment would be needed at the Chitina Station.
 - 2) Facilities requirements to meet seasonal needs.
2,400 sq. ft. shop
Generator Bldg. w/two generators
4 each trailer pads for 14X70 trailers.
Utilities and water/well system.
 - 3) Facilities requirements to meet year round needs (in addition to above building needs).
2 Trailer pads for 14X70 trailers.
Utilities and water system.
Sand shed 2,000 sq. ft.

2,000 sq. ft. work store building.

F) Maintenance Equipment

1) Seasonal (either type road)

a) New Tasnuna Station

Motor graders CAT 14 Type (2)

Dump Truck 8 Yd.

Loader 4 yd. type (1)

Dozer D-8 type

2 4WD 3/4 ton pickups

Low tractor trailer

b) The mileage this road would add to the existing system would be slightly more than a new station should handle. Therefore, some additional equipment would be needed at the existing Chitina Station to cover the extra northernmost portion of the additional mileage. This additional equipment would also be used on other state-maintained roads in the Chitina area.

c) Chitina Station (additional equipment)

Motor grader CAT 14 type (1)

Loader 4yd. type (1)

Dump Truck 8 yd. type (1)

2) Year-round (in addition to season equipment needs) [either type road]

a) Tasnuna Station

Truck type Rotary snowblower 2 each 2200 tph

4x4 Oshkosh with V-nose plow, belly blade and wing, 2 each
Sander

G) Building and equipment needs are based on:

- 1) Historical information from old railroad records, which show that a substantial maintenance effort was required to keep the alignment open and in good repair at all times of the year.
- 2) Personal on-site observations of substantial slide and erosion activity by DOT&PF maintenance staff and other individuals at various times of the year.
- 3) If the Pioneer Road is built, it will be heavily used. The one-lane road will not be able to handle the volume of traffic very long. By building and staffing an adequate camp, maintenance forces can make many of the upgrades that will be required by the traffic volume.

H) Maintenance Costs - Manpower Needs

- 1) Seasonal
 - a) Tasnuna Station (New Positions)
 - i) 1 WG 52 Foreman
 - ii) 2 WG 53 Operations
 - iii) 1 WG 53 Operator/Mechanic
 - b) Chitina Station
 - i) 2 WG 53 Operators
- 2) Year Round
 - a) Tasnuna Station
 - i) above 4 Positions @ Full-time
 - ii) Plus 1 additional WG 53 Operator and 1 additional WG 54 Operator

I) Toll Program Administration

- 1) Based on estimates of manpower needs for similar checkpoint program on Dalton Highway at \$7,000 per month for a staff of 3.
- 2) Accounting support assumes accounting clerk, range 9, part-time.

J) Average Annual Traffic

- 1) Based on historical traffic generating data for similar sized communities, future growth patterns as demonstrated in the draft Cordova Comprehensive Plan and the area's location relative to major population centers and recreational/resource opportunities. This resulted in an average daily traffic count forecast of 375 vehicles a day, or 11,250 a month based on a 30-day month.
- 2) The average monthly traffic count for a year round rate will be less than a seasonal route. This is because the year round average takes in a 7-month period where historic traffic declines by approximately 60% from the five-month summer period.

K) Capital Costs

- 1) Capital costs for check point construction, maintenance equipment, maintenance station construction, and Pioneer Road would all have to be funded initially from General Funds.
- 2) Capital costs for constructing the Federal Aid Secondary Road would be split 91.35% Federal and 8.65% State General Fund match.
- 3) Costs for Pioneer Road construction could be recovered from the FHWA upon upgrade of this road to Federal Highway Secondary standards. However this recovered cost would come from federal obligation authority which could otherwise be used on other projects.

- L) Toll charges for private vehicles may be able to be lessened by charging on the basis of vehicle gross weight. This would increase the cost to truck traffic, but assumably increase shipping costs as well. Because we have no way to determine gross weight at this time, such a charge schedule would have to wait until traffic data could be collected on the road, so that a determination could be made as to whether or not actual truck traffic was substantial enough to invoke such a schedule. An annual reassessment of toll charges could be done if changes in traffic level, maintenance costs, and/or toll program costs change.
- M) Analysis does not include "cost of money."

FISCAL NOTE ANALYSIS OF

HCR 46-COPPER RIVER HIGHWAY TOLL ROAD

COSTS	SEASONAL		YEAR-ROUND	
	PIONEER RD	FED. AID RD.	PIONEER RD.	FED. AID RD
Capital (Total)	\$16,925,000	\$92,255,000	\$18,405,000	\$93,405,000
Toll Check Pt.	50,000	50,000	150,000	150,000
Rd. Construction	15,000,000	90,000,000	15,000,000	90,000,000
Maint. Station	730,000	730,000	1,120,000	1,120,000
Maint. Equipment	1,145,000	1,475,000	2,135,000	2,135,000
Maintenance (Total)	600,000	800,000	1,200,000	1,600,000
Toll Prog. Admin. (Total)	50,000	50,000	120,000	120,000

REVENUES	CAPITAL COSTS		MAINTENANCE COSTS		TOLL PROG. COSTS	
	SEASONAL	YEAR-ROUND	SEASONAL	YEAR-ROUND	SEASONAL	YEAR-ROUND
Pioneer Road	\$16,925,000	\$18,405,000	\$ 600,000	\$ 1,200,000	\$50,000	\$120,000
Pay Back Basis	20 yrs.	20 yrs.	Annually	Annually	Annually	Annually
Annual Pay Back	846,250	920,250	600,000	1,200,000	50,000	120,000
Average Annual Traffic	56,250	135,000	56,250	135,000	56,250	135,000
Per Vehicle Toll	\$15.00	\$7.00	\$11.00	\$9.00	\$.90	\$.90
Federal Aid Road	\$92,255,000	\$93,405,000	\$ 800,000	\$ 1,600,000	\$50,000	\$120,000
Pay Back Basis	20 yrs.	20 yrs.	Annually	Annually	Annually	Annually
Annual Pay Back	4,612,750	4,670,250	800,000	1,600,000	50,000	120,000
Average Annual Traffic	56,250	135,000	56,250	135,000	56,250	135,000
Per Vehicle Toll	\$82.00	\$35.00	\$14.00	\$12.00	\$.90	\$.90

HJR

5

SSHJR 5

The Resources Committee has considered:

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION
NO. 5
Relating to the reflagging of foreign fish
processing vessels.

and recommends the following amendment:

Amendment No. 1 by Davidson:

Page 1, line 16:

Delete "a loophole in"

Page 1, line 17, after "laws":

Delete "allows"
Insert "are written so broadly to allow"

Page 1, line 18:

Delete "dummy"
Insert "token"

Page 2, in the paragraph beginning with "COPIES":

Insert "the Honorable Walter B. Jones, Chairman,
House Merchant Marine and Fisheries Committee;"

Insert "the Honorable Robert Byrd, Senate Majority
Leader;"

Recommending do pass (5): Herrmann (Co-chairman), Davidson,
Sund, Pearce, Hoffman

A zero fiscal note was published February 23, 1987.

SSHJR 5 was referred to the Rules Committee for placement on
the calendar.

HB 47

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 47
"An Act relating to the Alaska Railroad
Corporation."

and recommends it be replaced with:

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 47 (L&C)
(same title)

- House Amendment -

REED MCCLURE MOCERI THONN & MORIARTY

ATTORNEYS AT LAW

3600 COLUMBIA CENTER

701 FIFTH AVENUE

SEATTLE, WASHINGTON 98104 7081

SEATTLE
(206) 462-4900

TACOMA
(206) 925-9888

CABLE NUMBER: 247111
TELETYPE NUMBER: 208239
FAX: 47-9823

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(206) 386-7028

February 3, 1987

Mr. Cecil Ranney
Legislative Assistant
c/o Representative Cliff Davidson
P. O. Box V
Juneau, AK 99811

Dear Cecil:

Enclosed is a copy of the Congressional Record which contains Senator Stevens' newly introduced bill regarding the re-flagging of foreign-built vessels. The legislation is co-sponsored by Senator Murkowski.

The first section of the bill creates a simple ten-year moratorium on the re-flagging of foreign-built vessels for fish processing activities. Any foreign vessel documented after January 1, 1987, would not be allowed to engage in fish processing.

Section 2 of the bill amends 46 U.S.C. 8103(b) by providing that 100 percent of all seamen employed on fish processing vessels documented under the laws of the United States, must be United States citizens. Section 8103(b) currently reads: "[o]n each departure of a documented vessel . . . from a port of the United States, 75 percent of the seamen . . . must be citizens of the United States." The United States Coast Guard has informally ruled that if the vessel were to depart from a foreign country, there would be no requirement that the crew be

Congressional Record
- with Letter -

Mr. Cecil Ranney
February 3, 1987
Page 2

citizens of the United States. Senator Stevens' bill eliminates this problem by clarifying that on fish processing vessels documented under the laws of the United States, all of the crew must be United States citizens, regardless of whether the vessel departs from a United States port.

Section 3 of the bill would encourage the Secretary of Commerce to issue regulations regarding the shipment into United States ports of fish products harvested by foreign vessels in our 200-mile waters. Currently, 46 U.S.C. 251(a) prohibits all foreign-flag vessels from landing their catch of fish or fish products in U.S. ports; however, it is not clear that this provision would prohibit a foreign processing vessel from offloading its harvest of fish to a United States documented vessel, which then could land the product in a United States port. Very little is actually known about the extent to which this transshipment of fish products may be taking place. Senator Stevens' bill will encourage the Secretary of Commerce to investigate the matter in more detail.

If you have any questions regarding this matter, please do not hesitate to call. I will be staying in contact with you and wish you every success with House Joint Resolution No. 5.

Very truly yours,

REED MCCLURE MOCERI THONN & MORIARTY

Joseph T. Plesha
Joseph T. Plesha

JTP:jc:1296f
Enclosure

S. RES. 81. Resolution to direct the Senate Legal Counsel to represent the chief clerks of the Committee on Foreign Relations and the Select Committee on Intelligence in the case of *United States v. Morales, et al.* considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. BYRD, Mr. LEVIN, Mr. ROCKEFELLER, Mr. CHILES, Mr. KERRY, Mr. BAUCUS, Mr. MATSUNAGA, Mr. LAUTENBERG, Mr. SASSER, Mr. BURDICK, and Mr. MOYNIHAN):

S. 374. A bill to promote economic competitiveness in the United States, and for other purposes; to the Committee on Governmental Affairs.

(The remarks of Mr. BINGAMAN and the text of the legislation appear earlier in today's RECORD.)

By Mr. EXON:

S. 375. A bill to amend title 10, United States Code, to permit the President to order to active duty units and members of the Army National Guard of the United States and the Air National Guard of the United States in cases in which the Governor of a State or other appropriate authority withholds consent; to the Committee on Armed Services.

(The remarks of Mr. EXON and the text of the legislation appear earlier in today's RECORD.)

By Mr. ROTH:

S. 376. A bill to amend the Tax Reform Act of 1986 to restore the full deductibility of IRA contributions; to the Committee on Finance.

DEDUCTIBILITY OF IRA CONTRIBUTIONS

Mr. ROTH. Mr. President, today I rise to introduce legislation amending the Tax Reform Act of 1986.

This legislation is intended to correct a serious shortcoming in the tax bill passed last year. Despite the positive steps taken in the bill such as reduction of marginal rates and institution of a minimum tax for corporations, the bill took a giant step backwards in encouraging people to save money.

The restrictions placed on individual retirement accounts last year strike at the heart of middle-income families who are trying to earn a decent living, educate their children and save for their retirement years. While I am pleased to have helped preserve IRA's for a great portion of taxpayers, I am disappointed that millions of others have been cut off. These are working couples. In many cases, whose combined salaries push them over the income limit for fully deductible IRA's. Or, they are young workers—the young professionals in our society—whose ambition keeps our country moving forward in a fast changing world.

Mr. President, in my judgement, there is no issue of more critical importance to the American people and

this Nation than the issue of savings. We simply cannot meet the challenge of becoming competitive in the emerging world economy without addressing the need to increase our national savings rate. That is what we attempted to do when, in 1981, Congress voted to promote an individual retirement program for the American people. The idea was that each working individual could save up to \$2,000 a year tax free, and that money would help citizens meet their needs for retirement.

There has been much debate on the effectiveness of the program. In 5 years, 28 million families made a commitment to create an IRA for their future. Those individual decisions resulted in savings of \$250 billion, including a tremendous amount of new income for long-term capital investment.

Until this year, the IRA was the best available savings program for the middle class, working individuals of this country. Roughly 80 percent of those who have IRA's have incomes of \$30,000 or less; 65 percent have incomes of \$40,000 or less. With such statistics, it is difficult for me to understand how this savings program could ever be misapprehended as a rich person's tax break.

Under the new law, an individual who has earnings of \$25,000 or less continues to enjoy a tax deduction for his IRA. A married person with up to \$40,000 of earned income can have the same. But unfortunately, from that point on the benefits are phased out. It makes little sense to provide a tax deduction to encourage a young man or woman earning \$25,000 or less to save, and then to send them the signal that it is less important that they save when they start to earn a little more.

The same is true of two wage earners who make \$40,000 or more. As long as a married couple is earning \$40,000 or less they can deduct their IRA. But if their joint earnings are in excess of that figure, the deduction is phased out, and at \$50,000 it is eliminated. The current law penalizes those who are ambitious who are working hard, and who are succeeding. It penalizes those who are preparing for a secure and comfortable retirement with an IRA.

Under the new law, people who are not covered by a pension plan where they work can continue to deduct their IRA. However, this ignores the fact that many workers see their IRA not as a substitute for their private pension plan, but as a reliable supplement to that plan. With a deductible IRA to fall back on, workers would have the peace of mind of knowing their retirement security would not be completely dependent upon employer pension plans which may later be corporate takeovers or bankruptcy.

I can tell you there many families in my State of Delaware, with two wage earners, who don't think there is anything far about what the tax bill did to their IRA. Take a young autowork-

er at a Chrysler plant in my State, earning \$33,000 with overtime. The spouse can be working, perhaps as a schoolteacher. Before long they are over the \$50,000 limit, and their deductible IRA is eliminated. Making the inequity even more apparent is another chilling aspect of the new law: If one spouse is an active participant in a qualified pension plan, no deduction for an IRA is allowed.

In closing Mr. President, I introduce this legislation today with a reminder to my colleagues. Much will be said in the upcoming days of this session about the need to preserve American jobs and expanding competitiveness of American manufacturers abroad. To that end we will try to determine how to reduce the cost of capital in this country relative to our trading partners. One place to start is to expand the tax incentives for savings, rather than reducing or eliminating them as was done by the Tax Reform Act of 1986.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 377. A bill to impose a moratorium on the ability of foreign-built vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MORATORIUM ON BENEFITS FOR FOREIGN-BUILT VESSELS

Mr. STEVENS. Mr. President, I would like to bring to the attention of the Senate an immediate and potentially devastating threat to the development of the U.S. fishing industry in the North Pacific. The threat is being caused by various interpretations of the vessel documentation laws and Magnuson Fishery Conservation and Management Act (MFCMA) which, if carried to extremes, would permit foreign fish processing companies to receive preferential treatment that Congress intended to reserve for the U.S. fishing industry.

The MFCMA has a three-tier process used in determining allocations of fish within an established conservation quota. Section 204 grants the domestic industry the preferential right to harvest and process fish to the maximum extent of its capacity.

The second tier involves an allocation to foreign fish processing vessels which receive fish at sea from U.S. harvesting vessels, but this allocation is permitted only if there is a surplus of fish left after the capacity of the domestic sector has been reached.

The third tier is established in section 201 of the MFCMA. It is lowest in priority and provides foreign harvesting fleets an allocation of any fish remaining after the first two allocations have been made.

In order to benefit from the preference reserved for the domestic industry, a fish processing vessel operating offshore within our Exclusive Econom-

in Zone must be documented under the laws of the United States so as to be a United States fish processor under the statute. Those processing vessels not so documented under the laws of the United States are foreign fishing vessels under the MFCMA and cannot qualify for a processor preference.

This so-called processor preference has become increasingly important and valuable as our domestic capacity to harvest and process fish grows and the amount of surplus fish from our zone available for foreigners declines. This is precisely what the Congress intended—the domestic industry is growing and the fishery resources of the United States are becoming Americanized.

The problem is caused by an apparent loophole in the law that could allow foreign fishing companies to document foreign-built fish processing vessels under the laws of the United States. These re-flagged vessels could then be considered United States fish processors and fall within the scope of the processor preference category outlined in section 204.

The foreign fishing companies, using foreign-built vessels, might thereby benefit from a preference that was never intended to be granted them and also put the U.S. fishing industry at a competitive disadvantage due to lower cost of construction and labor costs.

Title 46 of the United States Code governs the documentation of vessels. Any vessel of at least 5 net tons may be documented if it is owned by a U.S. citizen, partnership, association, or corporation. 46 U.S.C. 12102.

It is possible for a corporation to be foreign owned and still operate a vessel eligible for U.S. documentation. The law requires that the corporation must be established under U.S. law, and that the president and chairman of the board be U.S. citizens.

In addition, the law requires the number of a corporation's board of directors who are noncitizens be no more than a minority of the number of directors necessary to constitute a quorum. There is no requirement that the corporation be owned by U.S. citizens in whole or in part.

Title 46 prohibits the use of foreign-built, U.S.-flag vessels as fish harvesting vessels. 46 U.S.C. 12108. There is no prohibition on the use of such vessels as fish processors.

The domestic processing industry in Alaska has also raised concerns about the ability to use foreign labor on both re-flagged and domestic fish processing vessels.

The law currently requires 75 percent of all seamen employed on a U.S. vessel which departs from a U.S. port to be citizens of the United States. 46 U.S.C. 8103(b). This applies to fish processing workers as well as the crew.

However, the Coast Guard has informed me that this labor requirement is not applicable if the vessel departs from a foreign port.

Therefore, a foreign fish processing company is legally capable of establishing a corporate subsidiary with U.S. management to document foreign-built processing vessels under the laws of the United States. By doing so, these vessels could be entitled to the domestic processor preference embodied in section 204 of the MFCMA. In addition, both foreign and domestic processing vessels may avoid the U.S. labor requirements if the vessels are based in foreign ports.

These loopholes in the law hinder any meaningful attempt on the part of Federal fishery managers to develop a management regime which encourages the continued development of domestic processing capacity.

Widespread reflagging would impose a competitive disadvantage on legitimate domestic operations which have made substantial investments in on-shore processing equipment and U.S.-built vessels. Unless something is done, foreign companies will have the ability to claim the domestic preference, and compete with the domestic industry at greatly reduced capital costs.

There is also the potential for reflagging to create a competitive disadvantage within the domestic sector. The ability to reflag foreign-built vessels received little attention in the North Pacific until recently.

Domestic processors are now concerned that a decision to build vessels in U.S. shipyards in anticipation of the domestic preference could be turned into a costly mistake by the reflagging loophole.

In response to the growing concern of the North Pacific fishing industry, I am introducing legislation which will eliminate the ability of reflagged vessels to process fish.

This bill is designed to establish a level playing field for all domestic operations, by eliminating the free flow of capital necessary for the development of the fishing industry.

Section 1 imposes a 10-year moratorium on the ability of foreign-built vessels to engage in fish processing under the U.S. flag. The moratorium applies to foreign-built vessels documented after January 1, 1987. I know of no such vessels documented after January 1, and believe it is fair and equitable to close the loophole as of that date.

I want to put both foreign and domestic companies on notice that a race to reflag vessels during the pendency of the congressional review process will not be tolerated. Any companies which reflag vessels after January 1 in anticipation of a different effective date do so at their peril.

Section 2 imposes a permanent requirement that all seamen employed on fish processing vessels documented under the laws of the United States be U.S. citizens, irrespective of the port from which such vessels may depart.

Section 3 addresses an issue which is related to another aspect of activities by foreign fish processors. It has come

to my attention that the law permits U.S. cargo vessels to deliver fish into U.S. ports from foreign fish processors, even though direct delivery by the foreign processor itself is prohibited.

The Federal Government has very little information about the actual extent of such transshipment of fish products. This section grants the Secretary of Commerce the authority to issue regulations requiring U.S. cargo vessels engaged in transshipment to provide information on the extent to which this activity is taking place. It also requires the Secretary to submit a report within 6 months on the potential impact of such transshipment on the development of the U.S. fishing industry, and to provide recommendations on how to best regulate this practice, if necessary.

Section 4 provides for the termination of the provisions of this act at the end of a 10-year period. This sunset provision is necessary to ensure that the provisions of this legislation did in fact assist in the continuing americanization of the U.S. fishing industry.

The fishermen and processors of Alaska have convinced me of the urgency of addressing these issues so that investments in the domestic fishing industry can continue apace. I urge the Senate to review this issue as quickly as possible.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, it shall be unlawful for any foreign-built vessel documented under the laws of the United States after January 1, 1987, to engage in the processing of fish for commercial use or consumption.

Sec. 2. Section 8103(b) of title 46, United States Code, is amended—

(1) by striking "or yacht" and inserting in lieu thereof "yacht, or foreign built fish processing vessel"; and

(2) by adding immediately after the first sentence the following: "All of the seamen employed on a fish processing vessel documented under the laws of the United States shall be citizens of the United States."

Sec. 3. Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 2511a) is amended by adding at the end the following: "The Secretary of Commerce may issue such regulations as the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States. The Secretary shall submit a report to the Senate Committee on Commerce, Science and Transportation, and to the House Committee on Merchant Marine and Fisheries—

(1) setting forth, within six months of the date of enactment of this Act—

(A) an evaluation of the potential impact of such transportation of fish products on

the development of the domestic United States fishing industry; and

(B) recommendations, if any, for legislation or other action to regulate such transportation of fish products in a manner most beneficial to the future development of the domestic United States fishing industry; and

(2) at such other times as the Secretary of Commerce determines that legislation is needed to assure the full development of the domestic United States fishing industry.

Sec. 4. The provisions of this Act shall be effective until June 1, 1997.

Mr. MURKOWSKI. Mr. President, it is a pleasure to join my colleague, Senator STEVENS, in introducing this legislation of vital importance to the development of a strong U.S. fish processing industry.

This legislation would remove a loophole caused by various interpretations of the vessel documentation laws and the Magnuson Fisheries and Conservation Management Act. It would impose a 10-year prohibition on the use of reflagged foreign vessels for the purposes of fish processing.

Documentation does not require that a vessel be built in the United States or that corporations seeking to document a vessel have U.S. shareholders. The law does restrict the use of reflagged vessels in the coastwise trade and as fish harvesting vessels. However, there is no restriction on the use of reflagged vessels as fish processing vessels.

This loophole, if not closed, could result in a situation in which a foreign processing company can, by merely establishing a U.S. subsidiary and employing minimal U.S. management, document a foreign vessel as a "vessel of the United States" and thereby receive access to prime fishing areas reserved for the domestic industry. The fish processed on such a vessel could then be directly delivered to markets in the United States.

In order to encourage the development of a strong domestic fish processing industry, the MFCMA grants the authority to reserve access to prime U.S. fishing resources for the domestic fishing industry. Under U.S. law, a vessel is considered "a vessel of the United States" if it is documented under U.S. law.

Because U.S. law does not require vessels of the United States which embark from foreign ports to employ U.S. labor other than the master and chief of this ship, vessels could enjoy this access while employing predominantly foreign seamen.

The law it currently stands has put U.S. built and manned offshore processors and onshore processors at a competitive disadvantage in relation to reflagged processors. While the bill would grandfather in the rights of existing reflagged processing vessels, a 100 percent U.S. citizenship requirement would be imposed for crews working on these vessels. This requirement, and the 10-year prohibition on the use of reflagged vessels for fish processing would serve to level the playing field for all fish processors.

Finally, let me note the importance of additional provisions of this legislation requiring the Secretary of Commerce to investigate the extent to which transshipment, the practice by which foreign processors transfer processed fish to U.S. cargo vessels for delivery to the U.S. market, may impair the continuing effort to fully develop the U.S. fishing industry.

In the closing days of the 99th Congress, I introduced similar legislation to call to my colleagues' attention the need to address this serious problem. I am pleased to join my colleague, the senior Senator from Alaska in once again addressing this issue and I urge my colleagues to join us in supporting this legislation.

By Mr. THURMOND:

S. 378. A bill to amend the Tariff Schedules of the United States to continue the suspension of duty on menthol feedstocks; to the Committee on Finance.

SUSPENSION OF DUTY ON MENTHOL FEEDSTOCKS

Mr. THURMOND. Mr. President, today I am introducing a bill that was introduced by me in the 99th Congress which would further extend the temporary suspension of the duty on certain menthol feedstocks. These feedstocks are utilized by domestic manufacturers to produce synthetic menthol. A duty is imposed on these chemicals when they are imported into the United States from West Germany. Since there are no domestic industries that produce these particular feedstocks, this duty affords no protection to any chemical manufacturer in the United States. To the contrary, it imposes an unnecessary financial burden on the U.S. menthol industry by increasing production costs.

To relieve this unnecessary burden, I introduced a bill in 1983 to temporarily suspend the duty on menthol feedstocks. That legislation was ultimately incorporated into the Miscellaneous Tariff Act of 1984 which became law in October 1984. It provided for the suspension of this duty until December 31, 1987.

Unfortunately, the situation facing our domestic menthol industry has worsened since 1984. There are still no American producers of menthol feedstocks. The American menthol industry must import these vital feedstocks to produce menthol products. The American menthol industry is then forced to compete against foreign, cheaply produced menthol products in domestic and international markets. In 1984, the market price for the finished menthol product was \$10.70 per pound. Since that time, the market price has steadily declined. The decline in market prices is due to foreign countries which subsidize and protect their menthol producers. This decline in prices has had a severe impact on our domestic industry. The United States has only one domestic manufacturer of menthol. This producer has suffered a 40-percent drop in operat-

ing profits from 1985-1986. Despite eroding profits, this company has managed to maintain its market share over the past few years. However, if the suspension of this duty is not extended, the future of domestic menthol production looks bleak.

This bill would simply extend the suspension of the duty on menthol feedstocks for 5 more years, until December 31, 1992. It would permit the continued receipt of the particular feedstocks necessary to produce menthol without paying a duty.

Mr. President, I realize this bill will not solve all the numerous trade difficulties faced by our domestic menthol industry. However, it would assist one domestic business in its competition against foreign manufacturers. It will help preserve the American menthol industry and many American jobs. For these reasons, I urge the prompt passage of this important legislation.

By Mr. THURMOND:

S. 379. A bill to amend the Tariff Schedules of the United States with respect to extracorporeal shock wave lithotripters; to the Committee on Finance.

EXTRACORPOREAL SHOCK-WAVE LITHOTRIPTERS

Mr. THURMOND. Mr. President, today I am introducing legislation which is designed to remedy an existing inequity in the Tariff Schedules of the United States concerning the classification of extracorporeal shock wave lithotripters.

The extracorporeal shock wave lithotripter is a new invention which generates a shock wave to disintegrate kidney stones without invasive surgery. At present, the only lithotripter manufacturer which has received Food and Drug Administration approval for use in the United States is Dornier Medical Systems, which is based in West Germany. There are no domestic manufacturers presently producing a lithotripter approved by our Government.

The lithotripter enables patients to avoid surgery. It reduces pain and suffering, inpatient hospitalization, and the cost of kidney stone treatment. In fact, many lithotripter procedures can be performed on an outpatient basis.

Under the present tariff schedule, lithotripters fall under the "electromedical apparatus" category. Within this category there are two different duty schedules. A duty of 9.2 percent is imposed on an "electrosurgical apparatus." All other items in this category carry a 4.4-percent duty. Whether the procedure is surgical or nonsurgical is apparently a determining factor in regards to the amount of the duty. The duty on a surgical apparatus is over twice the duty on any other electromedical apparatus, and represents a great deal of money on costly items like lithotripters. Specifically, the difference in duties when applied to the present price of the lithotripter is approximately \$100,000.

100TH CONGRESS
1ST SESSION

S. 377

To impose a moratorium on the ability of foreign-built vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 1987

Mr. STEVENS (for himself and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To impose a moratorium on the ability of foreign-built vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding any other provision of law, it shall be
4 unlawful for any foreign-built vessel documented under the
5 laws of the United States after January 1, 1987, to engage
6 in the processing of fish for commercial use or consumption.

7 SEC. 2. Section 8103(b) of title 46, United States Code,
8 is amended—

- S. 377 -

1 (1) by striking "or yacht" and inserting in lieu
2 thereof ", yacht, or foreign-built fish processing
3 vessel"; and

4 (2) by adding immediately after the first sentence
5 the following: "All of the seamen employed on a fish
6 processing vessel documented under the laws of the
7 United States shall be citizens of the United States."

8 SEC. 3. Section 4311(a) of the Revised Statutes of the
9 United States (46 App. U.S.C. 251(a)) is amended by adding
10 at the end the following: "The Secretary of Commerce may
11 issue such regulations as the Secretary considers necessary to
12 obtain information on the transportation of fish products by
13 vessels of the United States from foreign fish processing ves-
14 sels to points in the United States. The Secretary shall
15 submit a report to the Senate Committee on Commerce,
16 Science, and Transportation, and to the House Committee on
17 Merchant Marine and Fisheries—

18 “(1) setting forth, within six months of the date of
19 enactment of this Act—

20 “(A) an evaluation of the potential impact of
21 such transportation of fish products on the devel-
22 opment of the domestic United States fishing in-
23 dustry;

24 “(B) recommendations, if any, for legislation
25 or other action to regulate such transportation of

1 fish products in a manner most beneficial to the
2 future development of the domestic United States
3 fishing industry; and

4 “(2) at such other times as the Secretary of Com-
5 merce determines that legislation is needed to assure
6 the full development of the domestic United States
7 fishing industry.”.

8 SEC. 4. The provisions of this Act shall be
9 effective until June 1, 1997.

○

100TH CONGRESS
1ST SESSION

H. R. 438

Requiring American ownership, construction, and manning of commercial fishing industry vessels

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1987

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

Requiring American ownership, construction, and manning of commercial fishing industry vessels

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 SECTION 1. Except as provided in section 2, a fishing,
4 fish processing, or fish tender vessel (as defined in section
5 2101 of title 46, United States Code) greater than 5 net tons
6 may not be issued a certificate of documentation under chap-
7 ter 121 of title 46, United States Code, after October 31,
8 1986, unless the vessel was built in the United States and, in
9 the case of a vessel owned by a corporation, the controlling

- HR. 438 -

1 interest in the corporation is owned by citizens of the United
2 States.

3 SEC. 2. The provisions of section 1 do not apply to a
4 fishing, fish processing, or fish tender vessel that has been
5 issued a certificate of documentation before November 1,
6 1986.

7 SEC. 3. Section 8103 of title 46, United States Code, is
8 amended—

9 (a) in subsection (b) by inserting “, fish process-
10 ing, fish tender,” after “fishing”; and

11 (b) by adding a new subsection (i) as follows:

12 “(i) On a fishing, fish processing, or fish tender vessel
13 that has been issued a certificate of documentation under
14 chapter 121 of this title, at least 75 percent of the entire
15 complement (including licensed individuals) must be citizens
16 of the United States.”.

○

SECOND READING OF HOUSE RESOLUTIONSSSHJR 5

The following was read the second time with the Resources Committee report (page 295):

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION
NO. 5

Relating to the reflagging of foreign fish processing vessels.

Amendment No. 1 by the Resources Committee (page 295).

Representative Herrmann moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Pettyjohn objected and withdrew his objection.

There being no further objection, Amendment No. 1 was adopted.

SSHJR 5am

Representative Gruenberg moved and asked unanimous consent that SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 5 amended be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

SSHJR 5am was read the third time.

The question being: "Shall SSHJR 5am pass the House?" The roll was taken with the following result:

SSHJR 5 AM

Yeas: 39 Adams, Barnes, Boucher, Boyer,
Brown, Cato, Collins, Cotten,
Davidson, Davis, Donley, Ellis,
Frank, Furnace, Goll, Gruenberg,
Grussendorf, Hanley, Herrmann,
Hoffman, Hudson, Koponen, Larson,
Menard, Miller, Navarre, Pearce,
Pettyjohn, Phillips, Pourchot,
Rieger, Shultz, Springer, Sund,
Swackhammer, Taylor, Ulmer,
Wallis, Zawacki

Nays: 1 Martin

SSHJR 5am

Excused: 0

Absent: 0

And so, SSHJR 5am passed the House and was referred to the Chief Clerk for engrossment.

LEGISLATIVE CITATIONS

Representative Gruenberg moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the House approved the following citations:

Honoring - Eric D. Wardell

Honoring - Roberta Ann Vittone, Mrs. Alaska 1987

The citations were referred to the Chief Clerk for transmittal to the Senate.

SPECIAL ORDERS

Representative Herrmann moved and asked unanimous consent that the following citations be taken up as a Special Order of business at this time:

Honoring - Dillingham Wolverine Girls Basketball Team, Region I JA Tournament Champions

Honoring - Dillingham Wolverine Boys Basketball Team, Region I JA Tournament Champions

There being no objection, it was so ordered.

Representative Herrmann moved and asked unanimous consent that the House approve the citations. There being no objection, it was so ordered.

The citations were referred to the Chief Clerk for transmittal to the Senate.

House Vote

SENATE COMMITTEE REPORT

FURTHER: RESOURCES

2/26/87

DATE TURNED INTO OFFICE Mar 5, 1987

Mr. President:

TRANSPORTATION

Committee considered SSHJR 5 am

Relating to the reflagging of foreign fish processing vessels.

and recommended:

replace with _____ CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim Kelly
D. Sabatino

Don Price Do Pass
Chairman signature and recommendation

Committee Backup Attached



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box 7, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

January 23, 1987

MEMORANDUM

TO: Representative Cliff Davidson

ATTN: Cecil Ranney

FROM: Karen Oakley^{les}
Legislative Analyst

RE: Groundfish Harvest and Processing and Reflagging of Vessels
Research Request 87.082

You requested that we locate recent figures on the amount of groundfish harvested and processed in Alaska and the number of foreign vessels that have been reflagged for use as fish processors in United States waters.¹ You specifically asked:

- How much groundfish was harvested from state waters during the last three years?²
- How much groundfish was harvested within the Exclusive Economic Zone (EEZ) off Alaska by U. S. and foreign vessels during the last three years?³
- How much groundfish was processed in Alaska by floating and by shore-based processors during the last three years?
- How many foreign vessels have been reflagged for use as fish processors in United States waters?

¹A vessel built in another country may be documented as a U.S. vessel and then used for international trade. A foreign-built vessel that has been reflagged cannot be used to harvest fish, but it can be used to process fish outside the three-mile limit. A reflagged vessel may transport goods between U.S. and foreign ports only; it may not be used to transport goods between two U.S. ports.

²State waters extend three miles from shore.

³The EEZ, formerly the Fisheries Conservation Zone, extends approximately 200 miles from shore.

Groundfish Harvest and Processing in Alaska

Fish tickets for groundfish harvest have only recently been modified to include the specific catch location within state waters. Fred Gaffney, Extended Jurisdiction Coordinator, Commercial Fisheries Division, Alaska Department of Fish and Game (ADF&G), could provide data on groundfish harvest from state waters for 1985 only. There were 3,575 metric tons of groundfish taken from state waters in 1985. These fish represented 0.2 percent of the approximately two million metric tons of groundfish harvested from the EEZ off Alaska in 1985. The relative volume of groundfish taken from state waters is small because the major groundfish stocks typically reside over three miles from shore.

The amount of groundfish harvested and processed in Alaska during the last three years is presented in the attached table. These data were prepared by Janet Smoker of the National Marine Fisheries Service.⁴ You may wish to contact her at 586-7221 if you have further questions about these data.

Reflagging

According to Rod Moore of Congressman Don Young's office, three foreign vessels have been reflagged to allow them to operate as fish processors in United States waters. Two of the vessels, the F/V GOLDEN ALASKA and the F/V ALASKA ONE, are now operating in Alaska waters; the third vessel, M/V HOLLAND, operated on the east coast for a time, but its owners are presently bankrupt. The F/V GOLDEN ALASKA is processing pollack in the Bering Sea, and the F/V ALASKA ONE is processing rockfish in the Aleutians.

As you are probably aware, Congressman Young recently introduced HB 438 to address the reflagging issue. This bill would change U. S. maritime law regarding the use of reflagged vessels in the U. S. fishery by:

- prohibiting the use of any foreign-built vessel that was reflagged after October 31, 1986;
- requiring that controlling interest in any corporation that uses a reflagged vessel be owned by United States citizens; and
- requiring that 75 percent of the crew of any reflagged vessel be United States citizens.

I hope you find this information useful. Please feel free to contact me if you have any questions. We have requested a copy of HB 438, and we will forward it to you when it arrives.

KO

Attachment

⁴The National Marine Fisheries Service recently assumed primary responsibility for collection and analysis of groundfish data. Formerly, the ADF&G and NMFS had joint responsibility.

TABLE 1

 1984-1986 Groundfish Harvest and Processing in Alaska
 (1000's metric tons)

	Harvest from Alaska Exclusive Economic Zone			Processing in Alaska		
	Total	Joint Venture Vessels	Foreign Vessels	Total	Shore- based	Floating*
1984	1,892.3	577.2	1,315.1	na	na	na
1985	1,947.0	870.8	1,076.2	na	na	na
1986	1,663.4	1,167.7	495.7	144.0**	35.0**	109.0

Notes:

All data are from the National Marine Fisheries Service (NMFS).

na=data not available from NMFS.

*includes catcher-processors

**Data from November and December 1986 have not yet been processed, so these values are for January through October 1986. A fair amount of groundfish is typically processed during November and December, and Janet Smoker of NMFS estimates that an additional 10,000 to 20,000 metric tons were processed by shore-based processors in November and December 1986.

Prepared by the House Research Agency, January 1987, 87-082.

CLOSING THE RE-FLAGGING LOOPHOLE

The waters off of Alaska contain enormous groundfish stocks that dwarf those available in other areas of the United States. Species such as Alaskan pollock, Pacific cod, and yellowfin sole, are part of a renewable resource that has an estimated value of over three billion dollars annually. Since the initiation of large-scale factory trawling activities in the late 1950s, the harvesting and processing of this resource has been dominated by foreign fishing fleets. In recent years, however, the United States fishing industry has taken over the harvesting of these species of fish. The domestic processing industry is also growing at a tremendous pace and the United States fishing industry will soon have the capacity to fully utilize the valuable groundfish resources off of Alaska. Yet, this rapid development may be thwarted by a loophole in U.S. law which permits a foreign fishing company to transfer the registry of their ships from foreign-flag to United States-flag, and thereby obtain preferential access to United States fishery resources.

1. Regulation Of Vessels In The United States Fishing Industry

a. Priority Access For U.S. Vessels Under The Magnuson Act

In 1976, Congress passed the Magnuson Fishery and Conservation and Management Act, 18 U.S.C. § 1801 et seq., to regulate fishing within 200 miles of our nation's shore and promote domestic utilization of the fishery resources within the newly created "exclusive economic zone" (EEZ). Under the Magnuson Act, United States vessels are accorded a preference to harvest and process fishery resources within the EEZ. Foreign vessels are only allowed access to fish that will not be utilized by the United States fishing industry. The definition of "vessel of the United States" is, therefore, critical for distinguishing who will have access to the fishery resources within U.S. waters.

b. Requirements To Be Documented As A Vessel Of The United States

The Magnuson Act in § 1802(27) defines the term vessel of the United States as "any vessel documented under the laws of the United States" The Vessel Documentation Act, 46 U.S.C. § 1210 et seq., allows for any vessel to be documented as a vessel of the United States if it is over 5 net tons and, under the requirements of § 12102, is owned by --

- "(1) an individual who is a citizen of the United States;
- (2) an association, trust, joint venture, or other entity . . . all of whose members are citizens of the United States . . . ;
- (3) a partnership whose general partners are citizens of the United States, and the controlling interest in the partnership is owned by citizens of the United States;
- (4) a corporation established under the laws of the United States or a State, whose president or other chief executive officer are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;
- (5) the United States Government; or
- (6) the government of a State."

Under the documentation requirements, a "vessel of the United States" can be entirely owned by foreign nationals as long as they incorporate in the United States or any state, and the requisite corporate officers are United States citizens.

c. Requirements For A Vessel To Engage In "Fishing"

For a vessel to engage in fisheries, 46 U.S.C. § 12108 requires that it be built in the United States or condemned as prize of war. Fish processing, however, is not included within the definition of fisheries under § 12101(6) of the Vessel Documentation Act. A foreign-built vessel, therefore, could process our domestic fishery resources if it were documented under the laws of the United States.

d. Manning Requirements For A United States Vessel

46 U.S.C. § 8103(b) provides that "[o]n each departure of a documented vessel . . . from a port of the United States, 75 percent of the seamen (excluding licensed individuals) must be citizens of the United States. . . ." The United States Coast Guard has informally ruled that if a U.S.-documented processing vessel were to depart from a foreign port, there would be no requirement that its crew be citizens of the United States.

e. Landing Of Fish Harvested In United States Waters

The Nicholson Act, 46 U.S.C. § 251, prohibits a foreign-flag vessel from landing in the United States any fish products taken aboard on the high seas, a term that includes the 200-mile EEZ. Of course, a United States documented vessel is permitted to land its harvest of fish or fish products in the United States.

2. Effect Of These Laws Upon The Fishing Industry

The interaction of these statutes would allow a foreign company to document a foreign-built vessel as a "vessel of the United States" and thus be able to claim priority access to process United States fishery resources. The vessel would not be permitted to "fish" within U.S. waters; however, by obtaining a U.S.-flag, the vessel would be permitted to process United States fish harvested within the EEZ, the territorial sea or the internal waters of any state. Further, if the vessel were to depart from a foreign port, there is no requirement that United States citizens be employed on the crew.

3. The Need For Legislative Action To Restrict Re-flagging

Foreign fishing companies currently operate large factory vessels capable of processing all of the groundfish resource from waters off of Alaska. Most of these vessels do not harvest fish directly, but instead receive deliveries of fish from United States fishermen in "joint venture" operations. In the past, there has been no incentive for foreign companies to re-flag their vessels because they were able to harvest or process fish that were not fully utilized by the United States industry. The United States groundfish processing industry, however, has recently grown at a phenomenal rate and in the near future there will not be "surplus" fish in U.S. waters available for foreign operations. If these existing foreign vessels are re-flagged as vessels of the United States, they will have priority access to United States fishery resources and directly compete with a growing fleet of United States processing vessels and shorebased processing plants. Because many foreign vessels are fully depreciated, a re-flagged vessel would provide a distinctive cost advantage to the foreign operation over their United States competitor. In short, foreign companies can re-flag their existing fleets and thereby retain control of U.S. fishery resources while thwarting development of the domestic fishing industry.

Two bills have been introduced in Congress to close the re-flagging loophole. In the House of Representatives, Congressman Young of Alaska has introduced H.R. 432, which would require that all vessels which receive U.S. documentation after October 31, 1986, be built in the United States, and in the case of a vessel owned by a corporation, the controlling interest in the corporation be owned by citizens of the United States. Additionally, H.R. 438 requires that at least 75 percent of the crew aboard such vessels be citizens of the United States. The bill has been referred to the House Merchant Marine and Fisheries Committee. In the United States Senate, S.377, has been introduced by Senator Stevens and co-sponsored

by Senator Murkowski. This bill provides for a ten year moratorium beginning January 1, 1987, on the documentation of all foreign-built vessels. S.377 would also require that 100 percent of the seamen employed on fish processing vessels be United States citizens. Senator Stevens' bill has been referred to the Senate Commerce Committee.

To protect the existing Alaskan groundfish processors from an "end run" around the preferential access afforded the domestic industry, and to ensure continued development of the United States groundfish processing industry, we strongly encourage hearings at the earliest possible date on these bills and support of efforts to close the loophole that allows for foreign vessels to be re-flagged as vessels of the United States.

9790b



SOUTHWEST ALASKA
MUNICIPAL CONFERENCE

Box 89 • Unalaska • Alaska 99685

January 27, 1987

Representative Cliff Davidson
Pouch V
Juneau, Alaska 99811

Dear Rep. Davidson:

Last year the Southwest Alaska Municipal Conference (SWAMC) was formed to promote economic development in our region. Included in our conference are the municipalities in Kodiak, Bristol Bay, Alaska Peninsula, Aleutian Islands and Pribilof Islands. Together, our communities represent 70% of the total value of Alaska's fisheries caught in 1986.

The SWAMC is seeking support for policies which would benefit our region, the State of Alaska and the Nation. Most of them are fisheries development issues: either developing new fisheries or retaining more economic benefit in Alaska from existing fisheries.

Enclosed is a description of the issues we feel need immediate attention from the State of Alaska. Besides the immediate issues of reflagging, fish tax, and domestic observer program, there is the more long term program of developing a comprehensive regional development strategy. More than ever we need sound information from which to base our decisions.

The SWAMC has already devoted substantial resources to this strategy and we are prepared to invest more to realize this project. But we can't do it alone. We feel the State would be fully justified in providing economic assistance to this project which promises to make a substantial contribution toward rebuilding our State's economy.

We send you this information as an introduction to our policy goals and will be contacting you in the future to see how we can work together to put our State back on solid economic footing.

Sincerely,

Paul Fuhs
Paul Fuhs,
President, SWAMC

REFLAGGING: AN ISSUE OF ECONOMIC CONCERN

INTRODUCTION

Reflagging, allowing documentation of foreign built vessels as U.S. vessels for the purpose of groundfish processing, serves neither the interest of the State of Alaska or the Nation as a whole. This issue is particularly critical to the communities within the Southwest Municipal Conference (SWMC) who stand to lose a large part of their economic base. Reflagging also has the potential for inhibiting the development of shore-based groundfish processing and thus is not consistent with the goal of Americanization of the groundfish industry.

Recognizing the significance of reflagging to the economic stability of southwestern coastal communities, the Southwest Municipal Conference has provided this overview of the issue. They have a number of projects underway which will quantify the potential impacts of reflagging to the communities in the region and to the State. This information will be available shortly, and will serve to provide additional support for our concerns. The various components of the reflagging issue are discussed separately below.

PRIORITY TO THE GROUND FISH RESOURCES IN THE FCZ

The underlying reason for the emergence of the reflagging issue is the priority access to the groundfish resource in the fisheries conservation zone (FCZ) off Alaska. The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) clearly structures the priority of access to assist the Americanization of all fisheries in the FCZ. The North Pacific Fishery Management Council developed allocation guidelines based upon the authority of the MFCMA for its allocation of harvest privileges.

The highest priority in the allocation of groundfish in the FCZ is to domestic fishermen delivering to domestic processing companies. The processing companies can either be shore-based or at-sea floating processors. American factory trawlers engaged in both harvesting and processing groundfish are also included in this highest priority category.

The next level of priority access to the fishery resources in waters off Alaska is to joint venture fisheries. In joint venture operations, American fishing vessels harvest groundfish and deliver at sea to foreign processing ships. The growth of the joint venture groundfish fishery has been

nothing short of spectacular since 1981, and has been responsible for a large increase in the fishing capability of the Pacific Northwest fishing fleet.

Recognizing the growth of the domestic groundfish industry, the North Pacific Fishery Management Council eliminated all foreign fishing, and most joint venture fishing, in the Gulf of Alaska during their September, 1985 meeting. The Council also sharply reduced the foreign allocation of groundfish in the Bering Sea due to the growth in the U.S. shore-based, factory trawler and joint venture capacities. The Council also unanimously endorsed the call for action to prevent the documentation of foreign built vessels as U.S. vessels for the purpose of processing groundfish in the FCZ. The SWMC agrees with the Council resolution, but feels that additional action is necessary.

Reflagging would allow foreign fishing companies to continue to utilize their existing fleets and in addition be allocated priority access to the groundfish resource. While this would benefit foreign fishing companies, it would work against development of existing and planned U.S. groundfish development and would have detrimental effects to shore communities in the Gulf of Alaska and the Bering Sea. The reasons for our concerns are discussed briefly below.

POTENTIAL NEGATIVE IMPACTS OF REFLAGGING

If foreign fishing companies were allowed to transfer registry of their processing ships from foreign registry to U.S. registry, there would be several impacts on groundfish development, both for Alaska and the U.S. These impacts would not only affect the groundfish fishery, but could also impact other fisheries such as Alaska's salmon industry. The impacts from reflagging would affect:

- 1) jobs in processing sector
- 2) income to Alaska and the Nation
- 3) capital investment by U.S. companies into the groundfish industry

Jobs in the Processing Sector

It is in Alaska's best interest to assist the development of a diversified groundfish fleet combining both shore-based and at-sea processing. As a general rule, we can expect greater employment of Alaskan processing workers in shore-based groundfish plants rather than in at-sea processing ships. However, the SWMC recognizes that full Americanization of the groundfish fishery requires factory trawlers and floaters.

processing ships due to the nature of the resource. As shore communities, we hope to increase our economic base by directly participating in on-shore processing acting as points of supply to the offshore fleet.

Foreign fishing companies currently have processing fleets capable of harvesting all groundfish resources from waters off Alaska. If reflagging were allowed, the new foreign controlled U.S. companies might find it in their best interest to utilize foreign crew members. There would be no employment benefit to either the Alaskan or U.S. economy under this scenario. If processing crews were American workers, they would likely be hired from areas other than the local communities in the area.

Another potential impact to Alaskan communities is that groundfish processing of fillets requires a relatively larger number of workers compared with surimi production. Since it is our basic assumption that reflagged factory ships would tend to produce mostly surimi rather than a combination of surimi and fillets(1), the overall impact of reflagging would be to reduce processing jobs.

Income to Alaska and to the Nation

One of the primary reasons for the MFCMA is to assist development of American fisheries in harvesting and processing the fishery resources within the FCZ of the United States. In the opinion of the Southwest Municipal Conference and major components of the industry, reflagging of foreign processing ships would not assist Americanization of the industry.

Under the scenario of reflagging, foreign fishing companies would be able to utilize their existing fleet and still receive priority access to the groundfish resources. Even though they would be required to organize a domestic subsidiary to operate as a U.S. company, the operating decision would still be in the hands of the foreign fishing company.

Equally important is the consideration that foreign fishing companies have a large degree of control of imports of fishery products into their respective countries, particularly for surimi. These companies would have little incentive to increase access to their country's markets if

(1) This assumption is based upon the physical space limitations on floating processing ships which limits the potential for different product forms being produced simultaneously.

that action would increase the competitive position of the U.S. processing industry. A fleet of reflagged factory ships would also not offer Alaskan communities the opportunity to act as service and supply centers. Through their years of operation of distant water fishing, foreign fishing companies have an established system to supply their fleets and to provide for transportation of product. If reflagged factory trawlers became the dominant component of the groundfish fleet, there would be little opportunity for communities to provide supplies and services.

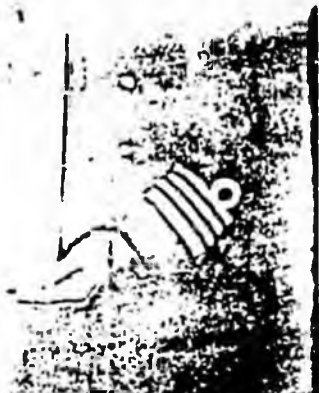
Capital Investment by the U.S. Industry

An important impediment to U.S. investment in groundfish processing in the Gulf of Alaska and the Bering Sea is caused by regulatory uncertainty. This uncertainty increases the risk of companies considering involvement in the groundfish industry. If the existing industry participants and those contemplating investment in the industry feel that there is a potential for a flood of newly created, foreign controlled, U.S. companies entering the groundfish industry, they will have little incentive to make capital investments in developing shore-based processing facilities in the area. The end result to Alaska would be very little benefit from harvest and processing of the groundfish resource.

A last issue related to regulatory uncertainty is the potential for disruption in other Alaskan fisheries from an emerging reflagged fleet. It can be assumed that if reflagging were allowed, competition for the groundfish resource would soon result in shortened season length. Pollock fishing is normally poorest during the summer months. Under existing regulation, there would be nothing to stop the reflagged processing fleet from processing salmon, crab or other species. The result of this development would bring great disruption to the economies of many Alaskan coastal communities and the existing fishing industry.

NEEDED: ACTION ON REFLAGGING

To deal with the threat of reflagging, the SWMC feels Congressional action will be required. To send a clear message to this affect, the Alaska Legislature should strongly support House Joint Resolution #5 which will prohibit the use of foreign hulls for fish processing within the U.S. FCZ. They should also work with Alaska's Congressional delegation to draft regulations which will prohibit the use of foreign labor for fish processing on U.S. vessels within the FCZ.



first call at the Port of Port-
a cargo of 2,466 Honda au-
plaque commemorating the
's general manager, autoino-
(Port of Portland photo)

afloat tract

arry Bernardin, Tacoma
's chief financial officer, said
\$3.8 million contract should
be the company's financial
employment stability.
They say everything comes to
e who wait," said Bernardin.
company had waited through
postponements of the Navy's
ion date on the contract
e the award came on Friday.
e company's uncertainty
t the contract had led to three
s of a hearing on its
ruptcy reorganization plan.
na Boat, citing debts of more
100 million, filed for protec-
under federal bankruptcy
September 1985.
new contract is for the
ul of the Hayes, a twin-
research ship. The contract
complete rebuilding of the
er a 32-month contract

ship, now layed up in
N.J., was built as a
ship It will be converted
marinedetection ship.
din aid the ship will
average of about 70
on the project. The first
works — engineers to
plans — are due to be
n the next two weeks,
gh the ship will not ar-
out 6 months.
ip will be towed to
Navy. The Hayes is
wide to go through
anal, so it will have
around the tip of
ri

In other action, the Port of
Portland Commission approved:
• entering into a three-year

a sole-source agreement with
International Business Machines
in an estimated amount of
\$320,000 to purchase data pro-
cessing equipment.

Sea Land,
March Point
Texaco Florida, AM, Shell, Valde
Shell.
Ferdale
Arco Sag River, AM, Mobil, Valde
Arco.
(Continued on Page 14, Column 1)

Reflagging foreign fish processors

SEATTLE — With surprising
rapidity, the foreign fish harvest in
the North Pacific within the U. S.
200-mile fishery zone has declined
this year to only 54,000 tons for
well over 2 million tons in 1973.

American-flag harvest vessels
have now nearly completely dis-
placed fleets from Japan, Korea,
Poland, U. S. S. R. and the other
foreign countries that previously
dominated the high value/low vol-
ume bottom fisheries off Alaska.
Cod and pollock are now as im-
portant to American fishermen, if
not more so, as king and tanner
crab catches were in the late 1970s.
The Magnuson Fishery Conserva-
tion and Management Act has
worked — at least in the eyes of
the fishermen.

The processing sector still holds
a different point of view.

Much of this large U. S. fish
harvest is still delivered at sea to
foreign factory processing vessels
that reduce the fish to frozen filets,
blocks or surimi the raw material
for imitation crab legs, and other
"analog" products. Many of these
products come back into the
United States to compete with
those sold by U. S. fish processors
or they dominate markets to the
exclusion of U. S. processors.
Thus, the strong push to "Ameri-
canize" the processing of the U. S.
fish catch continues, led by the
large fish processing companies in
the Pacific Northwest.

Port of Tacoma picks engineer


TACOMA — The Port of
Tacoma has selected ABAM
Engineers of Federal Way to
design an estimated \$31 million
containership project known as
Terminal 3.

The project will consist of ex-
tending a present wharf by 360 ft.,
increasing containership berthing
by 960 ft. and installing several
container cranes. Work is ex-
pected to be completed by
December of 1989.

A facility for fishing boats will
need to be moved for the project,
which the port hopes will attract
additional containerized enter-
prises to Tacoma.

Law of the Sea

by
James P. Walsh
of
Davis Wright & Jones



Walsh is chairman of Davis Wright & Jones' Admiralty and Maritime Law
Practice Group. In addition to Seattle, Davis Wright & Jones has offices in
Bellevue, Richland, Anchorage and Washington, D. C.

Due to the need to keep quality
high, bottom fish must be process-
ed quickly. Now nearly all the
catch is processed at sea in foreign-
flag processing vessels or in a small
number of U. S.-flag catcher/
processors now operating out of
Seattle.

In effect, many fishermen are
now becoming processors. Be-
cause of the Magnuson Act
policies to Americanize and good
financial returns, additional catcher-
processors are now being built
from scratch or by conversion of
surplus oil supply boats purchased
at rock bottom prices in the Gulf
of Mexico.

A fairly large increase in U.
S.-flag, at sea processing capabili-
ty is expected to come on line this
year, displacing foreign fish pro-
cessing vessels now engaged in
joint ventures with U. S.
fishermen.

Last year as a result of heavy
lobbying by a U. S. shipyard, it
was brought to the industry's at-
tention that foreign built process-
ing vessels could be placed under
the U. S. flag. All that is necessary
is to purchase a surplus Japanese,
German or other foreign-built
vessel, transfer it to a bona fide U.
S. citizen corporation.

Such a vessel could process fish
in the U. S. 200-mile zone,
although it would be unable to
catch them.

Foreign built vessels are of
course much cheaper than those
constructed in U. S. shipyards.
Fishermen who have other in-

vested in, or plan to invest in, new
catcher/processors fear that they
will be undercut by reflagged fish
processing vessels. U. S. shipyards
fear lost business opportunities for
construction and repair of
American vessels.

As is frequently the case in fish-
ery policy matters, several bills
were introduced in the 99th Con-
gress to close the reflagging
loophole. The issue remains in the
forefront in the 100th Congress.

Two bills have already been in-
troduced in the House and Senate
addressing this question. Con-
gressman Don Young (R-Alaska)
introduced H. R. 438, a bill with
three objectives. First, it would re-
quire that all fishing, fish process-
ing and fish tender vessels be built
in the United States. Secondly, the
bill would require that any U. S.
corporation that owns a fishing,
fish processing or fish tender
vessel must have to be controlled
by citizens of the United States,
which means 51% equity owner-
ship. Thirdly, the bill would re-
quire that 75% of all workers on
fishing, fish processing or fish
tender vessels be United States
citizens.

This latter requirement ad-
dresses a recent Coast Guard rul-
ing that a fish processing vessel
which does not operate from a U.
S. port need not observe the 75%
citizen manning requirement ap-
plicable to those vessels that
depart a U. S. port.

Senators Stevens and Murkow-
(Continued on Page 12, Column 6)

Article - Seattle Daily
Journal of Commerce - Journal of Commerce

Industry looks carefully at reflagging issue

The Alaskan-North Pacific bottom fish industry is looking carefully at the issue of "re-flagging," to determine if this loophole in the law presents a threat to its continued growth. The Pacific pollock constitutes the biggest annual catch in the world, the Alaskan waters accounting for 30 percent.

To date foreign vessels still dominate, processing 90 percent of the area's fish, but Americans have been determined to catch up. \$310

million of capital has been invested into building about 25 ships that could take over the bottomfish industry in the Northwest and Alaska.

In a recent study conducted by Natural Resources Consultants, Seattle, Wa, the value of the bottomfish fishery to the U.S. amounted to \$6 million in 1980, and will total \$358 million this year and half billion dollars in 1987.

"With a dozen U.S. factory (fish-processing) trawlers now operating off the Alaskan coast and large trawlers coming on line in the fall, this spells the end for foreigners in the north Pacific," according to one U.S. fishing company official.

But re-flagging may prevent this from happening. Re-flagging is the transferring of documents to the U.S. flag, whereby foreign companies instantly get top priority in a U.S. allocation system.

Some feel that the foreign competitive threat is overstated. Ronald Jensen, president of Sea-Alaska Products, a division of ConAgra Inc., one of several companies opposed to efforts to plug the re-flagging gap, says, "My view is the fastest way to totally Americanize this industry is to take existing foreign vessels, re-flag them and crew them U.S." (*Wall Street Journal*, Dec. 4)

The North Pacific Fishery Management Council, a federally appointed body, has asked congressmen to look into the re-flagging situation. "There is a real problem here, something to be concerned about," according to Ronald Miller, special adviser to the council.

*Pacific Fisherman
Feb.*

- Article -

- Pacific Fisherman -

No. 1

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

78

REQUEST: _____
 Revision Date: _____
 Title: Reflagging of Foreign Vessels
 Sponsor: Davidson
 Requestor: _____

Bill Version: SSHJR 5
 Publish Date: HOUSE 2/23/87

Agency Affected: Commerce & Economic Development
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Paul Peyton Phone: 465-2017
 Division: Office of Commercial Fisheries-Development Date: 02/20/87
 Approved by Commissioner: [Signature] Date: 2/23/87
 Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

- Fiscal Note -

HJR

G

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: 1-30-87

Bill Version: HJR 6
Publish Date: _____

Revision Date: _____
Title: Reciprocal Competition in
Marine Transportation Services
Sponsor: Cato
Requestor: Cato

Agency Affected: DOT&PF
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

There is no fiscal impact to the Department of Transportation and Public Facilities

Prepared by: Mark S. Hickey, Deputy Commissioner,
Division: Office of the Commissioner

Phone: 465-3900
Date: 1-30-87

Approved by Commissioner: *Mark S. Hickey*
Agency: _____

Date: 2/4/87

Distribution (by preparer):

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

COMMUNICATIONS

HJR 6

April 20, 1987

Dear Lt. Governor McAlpine:

Thank you for your letters to President Reagan and Secretary Dole on the subject of marine transportation services in the United States by Canadian companies.

I have asked my staff to look into the issue that prompted the resolution of the Alaska Legislature, which is the loss of a Canadian government waiver granted to an American company to carry cargo in the Canadian coastal trade. We have discussed the matter with a representative of the company, Alaska Marine Lines, and obtained up-to-date information on the status of the situation. The Department of State had made previous representations before the Canadian government on the refusal of this waiver petition, but was unsuccessful in reversing the decision.

On April 13 several DOT representatives met in Ottawa with Canadian officials from the Department of External Affairs to express our continued concern over the waiver refusal. We provided to the Canadians new information on the present carriage of the cargo, and we communicated the fact that the United States Congress had taken heed of your resolution and was considering the development of a legislative proposal mandating reciprocity.

The Canadian officials promised to look into the situation. We will keep you informed of any developments.

Sincerely,

/s/ Matthew V. Scocozza
Matthew V. Scocozza
Assistant Secretary for Policy
and International Affairs

ALASKA PUBLIC DEBT 1986, State of Alaska
Department of Revenue, April 1987
transmitted by letter of April 27 from
Commissioner Malone, Department of Revenue

Distributed to all Legislators

A copy of the letter and report is on file in the Office of the Secretary of the Senate.

Posted April 30:

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE ALASKA COMMISSION ON POSTSECONDARY
EDUCATION

under authority of AS 14.48.050, dealing with
Institutional Authorization (grievance procedure
in institution's catalog or brochure)

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE DEPARTMENT OF PUBLIC SAFETY

under authority of AS 18.70.080 and AS 18.70.310,
concerning fire codes, fireworks, fire extinguishers,
and hazardous materials and hazardous wastes.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX Z
JUNEAU, ALASKA 99811-2500
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

February 27, 1987

The Honorable Lloyd Jones
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

I am writing to express some concerns regarding HJR 6, which recommends certain actions by Congress regarding the third proviso of the Jones Act.

As you know, Initiative 83-02, approved by the voters in November 1984, expresses the will of the people of the State of Alaska that they wish Congress to repeal fully the Jones Act. While I realize the intent of HJR 6 is certainly consistent with that notion, and merely a response to Canadian Shipping Act restrictions that preclude Alaskan transportation firms from competing freely in this case in the Southeast market for movements of Canadian origin goods destined for the Yukon Territory, I feel obliged to point out that HJR 6 can also be interpreted as being inconsistent with Initiative 83-02.

The third proviso of the Jones Act is a provision which basically exempts certain types of movements (i.e., those goods originating in the U.S. that move through Canada by rail under a tariff regulated by the Interstate Commerce Commission) from the basic requirement to move to and from Alaska in a U.S. bottom vessel. As you probably know, Canadian National currently provides such a service with a rail-car barge that is Korean-built operating between Prince Rupert, British Columbia and Whittier, Alaska. I believe any effort to recommend repeal of this provision could easily be interpreted as an act contrary to the intent of the initiative, since this provision is the one section of the Jones Act which at least provides some relief from the onerous provisions of that law.

It is also worth noting that there may be other Alaskan interests greater than the one addressed in HJR 6 that would warrant support for repeal of a third proviso. A few years ago when this topic was discussed and draft legislation introduced in Congress, the state considered trading repeal of the third proviso for a blanket exemption for the Alaska Marine Highway system to use foreign bottoms that would otherwise be U.S.-owned and U.S.-crewed. My point in mentioning this is merely to stress there may be a more important "quid pro quo" to request if the third proviso is to be offered up in an overall strategy to lessen the anti-competitive effects of both the Jones Act and the Canadian Shipping Act.

The Honorable Lloyd Jones

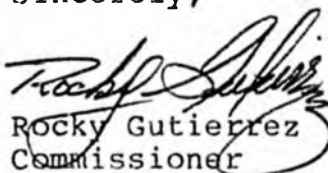
-2-

February 27, 1987

I wanted to bring these issues to your attention as you proceed with your deliberations. Please realize that the mentioning of these concerns should not be construed as lack of support for the basic intent of your resolution, nor lack of support for Alaskan transportation firms having an equal opportunity to compete in the movement of goods to and from the Yukon Territory.

If you wish to discuss this further, please give me or Mark Hickey a call.

Sincerely,



Rocky Gutierrez
Commissioner

cc: Pete Jeans, Chief of Staff, Office of the Governor
George Sullivan, Legislative Lobbyist,
Office of the Governor
Mark S. Hickey, Deputy Commissioner, Operations
John Katz, Special Counsel, State/Federal Relations,
Office of the Governor
Jim Jansen, President, Lynden Incorporated



Official Business

Alaska State Legislature

Senate

Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

April 10, 1987

MEMORANDUM

TO: Senator Lloyd Jones, Chairman
Transportation Committee

FROM: Peggy Mulligan *PM*
Secretary of the Senate

SUBJECT: Letter dated April 1 from Judy A. Black, Special Assistant to the President of the United States for Intergovernmental Affairs regarding House Joint Resolution No. 6 regarding marine transportation services between the United States and Canada

President Faiks has referred the attached letter referenced above, for your file.

RECEIVED ADD N 9 1987

THE WHITE HOUSE
WASHINGTON

April 1, 1987

STATE OF ALASKA
RECEIVED
APR 06 '87
LIEUTENANT GOVERNOR

Jsp.

HJR 6

Dear Lt. Governor McAlpine:

On behalf of the President, thank you for forwarding a copy of Alaska's House Joint Resolution No. 6 regarding marine transportation services between the United States and Canadian companies.

Please be advised that I will share copies of your correspondence with appropriate officials at the Departments of State, Commerce, and Transportation for their review.

If I can be of further assistance, please let me know.

Sincerely,

Judy A. Black

Judy A. Black
Special Assistant to the President
for Intergovernmental Affairs

The Honorable Stephan McAlpine
Lt. Governor of Alaska
Pouch AA
Juneau, Alaska 99811

TESTIMONY REGARDING HCR 6
PRESENTED BY JIM JANSEN, PRESIDENT
OF LYNDEN, INC. TO THE
HOUSE TRANSPORTATION COMMITTEE
FEBRUARY 4, 1987

Chairman Cato and members of the House Transportation Committee, my name is Jim Jansen and I am president of Lynden, Inc., which is an Alaskan transportation and construction company.

I would like to thank Madam Chairman for introducing this resolution, as we feel it involves a fundamental issue of fairness between the U.S. and Canada in trade relations.

As you are aware, the U.S. Jones Act generally precludes foreign vessels from transporting American goods between American ports. One exception to this requirement contained in the third proviso of the Jones Act allows Canadian vessels to haul American goods between the Continental U.S. and Alaska if the route includes a segment on Canadian rail lines.

The Canadian equivalent of the Jones Act is the Canada Shipping Act. As in the U.S. legislation, there are provisions for exemptions to the Act under limited circumstances. Through regulation, it is possible to obtain a "Coasting Trade Exemption Order", which for a period of one year, waives the Act where no suitable Canadian vessel is available to provide service at a reasonable rate.

Alaska Marine Lines, a subsidiary of Lynden, received such an exemption in 1985 to haul goods from Vancouver to Whitehorse, via Skagway on a weekly basis. This resulted in lower freight costs for both Skagway and the Yukon by virtue of the greater volume of goods transported on this Southeast Alaska route.

Upon reapplication in 1986, the Canadian Whitepass and Yukon Corporation objected to Alaska Marine Lines' service, as it desired to offer its own service. Even though the proposed Whitepass service was less frequent and more expensive, Alaska Marine Lines was denied the right to continue its service from Vancouver to Skagway and Whitehorse. Enclosed for your information is a copy of our submission to the Canadian Minister of National Revenue and numerous letters of support from the Yukon, Skagway, and the Governor which accompanied it.

HCR 6 basically says that it is unfair for Canada to preclude such marine transportation service when Canadian service is noncompetitive. The resolution urges Congress to take what steps it deems necessary, including modification of the third proviso of the Jones Act, if Canada does not reciprocate in its treatment of U.S. marine transportation companies.

While Alaska Marine Lines is most impacted by this particular Canadian decision, it has ramifications for all U.S. and Alaskan marine transportation companies.

Thank you for the opportunity to testify, and I strongly encourage you to support this resolution.

MINISTER OF NATIONAL REVENUE

IN THE MATTER OF PART XV OF THE CANADA SHIPPING ACT
R.S.C. 1970, c.S-9, AS AMENDED, AND IN THE MATTER
OF THE COASTING TRADE EXEMPTION ORDER (1986-87)

SUBMISSIONS TO THE MINISTER
OF NATIONAL REVENUE BY
ALASKA MARINE LINES

OSLER, BOSKIN & HARCOURT
Barristers & Solicitors
50 O'Connor Street
Suite 1400
Ottawa, Ontario
K1P 6L2

Ronald G. Belfoi
Patricia J. Wilson

Submission to Canadian

Minister of National Revenue

INTRODUCTION

1. On April 2, 1986, Alaska Marine Lines, Inc. (A.M.L.) applied to the Minister of Revenue and the Water Transport Committee for a renewal of the one-year waiver granted to it commencing May 3, 1985, to enable it to continue to move Canadian goods between British Columbia and the Yukon Territory on its weekly water-bridge service between Seattle, Washington and Haines and Skagway, Alaska. (Attachment 1).

2. Three Canadian operators have objected to the application by A.M.L. on grounds that they have suitable Canadian vessels available for the proposed service. The Canadian operators who have objected to the A.M.L. application are Rivtow Straits Ltd., Seaspam International Limited, and Whitepass and Yukon Transportation Company. A.M.L. responded to the offer of vessels by these operators in its Reply to Vessel Offers, submitted to the Water Transport Committee on April 22, 1986. (Attachment 2).

3. A.M.L. wishes to make the following additional submissions to the Minister of Revenue in support of its application to renew its waiver.

REQUIREMENT FOR THE ALASKA MARINE LINES SERVICE

4. Over the past year, Alaska Marine Lines (A.M.L.) has provided a dependable weekly scheduled service to the Yukon. The flexibility that the A.M.L. water-bridge service offers to Canadian shippers and truckers operating in British Columbia and the Yukon has earned the A.M.L. service public acceptance among northern shippers in the Yukon over the past year. A.M.L. wishes to confirm its commitment of service to Yukoners on a continuing basis.

5. The benefits provided by the A.M.L. service to Canadian shippers are confirmed by the acceptance of the water-bridge service by the Yukon Liquor Corporation. After a year of using the A.M.L. waterbridge for its shipments, the Yukon Liquor Corporation has made it a requirement in its call for trucking tenders on the contract for deliveries of liquor that a rate be quoted based on a water-bridge route via either Skagway or Haines, Alaska. Use of the water-bridge service offered by A.M.L. has thus resulted in lower shipping costs for Yukoners, along with the flexibility offered by a guarantee of weekly scheduled deliveries.

6. It is respectfully submitted that the continuation of the weekly service offered by A.M.L. will provide benefits to Yukon shippers in the form of a flexible, lower-cost shipping alternative suitable to their needs.

ECONOMIC VIABILITY OF THE ALASKA MARINE LINES SERVICE

7. Alaska Marine Lines has sufficient American base traffic on its weekly scheduled service to ensure the commercial viability of its offer of service to Canadian shippers. The existence of this base traffic is crucial to the ability of any operator to offer shipping services to the Yukon at a reasonable cost to the shipper. This is because the expected volumes of traffic destined for the Yukon, including Canadian traffic expected to be generated as a result of the re-opening of the mine at Faro, do not justify the higher cost to the shipper of chartering a barge. For this reason, it is respectfully submitted that the "offer" of barges by two Canadian operators, Rivtow Straits Ltd. and Seaspam International Limited, to move Canadian goods to the Yukon on a weekly basis, is not commercially feasible.

BENEFITS TO YUKON SHIPPERS FROM COMPETITION

8. Whitepass and Yukon Corporation has objected to the application for a renewal of its waiver by Alaska Marine Lines on the grounds that it is planning to start a scheduled service from Vancouver to Skagway, using one of the ships it kept in drydock after it withdrew its previous service in January, 1983.

9. A.M.L. responded to the objection to its waiver application by Whitepass in paragraph 10 of its Reply (pp.7 et seq., Attachment 2). After reviewing the submissions by Whitepass to the Water Transport Committee dated April 24, 1986, it is further noted that Whitepass is confident it has sufficient base traffic to justify the operation of a scheduled service to the Yukon. This base traffic consists of existing fuel deliveries, for which Whitepass currently uses a barge provided by Seaspam, and an export program consisting of traffic bound for Southeast Alaska. It is therefore submitted that the continuation of the A.M.L. offer of service to Canadian shippers will not result in the withdrawal by Whitepass of its proposed scheduled service.

10. It is respectfully submitted that the existence of two shipping services into the Yukon will result in competition in the market which will benefit Yukon shippers and businesses. Competition between two operators will ensure that cost competitive rates are maintained and that service remains dependable on a year round basis.

11. It is submitted that the existence of competitive shipping services are crucial for Yukon shippers, particularly as the Yukon economy recovers from its recent severe recession. In this context, it is respectfully submitted that the interests of Yukon shippers should be the primary consideration in determining whether a waiver should be granted to Alaska Marine Lines.

12. At the same time, there has been no indication by Whitepass to the Water Transport Committee as to what its rates will be, other than the broad assertion that they will be competitive. Whitepass has also been asked by Curragh Resources to quote a rate to them for movement of their general freight in and out of the mine at Faro, and to date has not provided such a quotation.

13. It is respectfully submitted that Whitepass is avoiding the requirements and intent of the Coasting Trade Exemption Order by failing to provide its rates and other terms on which it is willing to offer its service. It is submitted that the intent of the coasting trade protection in the Canada Shipping Act and the Exemption Order is to reserve the coastal trade to Canadian traffic where Canadian ships are available to perform the requested shipping movement in a competitive fashion. It is respectfully submitted that in these circumstances, Whitepass cannot be allowed to circumvent the regulatory process designed to administer this policy by failing to respond to shippers in the Yukon until and in the hope that potential competition by A.M.L. will be eliminated by denial of the waiver application.

14. The denial of the A.M.L. waiver application will leave Yukon shippers with only one shipping alternative over water, with the concomitant risks to shippers of higher rates unrestrained by competitive pressures and loss of service. It is respectfully submitted that granting the application by A.M.L. for a renewal of its waiver, on the other hand, will ensure that needed shipping alternatives will be provided to Yukoners.

15. Alaska Marine Lines wishes to emphasize that it has no desire to prevent or preclude Canadians from operating ship or barge water-bridge service to the Yukon. The interest of Alaska Marine Lines in this application is to be allowed an opportunity to continue the service it has offered to Yukon shippers over the past year in a competitive market environment. Alaska Marine Lines submits that in its anticipation, the continued availability of its service in the Yukon, in competition with Canadian operators, can only be to the benefit of Yukon shippers.

SUPPORT BY YUKON TERRITORIAL GOVERNMENT

16. The Yukon Territorial Government has recognized the necessity of ensuring the continuation of dependable scheduled year round service at competitive rates for shippers and businesses in the Territory. For this reason, the Minister of Community Services and Transportation in the Yukon Territorial Government has supported the A.M.L. application. In the Minister's letter to the Water Transport Committee, a copy of which is attached to these submissions, the interest of the Yukon Government in ensuring the lowest possible transportation costs in order to encourage recovery of the Yukon economy are set out:

As you are no doubt aware, Yukon's economy is an extremely fragile one and is presently getting back on its feet after a devastating downturn in the mining industry over the last three or four years. It is apparent from this experience that the economy is extremely dependant upon the ability of businesses to obtain goods and to ship goods to market at the lowest transportation costs possible. In the view of the Yukon Government, the Yukon economy requires access to frequent, reliable year around and cost competitive marine shipping service. Alaska Marine Lines has demonstrated the ability to provide such service on a weekly basis since last May.

I appreciate that the Committee must examine the potential for Canadian ships and companies to carry out shipping operations between Canadian points. However, the existence of a dependable and cost effective transportation alternative to highway trucking routes is so critical to Yukon's efforts

for increased economic development that unless the Whitepass and Yukon Corporation Ltd. can guarantee frequent, reliable, year around service on a long term basis at rates similar to those currently available, we would feel compelled to support Alaska Marine Lines' request for a further one year waiver under the Canada Shipping Act. I would impress upon you that we must hold this view because of the importance of such service to the Yukon economy as a whole.

17. It is therefore respectfully submitted that granting the A.M.L. application would be in the public interest in the Yukon and would be consistent with the objectives of encouraging the recovery and development of Yukon's economy.

RECIPROCITY WITH THE UNITED STATES - JONES ACT

18. Canadian ship operators now enjoy an exemption from the provisions of the United States Jones Act, under what is known as the "Third Proviso", whereby Canadian vessel operators may ship U.S. goods to Alaska without the need for a waiver from U.S. authorities if the goods involved are delivered, in part, over Canadian rail lines. A copy of the Jones Act with the "Third Proviso" underlined, is attached to these submissions. To our knowledge, Canadian operators now ship U.S. goods to Whittier, Alaska under this provision via Prince Rupert, British Columbia (Canadian National); and to Kaktovik and Prudoe Bay, on the north slope of Alaska via Hay River and the MacKenzie River in the Northwest Territories (Northern Transportation). The volumes involved in these movements are significantly greater than those contemplated by Alaska Marine Lines to be moved to the Yukon Territory under a Canadian waiver.

19. The movement proposed by Alaska Marine Lines parallels Canadian-Alaska operations such as those described above in that Canadian goods transported by Alaska Marine Lines are trucked, by Canadian truckers, to and from U.S. points serviced by the waterbridge portion of the movement. Similarly, other Canadian operators wishing to ship U.S. traffic to southeast Alaska via the Canadian west coast waterway could do so, for example, by transporting U.S. goods to Vancouver by rail. The "Third Proviso" in the Jones Act

was enacted, and has resulted, in increased competition among all operators in Alaska, to the benefit of Alaskan shippers. It is submitted that similar benefits will arise for Yukon shippers should Alaska Marine Lines be afforded a reciprocal opportunity to carry Canadian goods on its scheduled tug and barge service.

20. It is respectfully submitted that a decision to grant the application by A.M.L. for a renewal of its waiver would be consistent, from the standpoint of reciprocity, with the administration by the United States of its coasting trade legislation.

CONCLUSION

21. It is respectfully requested that, for all of the reasons submitted above, the application by Alaska Marine Lines for a waiver of Part XV of the Canada Shipping Act in respect of Canadian goods carried on its weekly scheduled tug and barge service be granted.

OSLER, HOSKIN & HARCOURT
Barristers & Solicitors
50 O'Connor Street
Suite 1400
Ottawa, Ontario
K1P 6L2

Solicitors for Alaska Marine Lines.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 17, 1986

The Honorable Elmer MacKay
Minister, Revenue Canada
House of Commons
707 Confederation Building
Ottawa K1A 0A6
CANADA

Dear Mr. Minister:

I am writing in support of the recent application from Alaska Marine Lines, Inc., for a one-year continuance of their waiver of the Canadian Shipping Act. This will allow continued movement of Canadian products through Haines and Skagway, Alaska, at a cost savings for the citizens of Yukon.

Alaska Marine Lines' regular barge service for Yukon has been in operation for one year, with favorable results for Whitehorse merchants and Yukon citizens. A continuation of these arrangements will benefit Yukon and southeast Alaska, since the additional volume from Canadian products means lower overall unit costs.

As you may know, the State of Alaska and the Government of Yukon have recently agreed to provide year-round maintenance of the Klondike Highway between Skagway and Whitehorse, Yukon. This decision should enhance the transportation system serving both regions and improve the delivery of services by Alaska Marine Lines.

Additionally, an important component of the road agreement is our desire to foster a free trade environment, whereby U.S. and Canadian firms alike can compete side by side for transportation business. Favorable action on the waiver request would be viewed as an affirmation of your government's support for that aspect of the agreement.

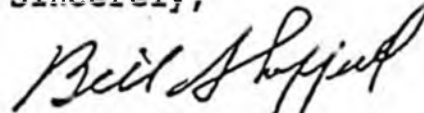
The Hon. Elmer MacKay

-2-

April 17, 1986

Your support and approval of the waiver application by Alaska Marine Lines would be greatly appreciated.

Sincerely,



Bill Sheffield
Governor

cc: Senator Ted Stevens
Senator Frank Murkowski
Representative Don Young

The Honorable Tony Penikett
Government Leader, Yukon

R. J. Knapp, Commissioner
Department of Transportation
and Public Facilities

Loren L. Lounsbury, Commissioner
Department of Commerce and
Economic Development

John Katz, Special Counsel
State/Federal Relations,
Office of the Governor

Jim Jansen, President and
Chief Executive Officer
Lynden Incorporated



Office of the Minister
 Box 2703, Whitehorse, Yukon Y1A 2C8
 (403) 667-5811 Telex 036-8-260

Our File CTS 4615-2
 Your File

1986 04 24

Ann-Marie Trahan, Q.C.
 Chairman
 Water Transport Committee
 Canadian Transport Commission
 Jules Leger Building
 15 Eddy Street
 Ottawa, Ontario
 K1A 09N

Dear Ms Trahan:

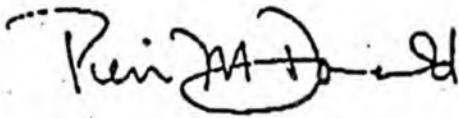
Re: Alaska Marine Lines Application for Renewal of Waiver under the Canada Shipping Act

As you are no doubt aware, Yukon's economy is an extremely fragile one and is presently getting back on its feet after a devastating downturn in the mining industry over the last three or four years. It is apparent from this experience that the economy is extremely dependant upon the ability of businesses to obtain goods and to ship goods to market at the lowest transportation costs possible. In the view of the Yukon Government, the Yukon economy requires access to frequent, reliable, year around and cost competitive marine shipping service. Alaska Marine Lines has demonstrated the ability to provide such service on a weckly basis since last May.

I appreciate that the Committee must examine the potential for Canadian ships and companies to carry out shipping operations between Canadian points. However, the existance of a dependable and cost effective transportation alternative to highway trucking routes is so critical to Yukon's efforts for increased economic development that unless the White Pass and Yukon Corporation Ltd. can guarantee frequent, reliable, year around service on a long term basis at rates similar to those currently available, we would feel compelled to support Alaska Marine Lines' request for

a further one year waiver under the Canada Shipping Act. I would impress upon you that we must hold this view because of the importance of such service to the Yukon economy as a whole. I would ask that the Water Transport Committee keep this in mind in considering the application by Alaska Marine Lines.

Yours truly

A handwritten signature in dark ink, appearing to read "Piers McDonald". The signature is fluid and cursive, with the first name "Piers" written in a larger, more prominent script than the last name "McDonald".

Piers McDonald
Minister of Community and
Transportation Services

cc: Elmer McKay
Federal Minister of Revenue

Erik Neilsen
Deputy Prime Minister

David Crombie
Minister of DIAND

Elvins Equipment Sales Ltd.

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March 26, 1986

Mr. Antoine Cote
Director Merchants Branch
Water Transport Committee
Terasses De Les Chaudieres
OTTAWA, Ontario
K1A 0N9

Dear Sir:

With this letter we would like to inform you that the "Water Bridge" concept by Alaska Marine Lines has allowed us to obtain quantities of merchandise, also heavy equipment haulage rates far below those presently obtainable by the all road method.

Alaska Marine Lines, along with the road haulage companies involved, have been punctual and without damage to equipment or merchandise.

We feel in these hard economic times, that a water route from the south to the northern gateway to Yukon, ie Skagway or Haines, Alaska, should be maintained, especially if the rates are consistently below the road route.

We have no hesitation thanking Alaska Marine Lines for the "Water Bridge" concept - it certainly has helped us secure a reasonable commodity rate.

Yours truly

ELVINS EQUIPMENT SALES LIMITED



Neil Cross
General Manager

/pb



YUKON LIQUOR CORPORATION, BUILDING 278 9031 QUARTZ ROAD, WHITEHORSE, YUKON, CANADA Y1A 4P9

TELEPHONE (403) 667-5245
TELEX 036-8-336

March 27, 1986

Mr. Antoine Cote
Director Merchants Branch
Water Transport Committee
Terrasses de les Chaudieres
Ottawa, Ontario
K1A 0N9

Dear Mr. Cote,

RE: Alaska Marine Lines Transportation
Yukon Freight Lines

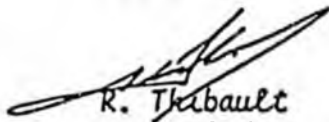
This is a letter of information regarding the transportation system used by the Yukon Liquor Corporation to ship liquor from Vancouver, B.C. to Whitehorse, Yukon.

The Corporation has a contract with Yukon Freight Lines Ltd., a Canadian Motor Carrier to transport goods to Whitehorse via a truck/barge route. The contractor has subcontracted with Alaska Marine Lines to provide the water portion of this route being Seattle, Washington to Haines, Alaska.

The marine route for transportation that has been used for the last eight months is a weekly service.

The Yukon Liquor Corporation has found the road/marine route of transportation to be both reliable and cost effective.

Yours truly,


R. Thibault
General Manager

c.c. Alaska Marine Lines

FRONTIER FREIGHTLINES LTD.

105 GOLD ROAD · WHITEHORSE, YUKON Y1A 2W2 · (403) 668-2441

March 27, 1986.

Water Transport Committee,
Terrasses De Les Chaudieres,
Ottawa, Ontario
Canada K1A 0N9

Attn: Mr. Antoine Cote
Director Merchants Board

Dear Mr. Cote:

This letter is in support of Alaska Marine Lines application to continue their scheduled service moving Canadian freight to the Port of Haines or Skagway, Alaska.

There are a number of reasons for our support.

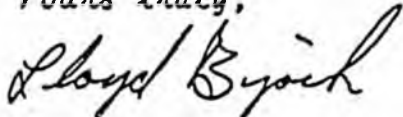
The major one is Alaska Marine Lines is not in competition with Yukon Trucking Companies.

Alaska Marine Lines provides a service that all Trucking Companies can use and not be bothered with back soliciting.

Our Company has had great success with movement of heavy equipment for customers in the Yukon by reducing the cost by 20 to 30 percent.

Alaska Marine Lines is a very fine Company to do business with and their weekly service makes our Company look very good to our customers.

Yours truly,



Lloyd Bjork
Frontier Freightlines Ltd.

FINNING TRACTOR & EQUIPMENT COMPANY LIMITED

BOX 4038, 143 INDUSTRIAL ROAD, • WHITEHORSE, YUKON Y1A 3S9 • PHONE 668-4800



March 27, 1986

To Whom it May Concern:

Alaska Marine Lines provides us with an excellent service. The "Water Bridge" has allowed customers North of '60 to choose a viable economic alternative to normal freight systems.

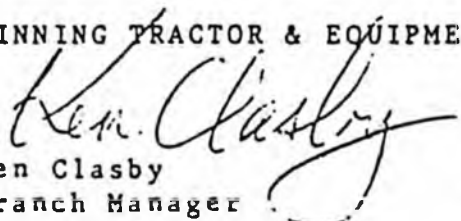
Our recommendation is that Alaska Marine continues with this consistent weekly schedule, non-interrupted, so that Northern business may continue to offer competitive merchandising to concerned consumers.

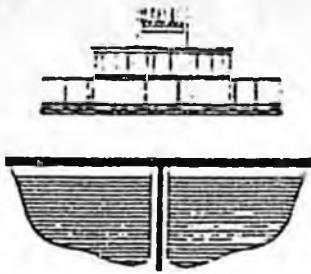
Thank you for your co-operation.

I remain,

Yours truly,

FINNING TRACTOR & EQUIPMENT CO. LTD.


Ken Clasby
Branch Manager
Whitehorse



Whitehorse Chamber of Commerce

SUITE 101, 302 STEELE ST., WHITEHORSE, YUKON Y1A 2C5 (403) 667-7545

1986 03 27

Mr. Antoine Cote
Director, Merchants Branch
Water Transport Committee
Terrasses des Chaudières
OTTAWA, ON K1A 0N9

Dear Mr. Cote:

Last year about this time, the Whitehorse Chamber of Commerce supported Alaska Marine Lines in its bid to obtain a Waiver of the Canadian Coastal Trade Regulations in order to provide a "water bridge" for the movement of freight from the greater Vancouver area to Yukon.

The bid, of course, was successful, and this community has enjoyed and appreciated Alaska Marine Lines alternative freight service over the past twelve months.

The Whitehorse Chamber of Commerce is interested in seeing that an efficient barge service is maintained. We hope that in your deliberations on the licensing of barge services you will take into consideration these points:

First, that the availability of an alternate method of transporting general cargo (by water) has become, and will likely remain, a very attractive and cost effective means of moving freight to the Territory.

Second, that the offering of a regular year round schedule without any interruption of service is important.

Yours truly,

April Neave
Manager

AN/cp

cc: Erik Nielsen, Deputy Prime Minister
Piers MacDonald, Minister of Transport
Willard Phelps, Leader of Official Opposition



1950 - 1985
35th ANNIVERSARY

The City of Whitehorse

2121 SECOND AVENUE • WHITEHORSE, YUKON Y1A 1C2 • TELEPHONE: (403) 667-6401
TELEX: 036-8418

March 25, 1986

Mr. Antoine Cote
Director Merchants Branch
Water Transport Committee
Terrasses De Les Chaudieres
Ottawa, Ontario
K1A 0N9

Dear Mr. Cote:

Please accept this as a letter of support for the continuation of Alaska Marine Lines which is presently bringing freight up the west coast to Haines, and possibly Skagway, for distribution in Whitehorse and the Yukon.

This carrier has provided a reliable service at a competitive price and provide a very viable option to bring freight into the Yukon. They are competitive both in delivery time and cost.

As you know, we are an isolated and distant centre from the rest of Canada and very vulnerable to freight costs. We believe healthy competition is the best way to keep a good service coming to our doors at a reasonable price. For these reasons, we would ask you to extend the present waiver to the Canadian Coastal Trade Regulations to accommodate Alaska Marine Lines.

Yours truly,

A handwritten signature in cursive script, appearing to read "D. W. Branigan".

D. W. Branigan
Mayor

CITY OF SKAGWAY, ALASKA

RESOLUTION 86-6R

A RESOLUTION URGING THE CANADIAN GOVERNMENT TO ACT FAVORABLY ON THE WAIVER EXTENSION REQUEST OF ALASKA MARINE LINES FOR EXEMPTION TO THE CANADIAN SHIPPING ACT.

WHEREAS: The year round maintenance of the South Klondike Highway has been agreed upon by the Government of the State of Alaska and the Government of the Yukon Territory, and

WHEREAS: The citizens of Skagway strongly desire that the transportation of freight to and through Skagway to Northwestern Canada becomes more frequent, reliable, and economical, and

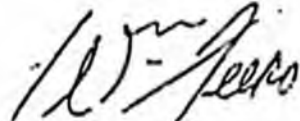
WHEREAS: A strong and competitive freight system is deemed to be in the best interest of, and of highest priority to, both the citizens of Skagway and Northwestern Canada, and

WHEREAS: Such a system encourages economic development and well being through more competitive freight rate and employment opportunities, and

WHEREAS: Alaska Marine Lines desires to continue to operate its presently established weekly freight service to Northwestern Canada utilizing its scheduled year round barge service.

NOW, THEREFORE, BE IT RESOLVED, that the Skagway City Council urges the Canadian Government to act favorably on Alaska Marine Line's request for an extension of waiver to the Canadian Shipping Act.

PASSED AND APPROVED THIS 19th DAY OF MARCH, 1986.



WILLIAM E. FEERO, MAYOR

ATTEST:


Lorene S. Gordon, City Clerk

TITLE 46
SHIPPING
("JONES ACT")

§ 883. Transportation of merchandise between points in United States in other than domestic-built or rebuilt and documented vessels

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported), between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided*, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further*, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt, shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its Territories (not including trust territories), or its possessions: *Provided further*, That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Transportation shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: *Provided further*, That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States: *Provided further*, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 1322(a) of Title 19, if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade: *Provided further*, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon his finding, pursuant to information furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, the Secretary of the Treasury may suspend the application of this section to the transportation of merchandise between points in the United States (excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws) which, while moving in the foreign trade of the United States, is transferred from a non-self-propelled barge certified by the owner or operator to be specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in foreign trade to another such barge owned or leased by the same owner or operator, without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade: *Provided*

That until July 1, 1924, and notwithstanding any other provisions of this