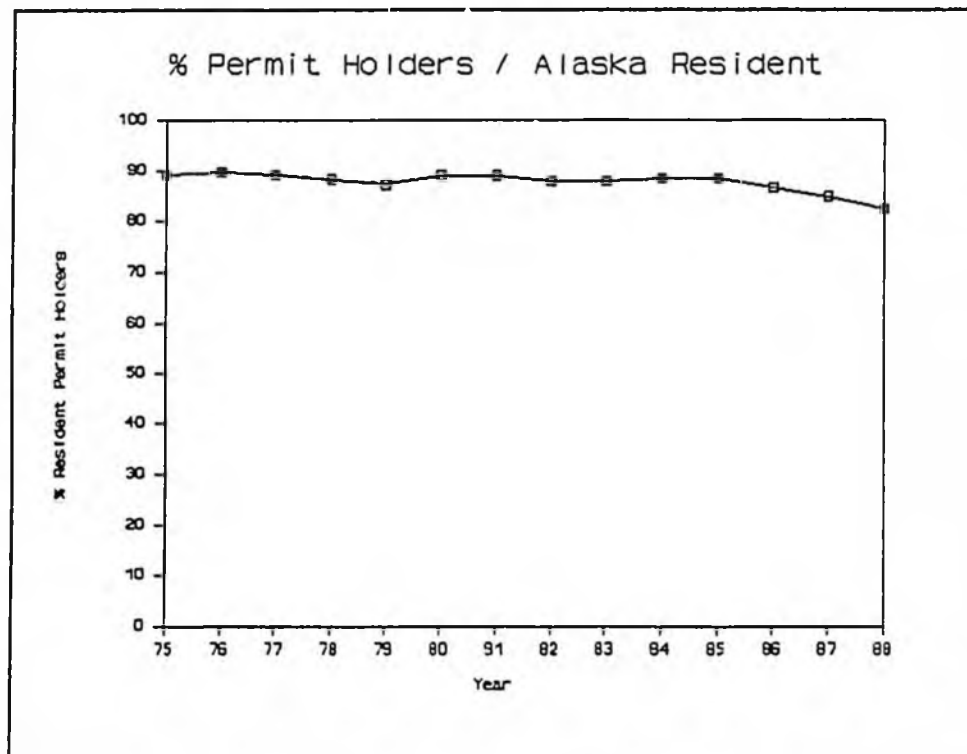
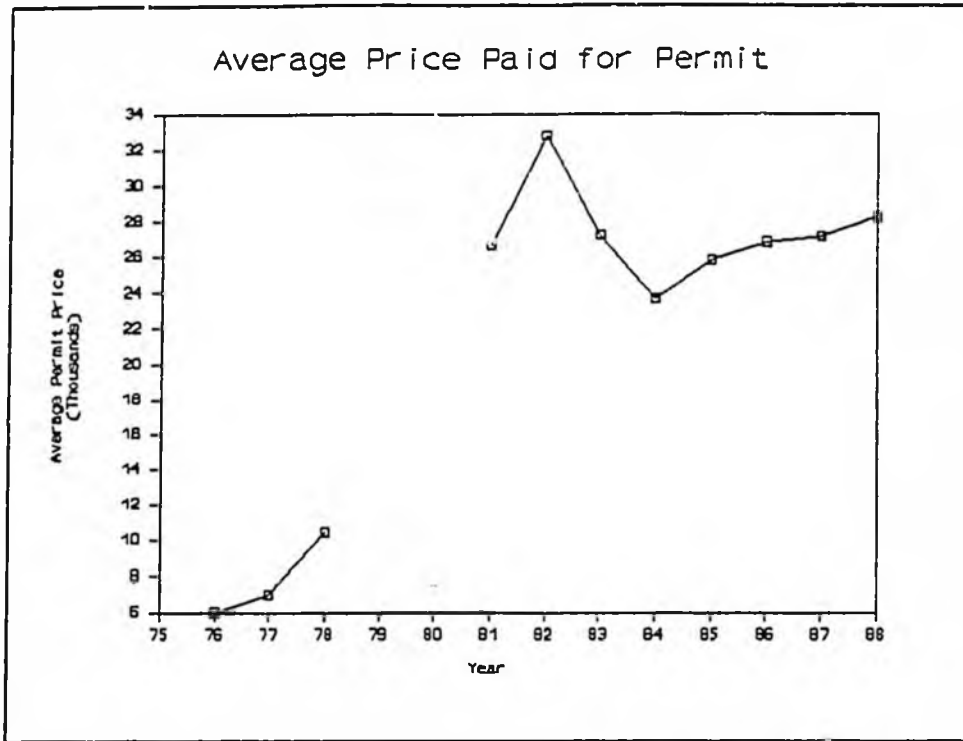


ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6002 HOUSE RESOURCES

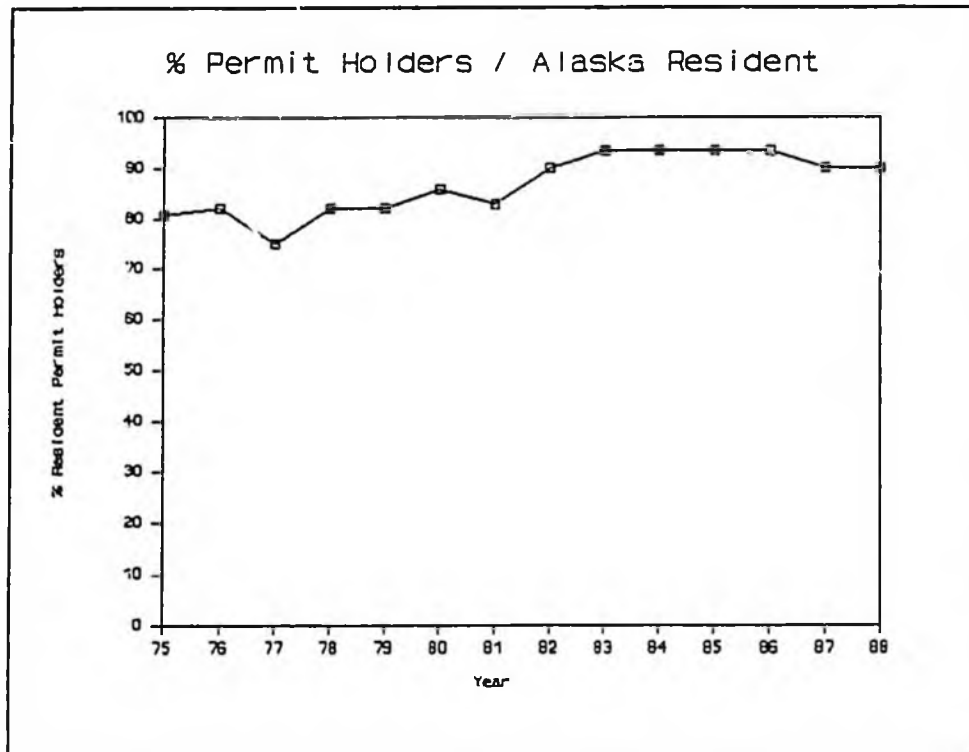
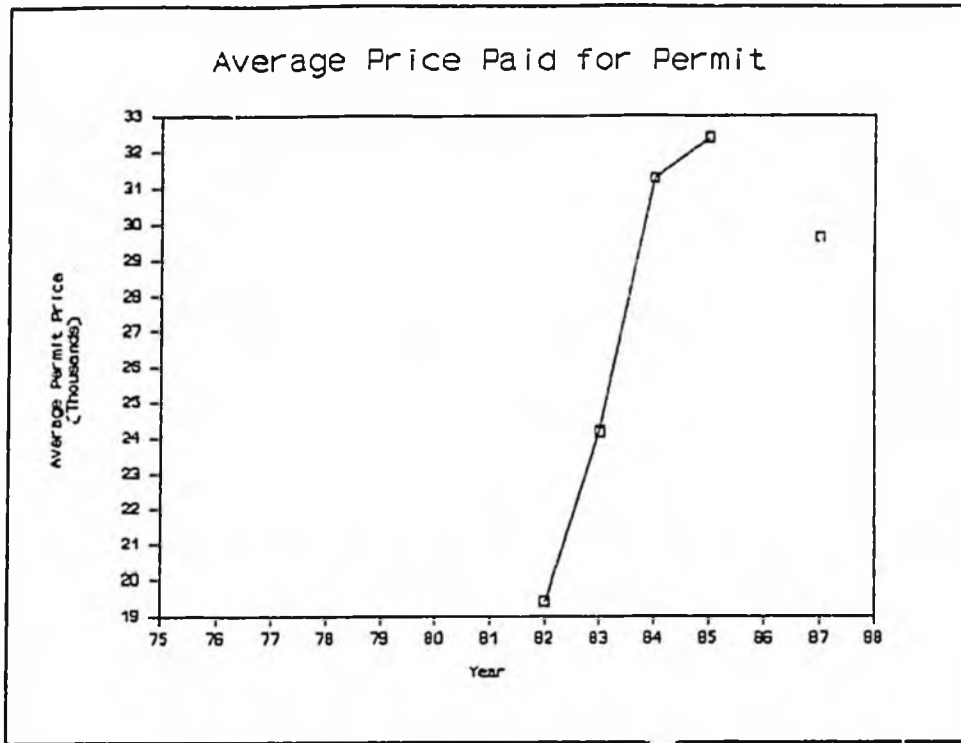
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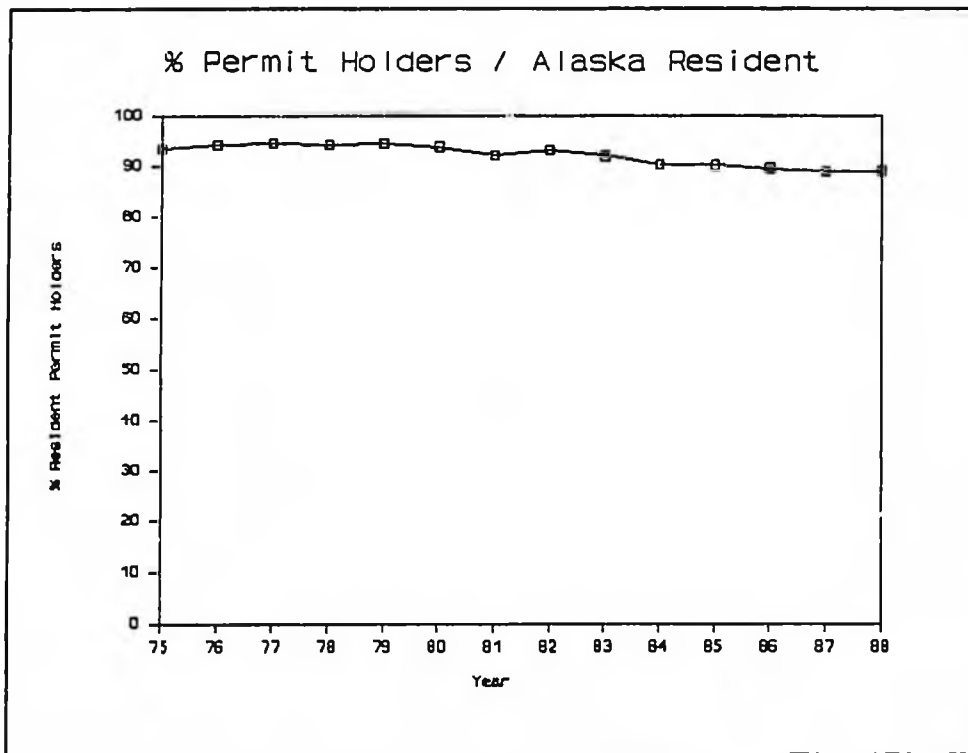
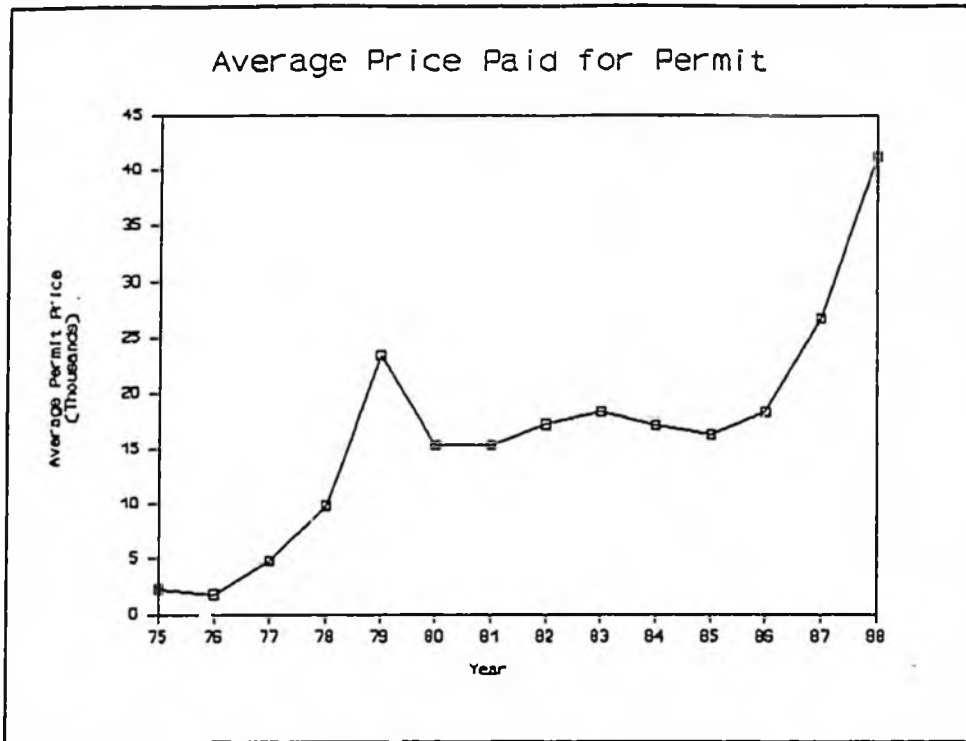
S04D SALMON SET NET YAKUTAT



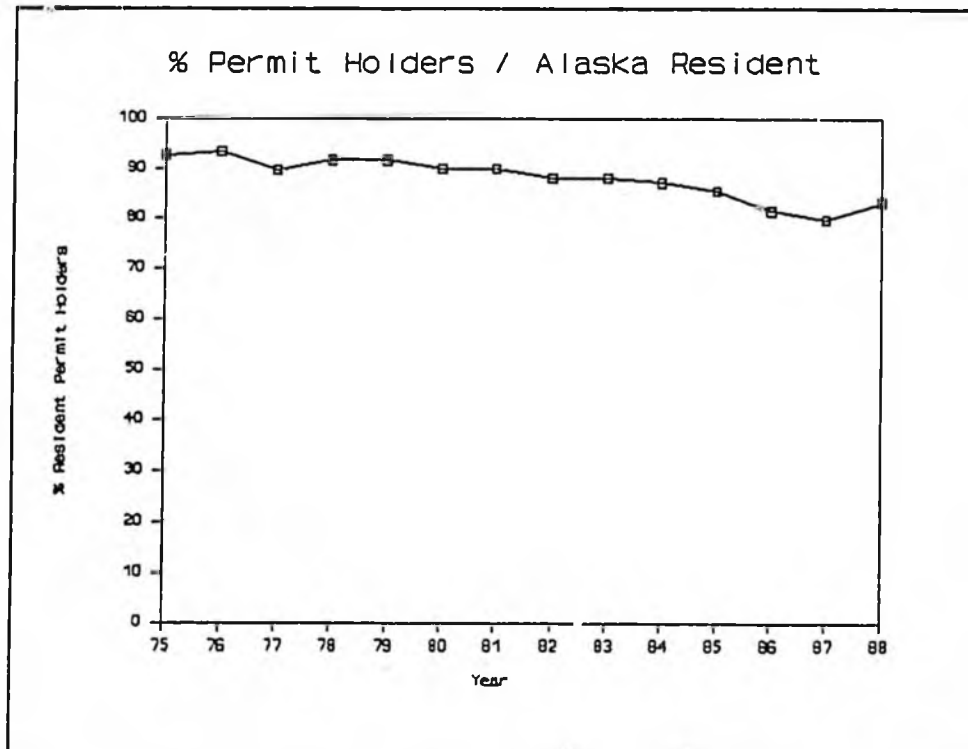
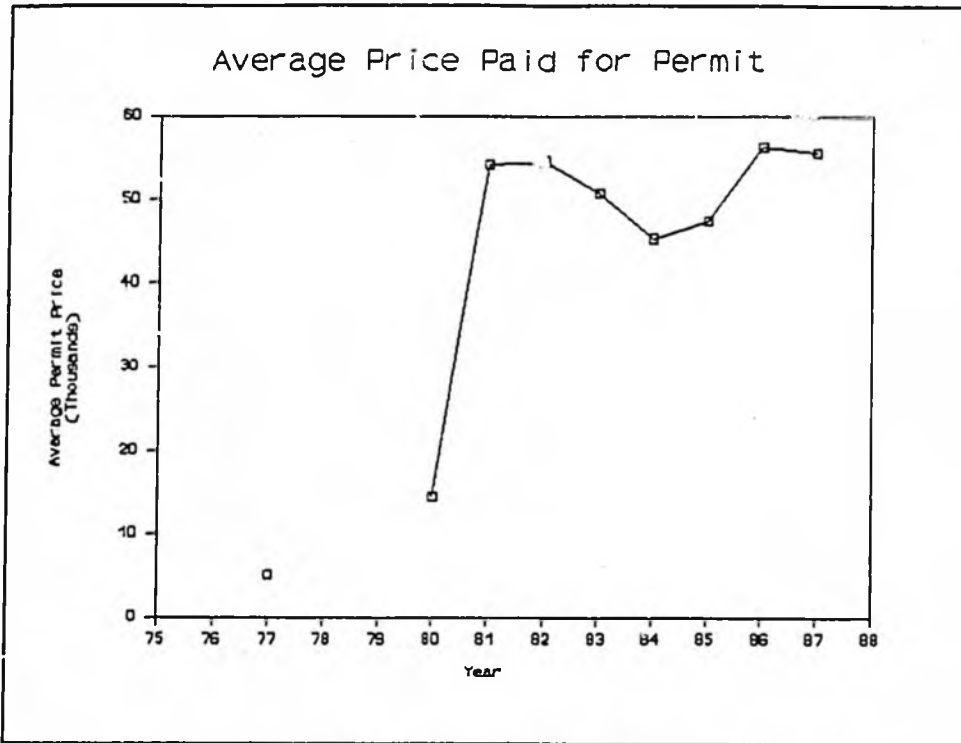
S04E SALMON SET NET PRINCE WM SOUND



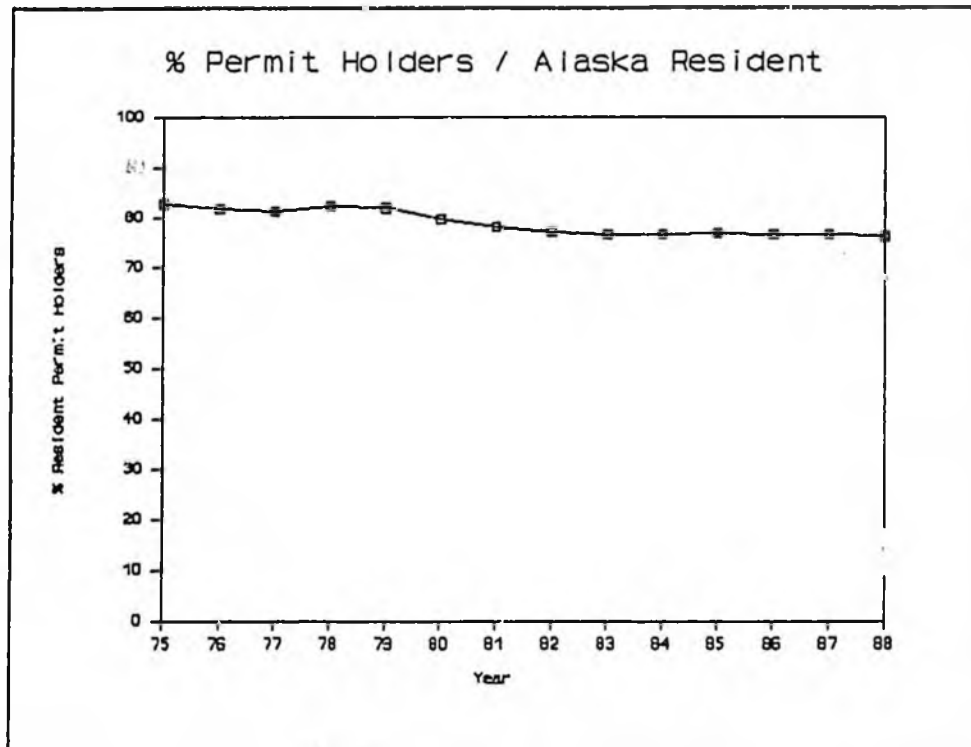
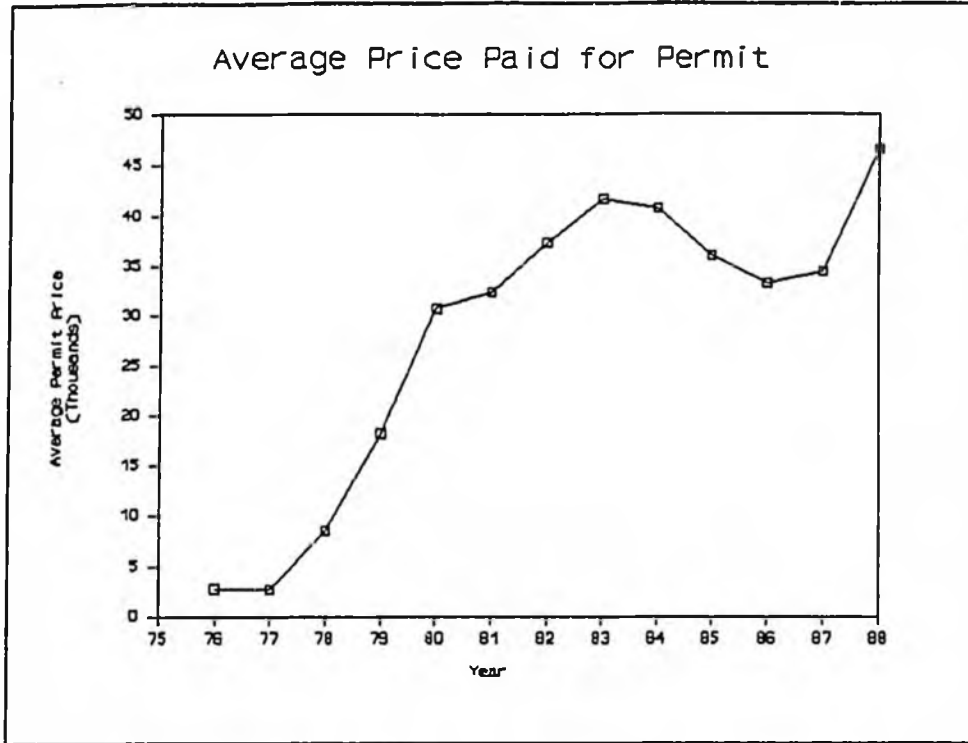
S04H SALMON SET NET COOK INLET



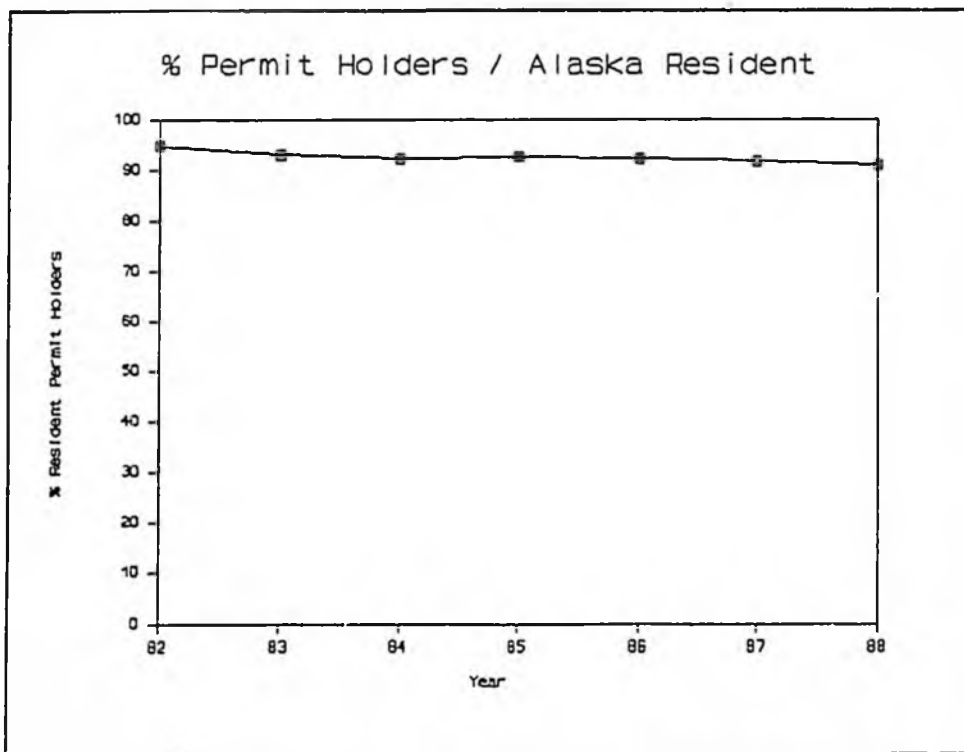
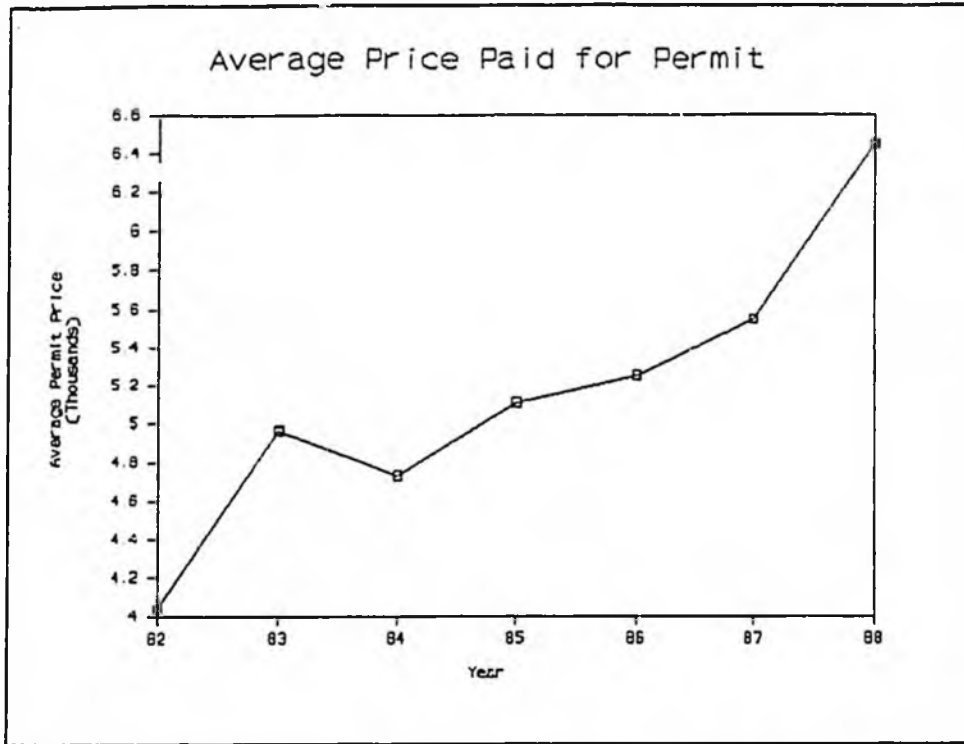
S04M SALOMN SET NET ALASKA PENINSULA



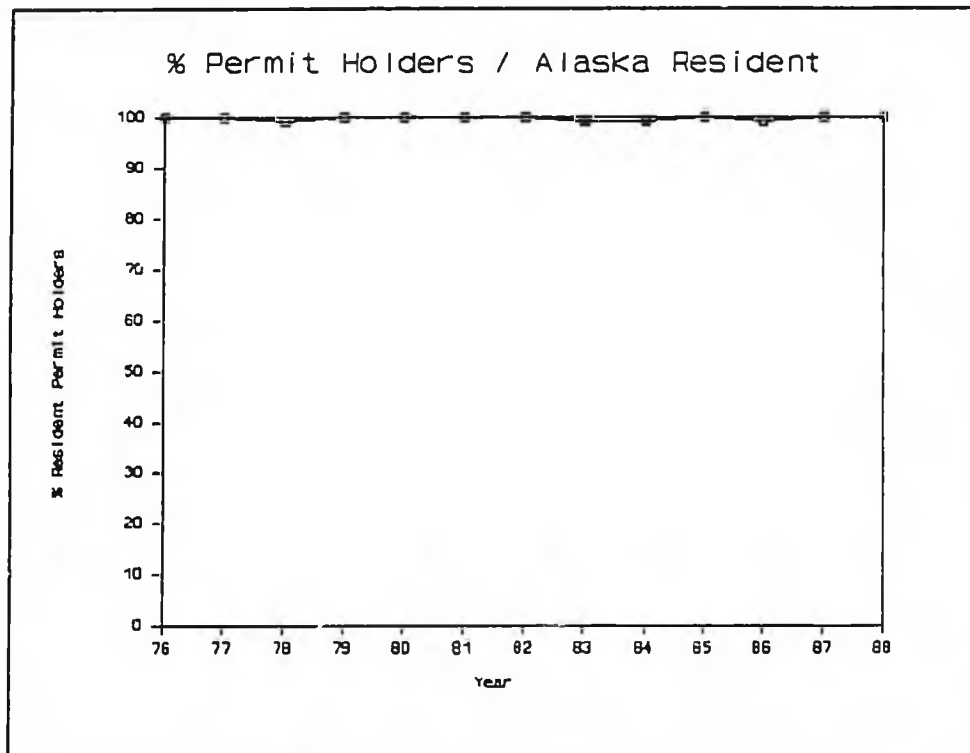
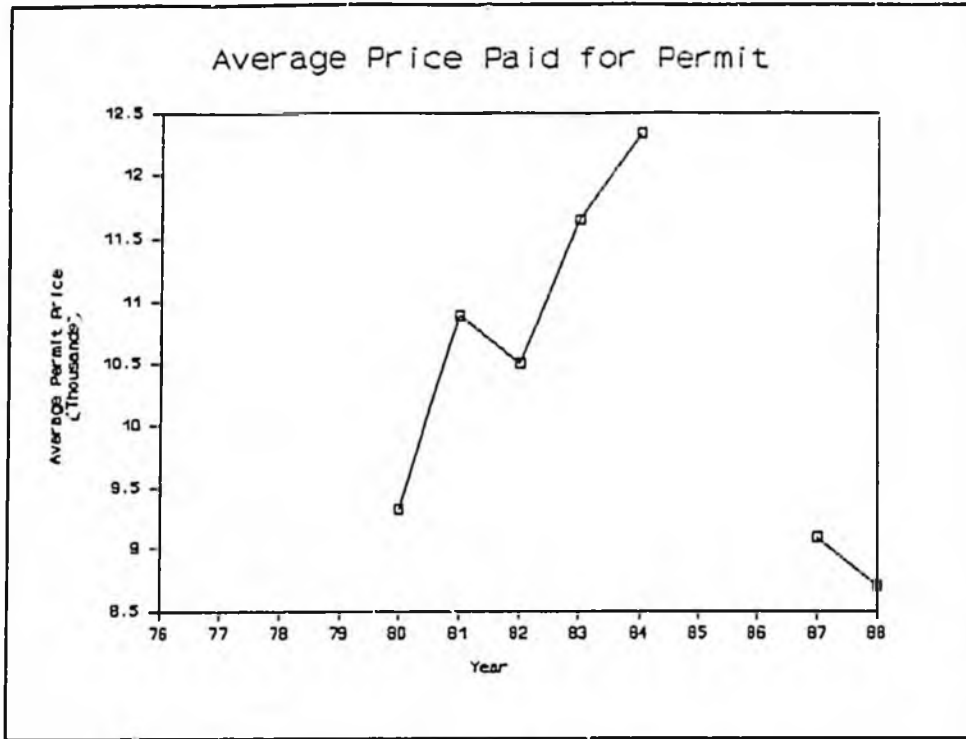
S04T SALMON SET NET BRISTOL BAY



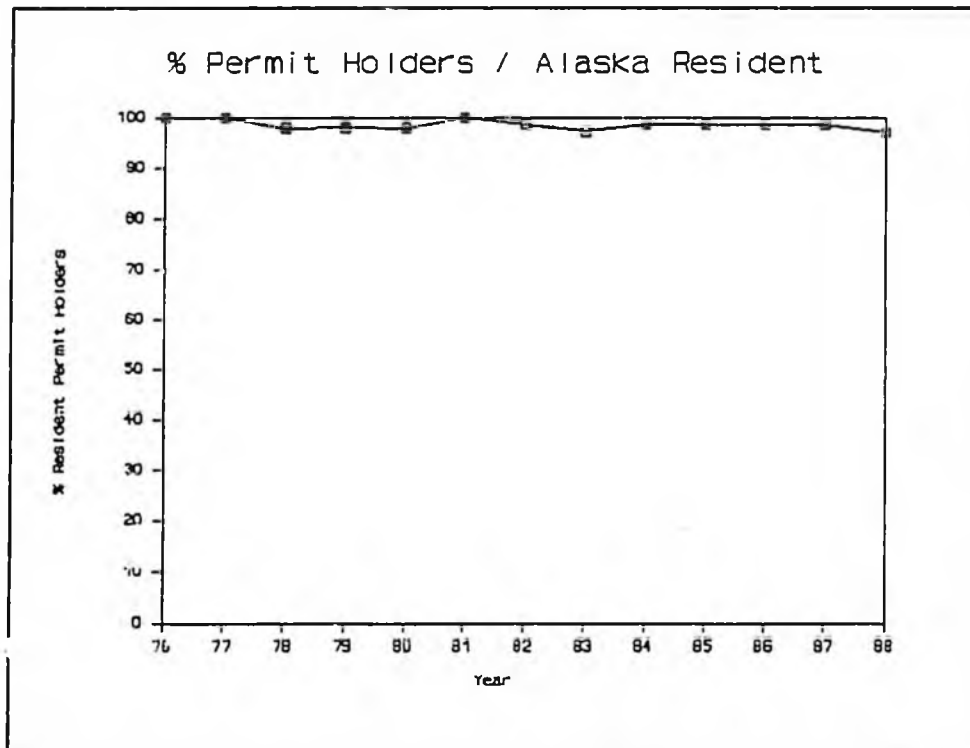
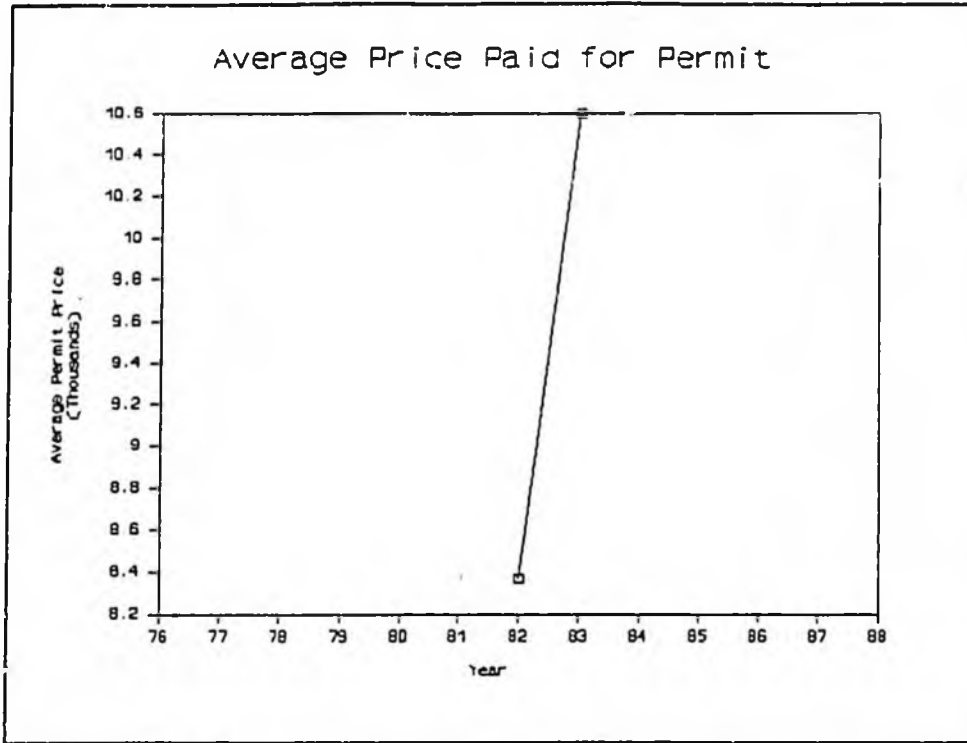
S05B SALMON HAND TROLL SOUTHEAST



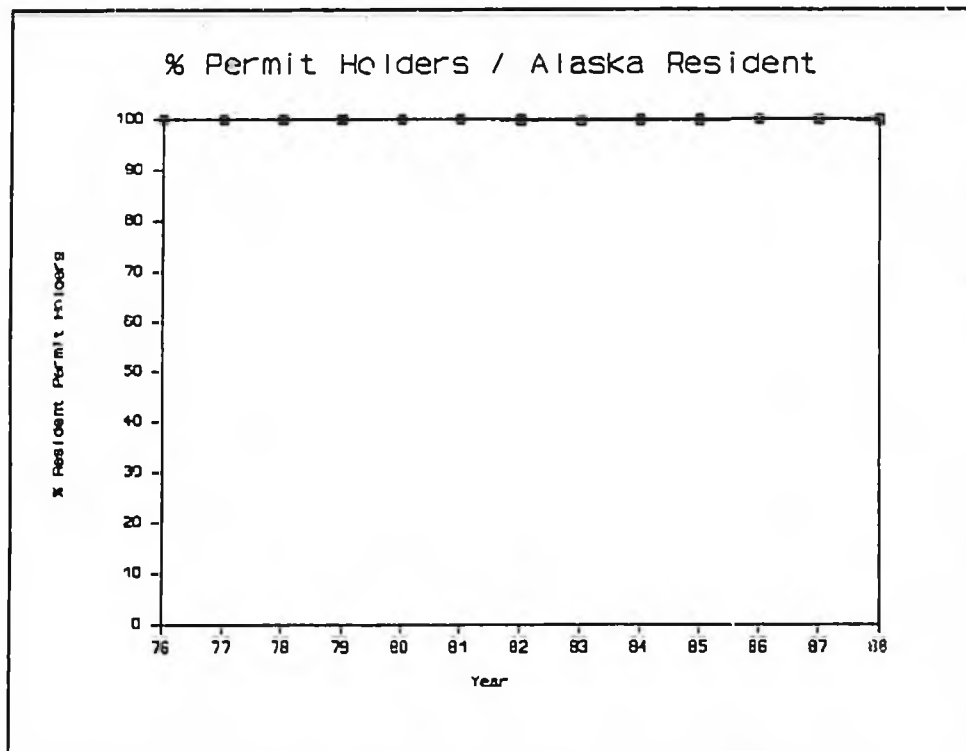
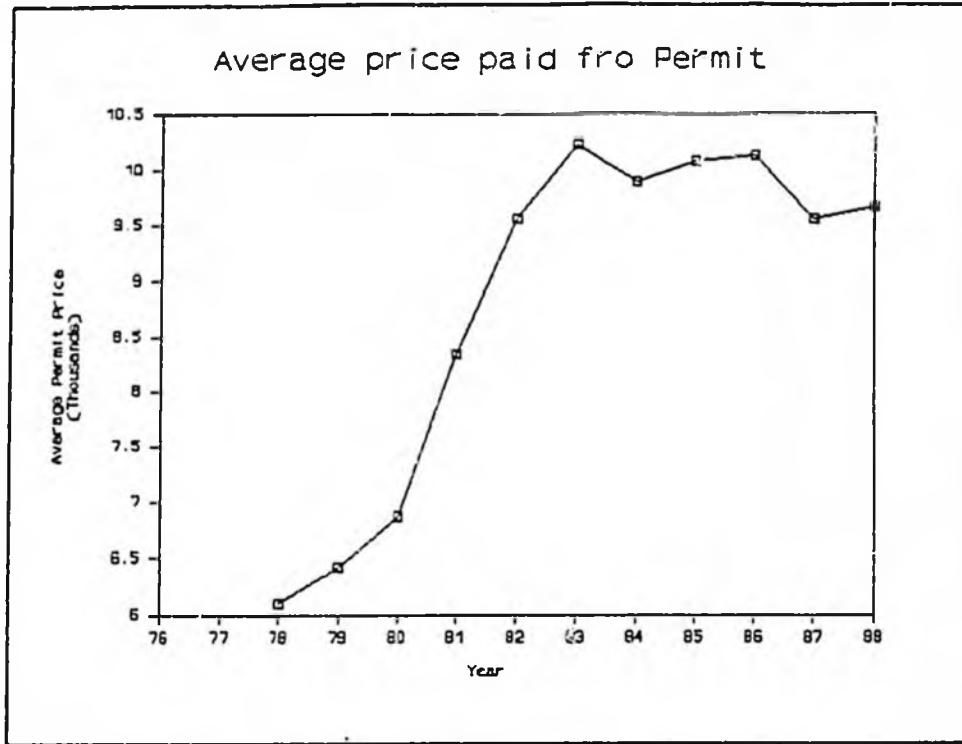
S08P SALMON FISHWHEEL UPPER YUKON



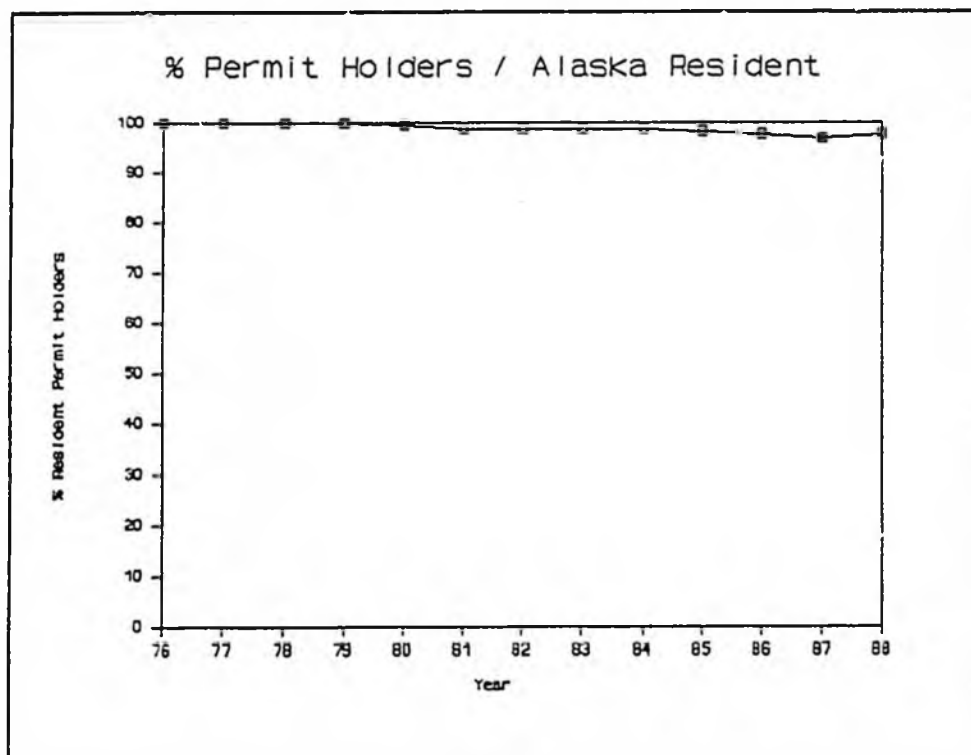
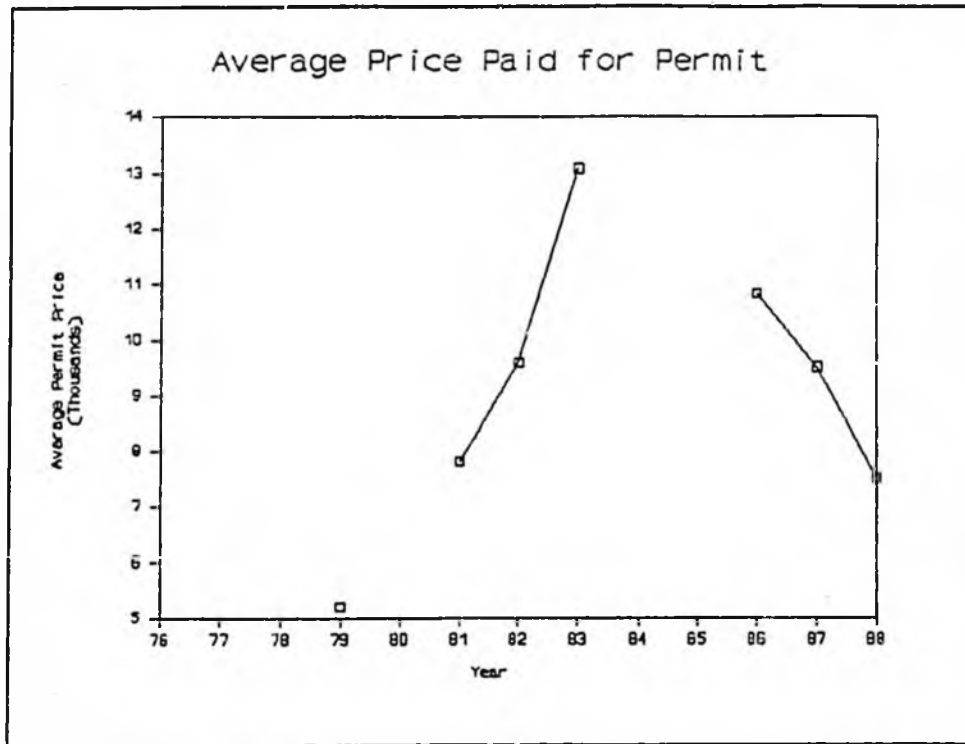
SO4P SALMON GILL NET UPPER YUKON



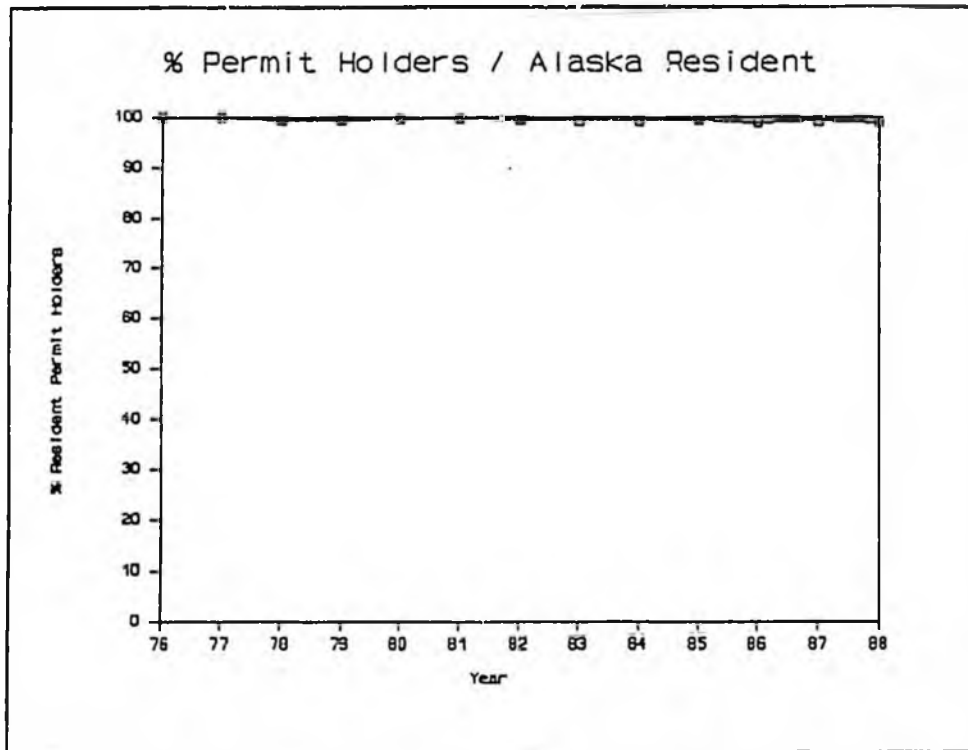
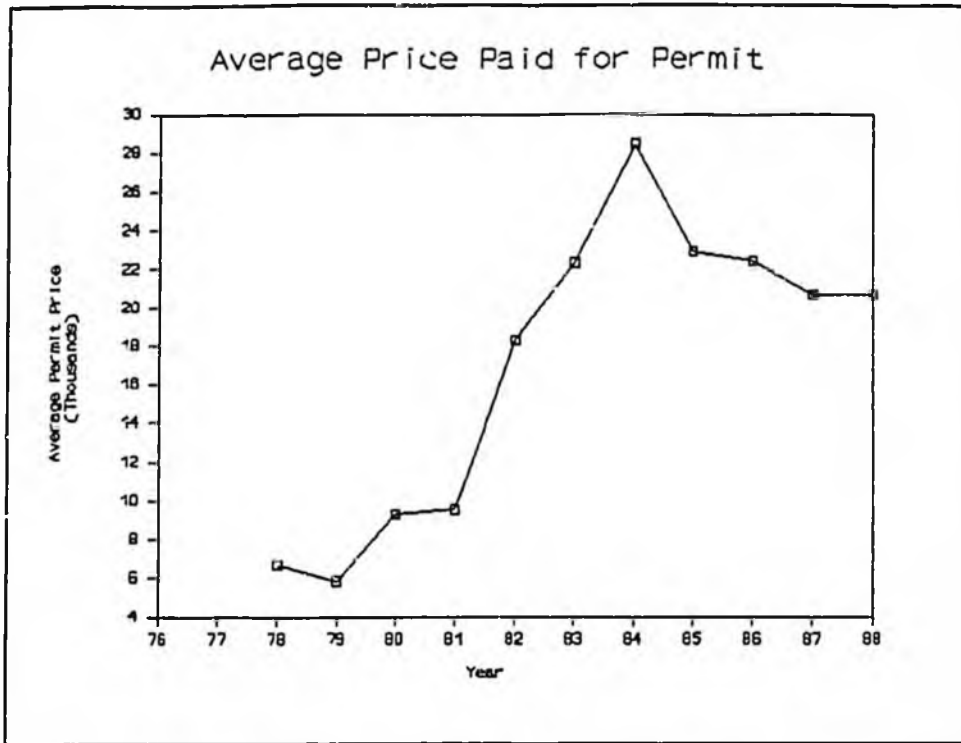
S04W SALMON GILL NET KUSKOKWIM



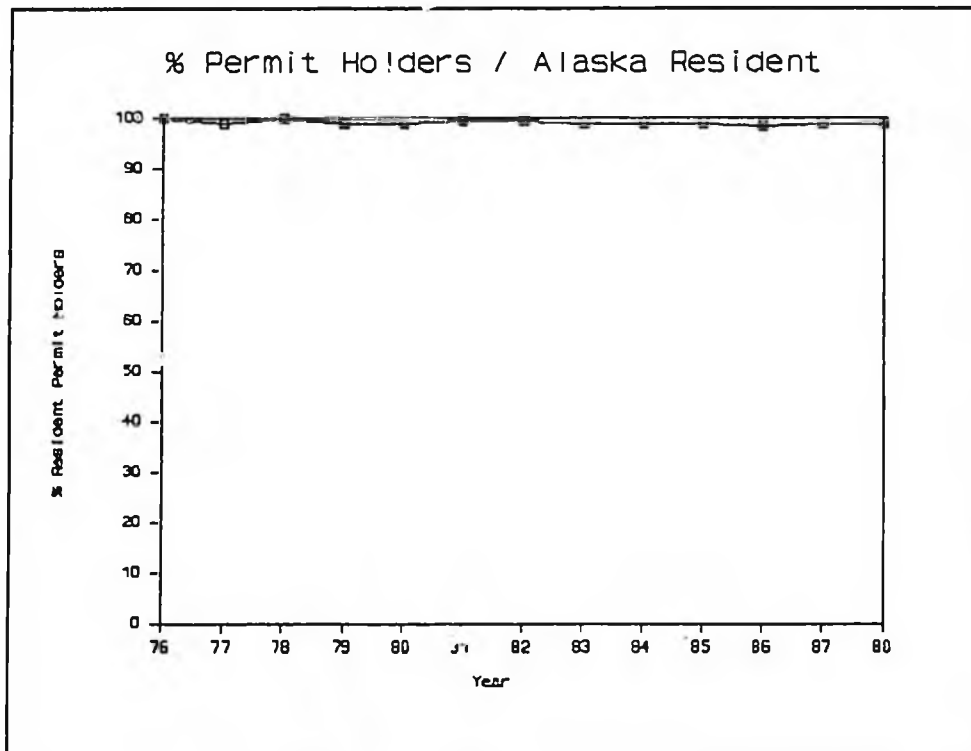
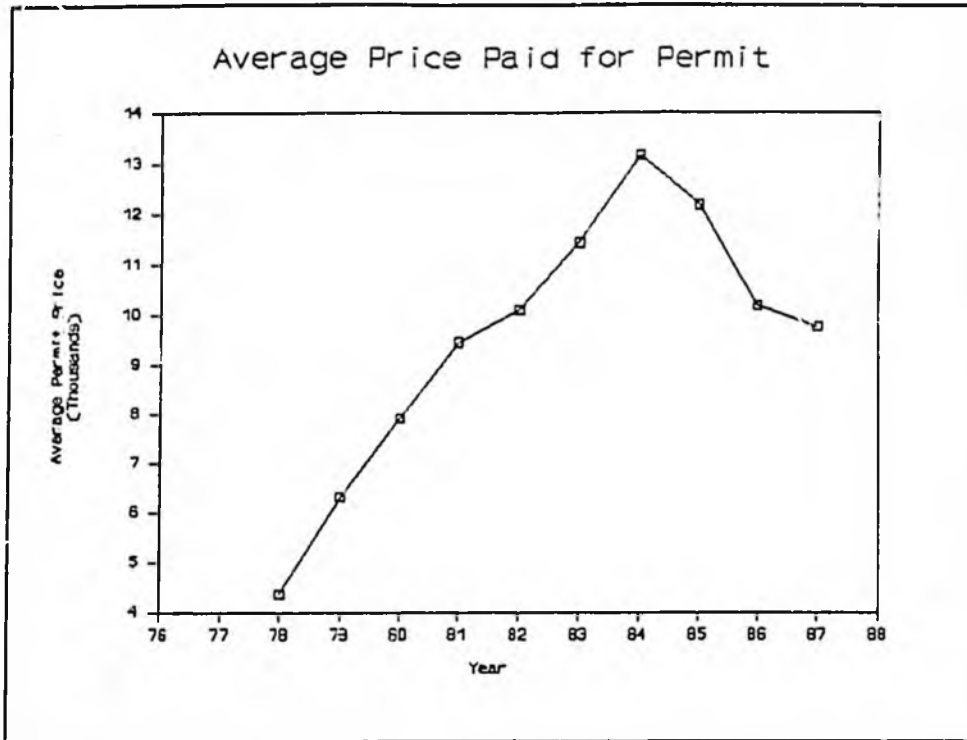
S04X SALMON GILL NET KOTZEBUE



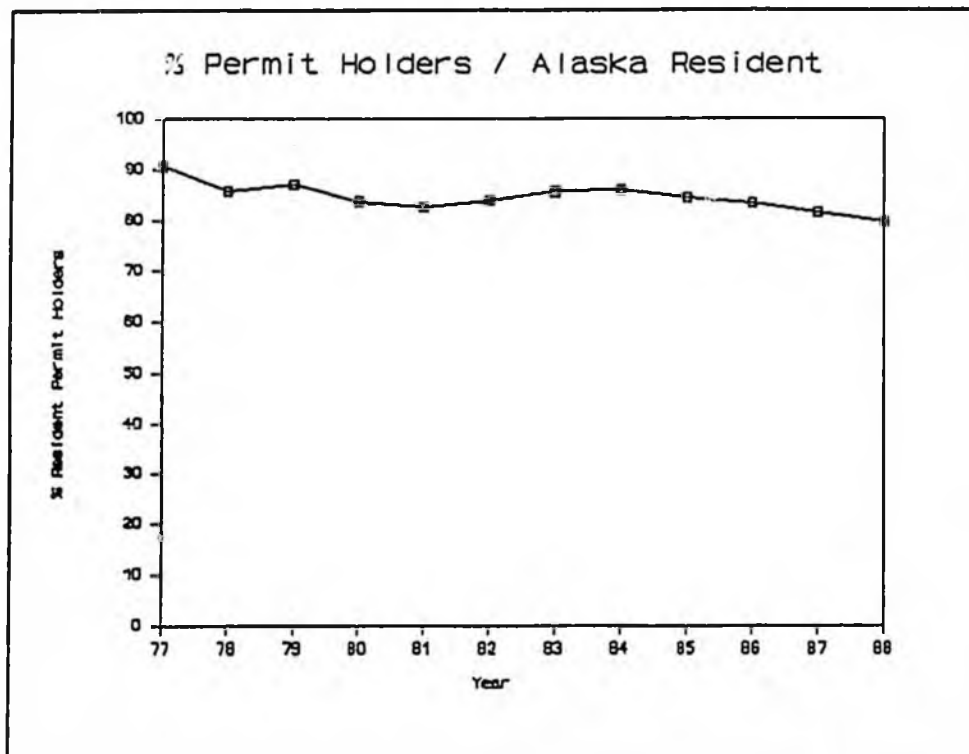
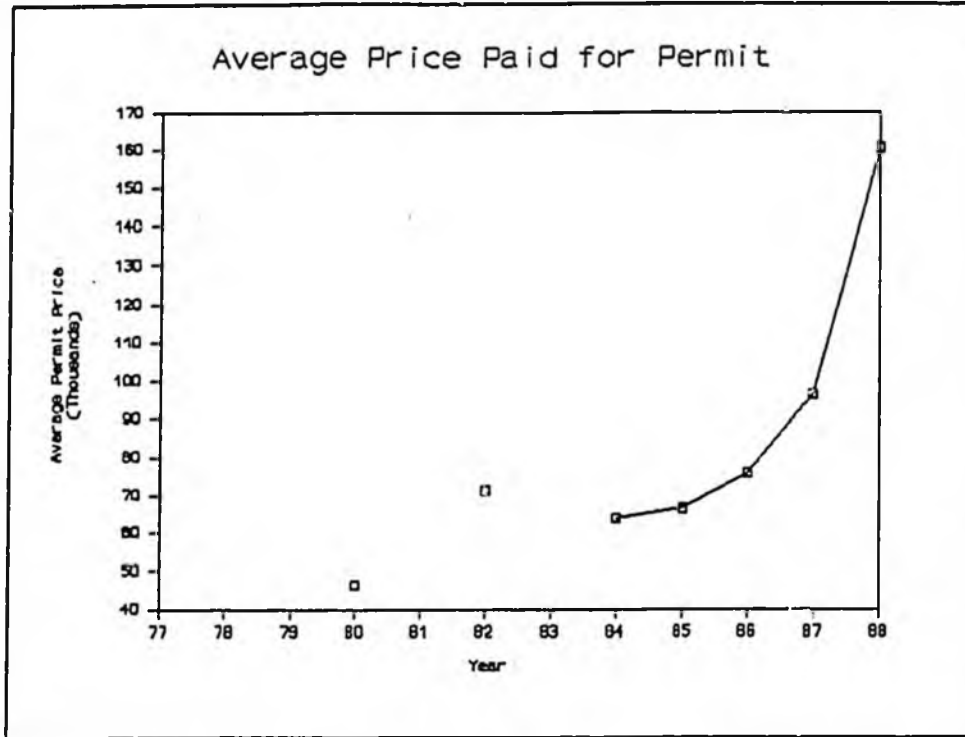
S04Y SALMON GILL NET LOWER YUKON



S04Z SALMON GILL NET NORTON SOUND



G01E HERRING PURSE SEINE PRINCE WM SOUND



the herring fishery

management of a resource is not easy

By Al Petrovich, Jr.

DFC photos by Jack White

Angry fishermen struggled to retrieve torn, drifting nets in the pale light of a chill January dawn. In nearby seiners and lampara boats, others shouted imprecations. Gulls swooped and shrieked around them, and possible violence was in the air.

A page from Jack London's "Tales of the Fish Patrol"? Not at all; just a busy morning at the height of the 1978 spawning herring season in San Francisco Bay. The near-donnybrook was only an incident in a herring roe harvest already beset by philosophical and sociological differences.

Most of the fishermen who lost their gill nets had little or no previous experience wit' the tricky tidal currents in San Francisco Bay. Coupled with the limited area in which gill nets could be fished, this unfamiliarity with the waters caused some nets to become tangled in boat propellers, break loose and foul other nets. Predictably, there were lost tempers, loud voices and, reportedly, a few tiffs at waterfront taverns.

Statewide publicity about the 1977-78 herring fishery, and protests of commercial fishermen who had won permits to set nets during the brief winter spawning season prompted the state to take emergency action. The Fish and Game Commission required weights to be placed on the gill nets and fishermen had to light the nets at either end at night.

Al Petrovich, Jr., is a marine biologist with the Marine Resources Branch at headquarters in Sacramento.



Why all the fuss about the herring, hardly a profitable fishery prior to 1973?

The herring's roe, rather than its intrinsic worth, is what attracted Pacific Coast fish dealers to San Francisco and Tomales Bays in the early 1970s. Eggs from the female herring brought big prices in Japan as a caviar-like delicacy which the affluent apparently could afford the year round.

The old-time herring fishermen have a quick and effective way of stripping fish from their gill nets—grasp the fish's head in the teeth, push the net away with both hands, then give a quick twist of the head to deposit the fish on the deck. The photo also shows one of the problems of the herring fishermen: deposits of herring roe in the net (foreground). Unless this is washed out right away, it hardens into a solid mass, ruining sections of the net. No solvent yet tried will dissolve it.

profitable, but not an easy job

By Jack White
Associate Editor

It's generally pretty profitable, but it isn't an easy job, this fishing for herring to satisfy the Japanese taste for a very special kind of caviar.

Very early mornings and long hours of dirty, stinky, dangerous back-bending labor on the oscillating deck of a small boat go into the gathering of tons of the small silver fish in order to put small quantities of their roe on Japanese tables during special holidays. Even with a motor driven reel to haul in the nets, picking a ton or more of fish from the gill nets as they come aboard is hard labor. Not that the fisherman minds this work—it beats the much more frequent occasions when he hauls in and finds nothing for his efforts. Or when he hauls

in a net and finds that larger fish have eaten the catch and ripped big holes in the net.

But, when he is lucky, a fisherman may come in with several tons of herring piled high on his deck, his boat riding low in the water. At \$1,000 or more per ton, his labor is well rewarded, and his characteristic optimism is reinforced.

The fishermen and the American buyers don't understand the Japanese delight in a material which tastes like salty chewing gum, but they are happy to have this new market which helps keep their equipment and crews gainfully employed. In other seasons, the fishermen may be netting salmon off Alaska or fishing for other species up and down the coast. #

In California, herring roe—"kazunoko"—generally was found in Japanese-American homes only at New Year celebrations. It was a traditional item for the holiday table and could be ordered in advance at markets selling Japanese foods. According to *Outdoor California's* sources, kazunoko may be soaked in soy sauce and served plain or with seaweed.

Herring are either processed in the United States or shipped frozen whole to Japan. It is strictly a matter of economics. When herring are processed in the United States, the by-products are usually reduced into fish meal to be used as a supplement in animal food.

Herring fishing in California dates from at least the mid-1800s, when most of the catches were sold as fresh fish. Later, from 1916 to 1919, herring was canned or reduced into oil and meal. However, the Reduction Act of 1919 prohibited reduction of whole herring into fish meal, ending the largest component of the fishery.

Annual landings remained low until the late 1940s and early 1950s, when herring were canned as a replacement for the vanishing sardines. Canned herring was not well accepted by the public and by 1954 landings again declined. From 1954 to 1972, the herring fishery played a minor role, its principal uses being human consumption—fresh and pickled herring—dead bait and animal food.

In 1971 a series of events began that were to culminate in the establishment of California's present herring

roe fishery. In the spring of 1971, the Soviet Union banned Japanese herring fishermen from the Sea of Okhotsk. This reduced Japan's catch of roe-bearing fish and they began importing frozen herring from Canada. Prior to then, Japanese herring imports were mostly from the U.S.S.R. and China.

The demand for herring roe continued and failure of the 1972 Japanese winter herring fishery in the Bering Sea set the stage for entrance of California into the lucrative market. The current roe fishery began in January 1973.

There were no regulations governing the commercial harvest of herring as the initial season approached. However, the rush to harvest spawning herring brought attention from local citizens, sportsmen, the Department of Fish and Game, and legislators. Their combined efforts resulted in emergency legislation being passed in January 1973, which gave the Department of Fish and Game responsibility for regulating the herring fishery in San Francisco and Tomales Bays. Catch quotas for both bays were imposed.

During the 1973 season, five boats participated in the Tomales Bay fishery and 12 boats in San Francisco Bay. The price paid to fishermen was \$50 per ton during most of the season but it reached \$100 per ton at season's end.

Before DFG could get legislation introduced for the 1974 season, another bill was introduced which

would have prohibited the commercial take of herring in San Francisco and Tomales Bays, except for bait purposes. DFG opposed the bill by Sen. Peter Behr of Marin County because it believed a controlled fishery would not injure the herring resource.

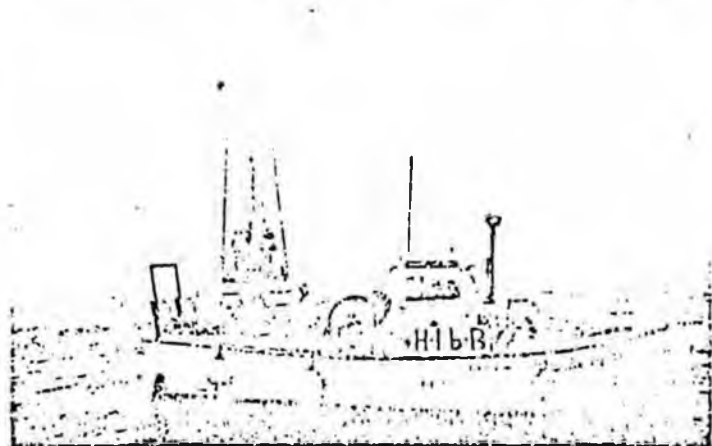
Negotiations with Sen. Behr eventually gave control of the herring fishery in San Francisco and Tomales Bays to the Fish and Game Commission under a revocable, nontransferable permit system. The Legislature still retained control over the quota, limiting the take of herring to 500 tons annually in San Francisco Bay, and to 450 tons in Tomales Bay, except for bait purposes, for a two-year period beginning with the 1974 season.

Herring for bait purposes was not included in the quotas because of an apparently limited market demand. The legislation also required that, during the two-year period the quotas were fixed, the DFG conduct a study in both Tomales and San Francisco Bays to assess the herring spawning population and to prepare a management plan for submission to the Fish and Game Commission.

Under the new legislation, the DFG's responsibility was to draft proposed herring fishery regulations for the Commission's consideration. By meeting with concerned parties, DFG was able to develop regulations which were generally acceptable. And DFG had to take some new management approaches. Probably the



Roe is being stripped from female herring on the dock at Bodega Bay. Ten pounds of herring are taken from each lot of fish to determine the percentage of roe they contain. The price paid to the fishermen is based upon this percentage. This lot contained 12 percent and the fisherman was paid \$1200 per ton.



The small boat in the foreground is a typical herring boat. The motor-driven reel hauls the gill nets over rollers at the stern. The larger boat also is fishing for herring, but is used for other species, too.

most significant one was limiting the number of boats which could fish in either bay—five in Tomales Bay and 12 in San Francisco Bay, the same as the 1973 fishery. Boats were selected by drawing, and limiting the number caused quite a stir among commercial interests. All of the fishermen agreed that the number of boats should be limited, provided *they* were not one of those excluded.

The five permittees in Tomales Bay landed 45 tons of the 450-ton quota in 1974. An additional individual fished for "bait" herring and landed almost 80 tons. Bait fishing in Tomales Bay was stopped voluntarily by this fisherman when the intent of the regulations was explained.

In San Francisco Bay the 12 permittees chosen by lottery landed over 450 tons of the 500-ton quota. However, 11 additional boats selling their catch as "bait" landed nearly 1,500 tons of herring. It soon became apparent that herring landings in San Francisco Bay would be excessive and emergency legislation was, once again, introduced to include "bait" under the quota. How the "bait" herring was processed was obviously questionable, since everyone knew the DFG lost jurisdiction once the herring was shipped out of the state.

Regulations for the 1975 herring season were similar to those for 1974, except that the bait loophole was closed. A lottery again was conducted to select five permittees for Tomales Bay and 12 for San Francisco Bay. In

Tomales Bay, the quota was taken in only two and one-half days of fishing. Fishing was also excellent in San Francisco Bay and the quota was filled.

With the beginning of the 1976 season, control over the quotas in San Francisco and Tomales Bays reverted to the Fish and Game Commission. In addition, new legislation became effective which extended Fish and Game Commission control over the commercial harvest of herring to all ocean waters, if the catches were landed at a California port.

New regulations were adopted by the Commission, which continued the lottery, increased catch quotas and added to the number of permittees. Quotas were increased based on the findings from DFG spawning population surveys conducted in the two previous years. Individual boat quotas were also instituted for the first time in an attempt to distribute the catch among the participants.

Forty-eight permittees were selected in the lottery in San Francisco Bay, a considerable increase over the 12 permittees of the two previous seasons. Nine permittees were selected in Tomales Bay, up from the five in each of the two previous seasons.

The legislation giving the Commission authority to regulate the commercial harvest of herring in all ocean waters did not become effective until March 30, 1976. Through this technicality, Bodega Bay was not included in the regulations for the 1976 season

and herring were taken from there for the first time. Bodega Bay lies north of, and is contiguous to, the mouth of Tomales Bay. Herring on their way to Tomales Bay must pass through Bodega Bay. Fishing was successful in Bodega Bay because of the mild winter weather which arrived with the onset of a two-year drought. Fishermen were probably catching herring destined to spawn in Tomales Bay.

The 1977 season began amidst repeated criticism by the fishing industry regarding the lottery and boat limits. The DFG decided to try an experiment in San Francisco Bay, discontinuing the lottery and issuing permits to all qualified applicants. A total of 230 permits were issued. The total herring quota was increased and separate quotas were established for each gear type, which included purse seine, lampara and gill net.

This was the DFG's first effort at allocating the quota by gear type. The increase in the quota was again predicated on the continuing spawning population estimates.

In Tomales Bay the lottery was retained and 92 applications were received. There were 12 permits issued, an increase of three over the previous season. The increase came in gill net permittees. The quota was also increased and allocated by gear type.

In Bodega Bay a quota was established for gill nets only and 24 permits were issued.

Set gill nets were legalized for the



The little wooden herring boot cabins are crowded with electronic equipment including radar, depth finders and two-way radio. This fisherman is traveling two miles out to where he left his nets the night before. By using radar bearings and depth soundings he traveled directly to the net buoy in heavy fog.

Gill net being hauled aboard on this occasion held only a few herring. This year's catch from Tomales and Bodega Bays was far below normal.



1977 season and resulted in much better catches than were made by using the traditional drift gill nets. Until then, only drift gill nets could be used. Gill nets now became competitive and the fishery began shifting from a purse seine, lampara-dominated fishery, to a gill net-dominated fishery. The reason for the shift stemmed from the preference of buyers for larger fish and the fact that higher percentages of females were taken by gill nets.

It became apparent after the 1977 season, with the great increase in the number of applicants, that a true limited-entry fishery would have to be implemented beginning with the 1978 season: The problems were where to draw the line and what criteria to use to exclude an individual from the fishery. A compromise was reached after public hearings held by both the Department of Fish and Game and the Fish and Game Commission. It involved "grandfathering" into the fishery all permittees who had participated in the herring roe fishery in San Francisco, Tomales or Bodega Bays during the 1977 season. In addition, 155 new permittees were allowed into the fishery. The new permittees were selected through a "point system," based on the number of years an individual held a valid California commercial fishing license. Points were also given for having participated in prior herring fisheries.

The maximum number of points was 20, and this is where DFG started issuing permits. When the number of qualified applicants exceeded the number of permits available, a drawing was held to fill the remaining permits.

Tomales Bay was made a gill net and beach seine only fishery and Bodega Bay remained gill net only. This left San Francisco Bay as the only permit area where fishermen could still use purse seine and lampara nets to take herring. After the various permittees were determined, they were given the option of designating the bay in which they wanted to fish and the type of gear they wished to use. This was to be a one-time option to help ease the trauma of the limited entry.

The final permit total was 353 divided as follows: Bodega Bay—30, San Francisco Bay—285, and Tomales Bay—38. The quotas in San Francisco Bay were once again allocated by gear type and the quota was increased, with the increase going entirely to the gill net permittees.

Prices paid to the fishermen soared, with \$1,000/ton not uncommon. Prices averaged between \$700-\$800/ton for the season. Quotas were met in all permit areas with the exception of Bodega Bay where the end of the drought brought about more normal weather patterns, which hampered fishing activity.

The 1979 season also involved a limited entry fishery. Only those permittees who participated in the 1978 fishery were eligible to participate in 1979. Again, the system created controversy since the price of herring roe had again increased. Fishermen were receiving a reported \$1,200/ton as a base price and some herring reportedly sold for \$2,000 a ton. Consequently, everyone wanted to participate in a fishery with limited space to maneuver fishing boats and gear during a season of not more than three months.

This article could only skim the surface in describing the difficulties involved in the development of a herring roe fishery and its concomitant legislation and regulations. The Department of Fish and Game tried innovative resource management approaches in attempts to satisfy the divergent interests of various groups while protecting the herring resource and providing a viable fishery.

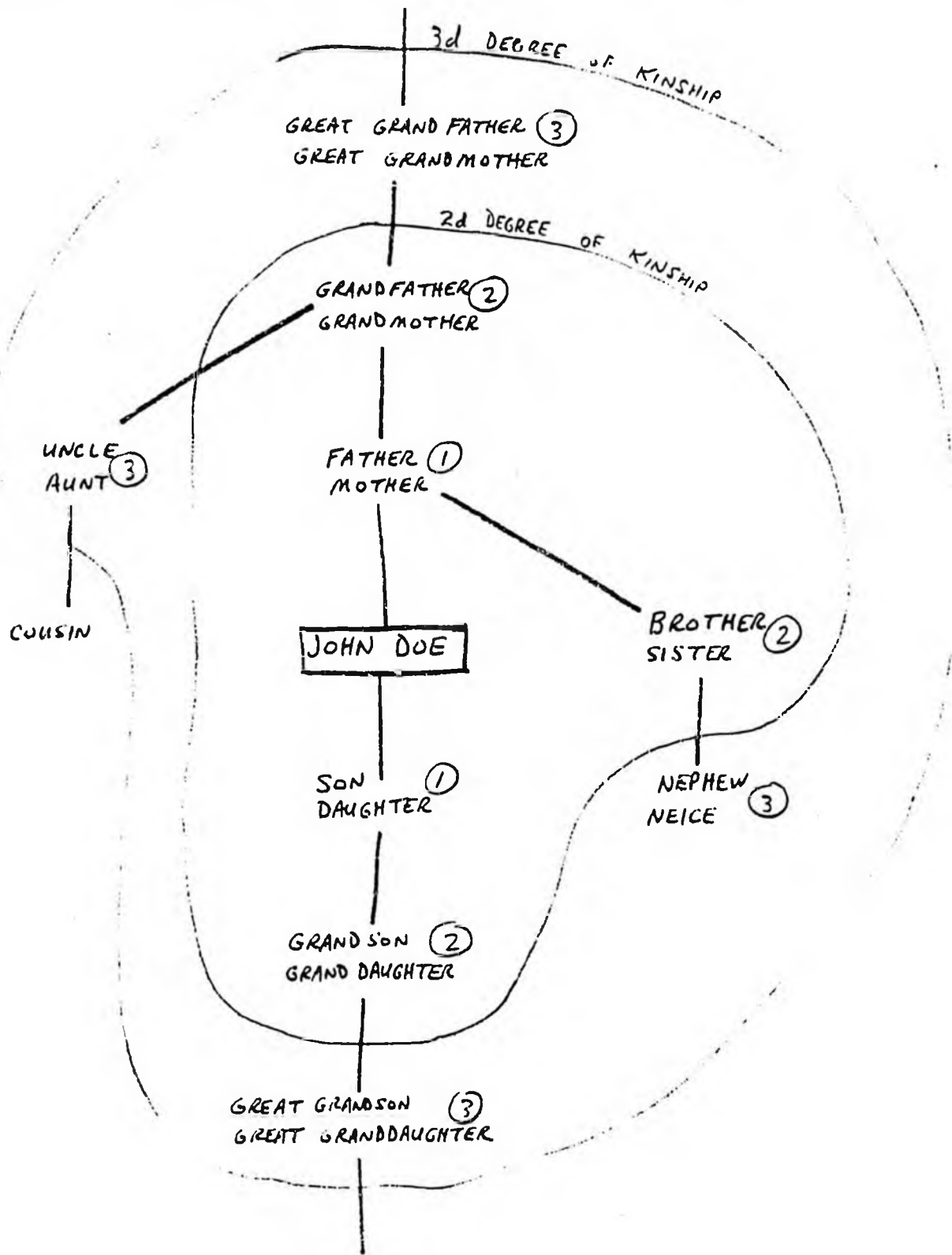
The DFG has learned since 1973, that, in addition to the obvious biological and economic considerations involved in establishing a new kind of herring fishery in California, more subtle sociological and philosophical factors can complicate and frustrate well-intentioned management efforts. Managing a marine resource never is easy. It becomes downright difficult when consumer demand threatens to turn established fishing practices into a seagoing horse race. #



Fishermen shovel herring into a transfer basket at Bodega Harbor. The fish are then placed in boxes, weighed and shipped to Watsonville where they are frozen before shipping to Japan.



Herring fishermen repairing net at Bodega Harbor.



HOUSE BILL 285.

THANK YOU MR. CHAIRMAN FOR SCHEDULING THIS BILL TODAY. YOU HAVE IN FRONT OF YOU HOUSE BILL 285, WHICH CALLS FOR A CHANGE IN THE TRANSFERABILITY REQUIREMENTS FOR COMMERCIAL FISHING LIMITED ENTRY PERMITS. THIS LEGISLATION WOULD REQUIRE A PERSON TO HAVE THREE YEARS EXPERIENCE IN A FISHERY PRIOR TO BEING ELEGIBLE FOR A PERMIT TO BE TRANSFERED INTO SAID PERSONS NAME.

occupation

MR. CHAIRMAN IN MY OTHER LIFE I AM A COMMERCIAL FISHERMAN, THAT IS HOW I MAKE MY LIVING. THOSE WHO ARE NOT FISHERMEN OFTEN HEAR OF THE GLAMOR OF COMMERCIAL FISHING IM SURE, BUT THERE ARE SOME MAJOR PROBLEMS IN THE INDUSTRY, DIFFICULT PROBLEMS THAT NEED TO BE ADDRESSED. I HAVE OFTEN HEARD THE FISHERY CHARACTERIZED BY FELLOW FISHERMEN AS A "RAT RACE" A FISHERY THAT IS BECOMING OVERRUN WITH OUTSIDE FISHERMEN, A FISHERY IN WHICH VIOLATIONS ARE THE ORDER OF THE DAY, A FISHERY THAT IS EXTREMELY DANGEROUS DUE TO INEXPERIENCED PARTICIPANTS, YOUNG GREEN HORNS, MR. CHAIRMAN BANK-ROLLED BY A WEALTHY DOCTOR OR LAWYER FROM FLORIDA, CALIFORNIA OR SOME OTHER COUNTRY. PEOPLE WHO VIEW THIS FISHERY AS NOT A MEANS OF EARNING A LIVING PER SAY, BUT RATHER AS A TAX WRITE-OFF, AN

INVESTMENT TO BUILD THEIR PORTFOLIO, OR SIMPLY AS A GAME FOR THEIR CHILDREN TO PLAY DURING THE SUMMER MONTHS. FURTHER MORE MR. CHAIRMAN A FISHERY WHICH IS BECOMING FAR TO EXPENSIVE FOR LOCALS TO GAIN ENTRY INTO.

THESE PROBLEMS MR. CHAIRMAN CAN BE SUMMARIZED AS EXCESSIVE OUTMIGRATION OF THE FISHING PERMITS, AND OVER CAPITALIZATION OF THE INDUSTRY.

PRESENTLY A LIMITED ENTRY PERMIT IS ALLOCATED THROUGH THE OPEN MARKET PROCESS. WHOMEVER CAN DEMONSTRATED THE FINANCIAL MEANS, DICTATED BY THE SELLER OF THE LIMITED ENTRY PERMIT, CAN INVEST ON A PERMIT ANY WHERE IN THE STATE OF ALASKA. THERE ARE NO PRIOR QUALIFICATIONS NECESSARY.

THIS IDEA OF PRIOR EXPERIENCE IS NOT NEW. IN FACT IN 1968 BEFORE LIMITED ENTRY, THE LEGISLATURE APPROVED OF A THREE YEAR APPRENTICESHIP PROGRAM. BUT ULTIMATELY IT PROVED TO BE UNCONSTITUTIONAL. THE LEGAL CLIMATE HAS CHANGED SINCE THEN.

IT IS MY UNDERSTANDING THAT THIS CONCEPT MAY BE DEFENSIBLE AND
IT MAY NOT BE. THERE IS ^{are} HOWEVER, LEGAL GROUNDS FOR ITS DEFENSE.

LET ME SUBMIT TO YOU MEMBERS OF THE COMMITTEE, THAT BECAUSE OF
THE UNIQUE CONDITIONS THAT EXIST IN OUR STATE, PRIMARILY IN THE
RURAL AREA'S WHERE UNEMPLOYMENT IS HIGH, WHERE JOBS ARE
SEASONAL AND PART TIME , IF THERE ARE ANY AT ALL, AND WHERE
THERE IS LITTLE OR NO INDUSTRY, THAT IT IS IMPORTANT TO DO WHAT
WE CAN TO ENSURE THAT FISHERMEN ARE ABLE TO MAINTAIN THEIR
LIVELIHOODS.

THE LOSS OF ONE PERMIT IN A SMALL VILLAGE CAN HAVE A
SUBSTANTIAL ECONOMIC IMPACT ON THE ENTIRE COMMUNITY AND THE
ECONOMIC MULTIPLIER AFFECT CANNOT BE EMPHASIZED IN MERE
NUMBERS A LIVELIHOOD THAT PROVIDES A WAY OF LIFE, A JOB, AND
MONEY THAT THE COMMUNITY DEPENDS ON IS LOST WHEN SOMEONE IN
RURAL ALASKA TRANSFERS A LIMITED ENTRY PERMIT OUTSIDE THE
COMMUNITY.

HOUSE BILL 285, WHICH WILL REQUIRE THREE YEARS PRIOR PARTICIPATION BEFORE A LIMITED ENTRY PERMIT CAN BE TRANSFERRED, WILL ADDRESS THIS DILEMMA BY ALLOWING THOSE WHO HAVE DEMONSTRATED A PRIOR HISTORY IN A FISHERY TO HAVE A CHANCE TO INVEST IN A PERMIT.

AS OPPOSED TO SOMEONE WHO HAS THE FINANCIAL WHEREWITHALL TO INVEST IN A PERMIT WITHOUT CONSIDERATION TO THOSE WHO HAVE SPENT YEARS IN A FISHERIES.

THE ESCALATION OF LIMITED ENTRY PERMITS HAS BEEN WELL DOCUMENTED. PRICES WHICH HAVE BEEN DRIVEN SKY HIGH BECAUSE OF THE MARKET PROCESS. PRICES WHICH ARE FAR AND AWAY BEYOND THE MEANS OF THE LOCAL FISHERMEN. FISHERMEN WHO KNOW THE AREA, WHO KNOW THE PEOPLE, AND WHO ARE CONCERNED ABOUT THE FUTURE OF THE RESOURCE. IN OTHER WORDS, FISHERMEN WHO ARE NOT IN THE BUSINESS TO MAKE A PROFIT AND RUN.

BEYOND THE ECONOMIC CONSIDERATIONS THERE ARE ALSO CONCERNS OF SAFETY AND ENFORCEMENT. IN MANY FISHING DISTRICTS STATEWIDE, SEASONS IN THE PAST HAVE BEEN MONTHS, BUT BECAUSE OF FASTER BOATS AND ADVANCED TECHNOLOGY, MANAGEMENT HAS HAD TO REDUCE FISHING PERIODS IN MANY DISTRICTS TO HOURS, IN ORDER FOR TO CONSERVE THE RESOURCE. IN THESE FAST PACED FISHERIES, WHERE A DERBY ATMOSPHERE PREVAILS, WHERE VESSELS ARE ROARING AROUND AT MAXIMUM SPEED, IT IS IMPORTANT THAT ONE KNOW WHAT IS GOING ON. THERE ARE MORE THAN JUST MACHINERY AT STAKE. HUMAN LIVES ARE ON THE LINE.

I AM NOT CLAIMING THAT THIS LEGISLATION WILL BE A CURE ALL FOR SAFETY AND ENFORCEMENT PROBLEMS, BUT IT WILL HELP REDUCE THE ABSORPTION OF INEXPERIENCED FISHERMEN AND WILL ALLOW FOR THOSE WHO HAVE PRIOR EXPERIENCE AN EQUAL OPPORTUNITY TO INVEST IN THE FUTURE OF OUR FISHERIES. ~~INTO OUR FISHERIES DISTRICTS~~ WITH THAT I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

*The difference in CS in separation of
active participation.*

MEMORANDUM STATE OF ALASKA

TO: John Walsh
Legislative Assistant
to Rep. Richard Foster
M/S 3100

DATE: February 21, 1989

FILE NO.:

SUBJECT: Restrictions upon
transfers of entry
permits to
legislation

FROM: Commercial Fisheries Entry Commission
Bruce Twomley, Chairman
Ron Listowski, Commissioner
Phil Smith, Commissioner
M/S 0302

CONFIDENTIAL

At your request, we and various members of our staff have reviewed the draft legislation you transmitted to the Commission. In addition to the issues raised by Legislative Counsel, George Utermohle, we would like to pass on the following comments.

Purposes/Functions

Our staff discerned two likely purposes for this proposed legislation:

- (1) Reduce transfers of entry permits out of rural Alaska areas by limiting the pool of eligible transferees; and
- (2) cut down speculative purchases of entry permits by individuals who are not "active" fishermen.

Additionally, one could argue that the restrictions you propose would serve a safety function and might serve to aid in securing compliance with the regulatory scheme in a given fishery.

Costs

The expense of such a measure would vary according to how serious the State would be about ensuring compliance with the requirement. Our staff raised the following issues which bear on the costs of administering such a requirement:

- (1) What kind and how much active participation is to be required: one hour, one day, two days, one or more openings?
- (2) What evidence of participation will be required? Copies of crew licenses would be of no value. Fish...

would be useful, only if signed by the proposed transferee. We have found affidavits to be notoriously unreliable. Perhaps some form of registration on the grounds upon entering and leaving a given fishery in a given season. Such a procedure would require the cooperation of agencies beyond the Entry Commission.

(3) A procedure like that of the State Loan Program allowing a proposed transferee to "pre-qualify", would be beneficial so that completion of a transfer would not be unduly delayed.

Generally, for CFEC, we would anticipate the following costs:

- (1) Revising existing or developing new transfer forms, approximately \$1,200;
- (2) publishing new regulations, \$500;
- (3) hiring an additional staff member to assist in the transfer review process (CFEC's resources in this area are already overburdened); A Transfer Technician at salary range 12, about \$2,082/month; and
- (4) conducting the additional hearings which would result from challenges to denials of eligibility (this cost is very difficult to anticipate; existing hearing officers may be able to absorb the additional hearings but at the cost of further delay to pending claimants).

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Issues

The proposal may be unconstitutional. See, Bozanic v. Reetz, 297 F. Supp. 300 (D.Ak 1969); vacated on grounds of abstention, 367 U.S. 82, 90 S.Ct. 788 (1970). Additionally, purpose no. 1, as noted above, may be legally indefensible.

To the extent that the proposal is premised upon safety or demonstrated ability, it would create an irrebuttable presumption and thereby may be legally vulnerable. At least two examples come to mind of otherwise qualified individuals who would be precluded from purchasing an entry permit under the proposal: (1) a family member present for a number of years in a fishing operation (perhaps a set net site) but not having actively participated; and (2) a longstanding Bristol Bay drift gill net fisherman who wished to purchase a drift permit for Cook Inlet.

Finally, you have undoubtedly heard professional Alaskan fishermen express the importance to them of flexibility; that is, the ability to move from one fishery to another or to participate in more than one fishery. The proposal is likely to be extremely unpopular with these individuals.

Conclusion

We believe this covers the thoughts that have been expressed about your proposal here at the Commission. We would be happy to meet to discuss the matter further with you and Representative Foster.

MEMORANDUM STATE OF WYOMING

TO: Mr. [Name]
Mr. [Name]
Mr. [Name]

DATE: February 19, 1959

FROM: Mr. [Name]
Mr. [Name]
Mr. [Name]

Subject: [Faint text]

[Handwritten initials]

[Faint paragraph of text]

[Faint text]

[Faint text]

[Faint text]

[Faint text]

[Faint text]

[Faint text]

[Faint paragraph of text]

[Faint text]

[Faint text]

would be useful, they if anyone of the proposed
transfers. We have found affidavits to be somewhat
unreliable. Perhaps some of the information on the
grounds were available, as I have a file on January 15
given to me. It is a matter of fact that the
comparative of the proposed transfers.

(3) I proposed that the... of the...
I proposed...
and that...
and that...

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60,000
Hand



- (1) ...
- (2) ...
- (3) ...
- (4) ...
- (5) ...
- (6) ...
- (7) ...
- (8) ...
- (9) ...
- (10) ...

Faint typed text at the bottom left of the page, possibly a signature or administrative notes.

11

STATION 10

WATER TEMPERATURE 51.0 F

WIND DIRECTION 000

WIND VELOCITY 0

SEA STATE 0

WATER CLARITY 100

WATER COLOR 10

WATER pH 7.5

WATER DO 1.5

WATER TSS 0

WATER TDS 0

WATER EC 0

WATER CHLOROPHYLL A 0

WATER CHLOROPHYLL B 0

WATER CHLOROPHYLL C 0

WATER CHLOROPHYLL D 0

WATER CHLOROPHYLL E 0

WATER CHLOROPHYLL F 0

WATER CHLOROPHYLL G 0

WATER CHLOROPHYLL H 0

WATER CHLOROPHYLL I 0

WATER CHLOROPHYLL J 0

WATER CHLOROPHYLL K 0

WATER CHLOROPHYLL L 0

February 15, 1990

Representative Davidson & Menard,
House Resources Co-Chairman
Capitol Building
Juneau, Alaska

RE: House Resources Hearing on HB 285 Dealing With
Transferability of Limited Entry Permits

Dear Co-Chairmen:

I have been a salmon fisherman since 1965, and currently own a Bristol Bay Limited Entry Permit. I have lived in Dillingham all my life.

Also, I feel I have an economic perspective into the importance of the fisheries in our area as I have served as President of the Bristol Bay Herring Marketing Cooperative since 1979.

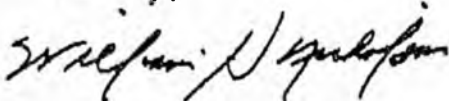
I have spoken with several fishermen in the area, and it is our feeling that your bill is something which is sorely needed. Too many permits are being purchased by outside interests. Also, money generated in the region is spent elsewhere.

The only concern I have is that permits be made available to relatives without the criteria of prior fishing experience. Transfers to relatives should be made possible not only after death, but also during ones illness. A case in point in our area is a man who has terminal cancer. Under the present language of the bill, it is not clear if he can transfer the permit to his young son.

I do not think that our limited entry permits will lessen in value because one must have prior experience before he can purchase a permit. Also I do not think anyone in the state will be excluded from buying into the Bristol Bay salmon fisheries. What the bill will tend to do, in my own estimation is to slow down the transfer of permits to "outside" residents, yet allow for transferability among relatives who live in the Bristol Bay area.

This is a good bill and should be allowed to pass as long as the relative's transferability question is addressed. It is my hope this bill is supported by your committee members.

Sincerely,


William H. Nicholson,
Commercial Fisherman

HB

287

FISCAL NOTE

REQUEST:

Revision Date: April 28, 1989
Title: An Act establishing an oil and hazardous substance response office and corps, etc.
Sponsor: Davis, Brown, Menard, Coll, etc
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Quality
Administrative Services
Components: Environmental Quality
Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		443.9	443.9	443.9	443.9	443.9
TRAVEL		40.0	40.0	40.0	40.0	40.0
CONTRACTUAL		2872.0	2872.0	1772.0	1772.0	1772.0
SUPPLIES		259.0	259.0	259.0	259.0	259.0
EQUIPMENT		295.0	295.0	295.0	295.0	295.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		3909.9	3909.9	2809.9	2809.9	2809.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		3909.9	3909.9	2809.9	2809.9	2809.9
TOTAL		3909.9	3909.9	2809.9	2809.9	2809.9

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Kent Phone: 465-2630
Division: Environmental Quality Date: 4/28/89

Approved by Commissioner: *Adolph* Date: 5/3/89
Agency: Alaska Department of Environmental Conservation

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

Telephone:
(907) 465-2600

FISCAL ANALYSIS

— HB 287

April 28, 1989

Contact: Lynn Kent

ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2000.0)

The Department estimates that \$2000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	\$2,000.0*

*includes \$1,500.0 in first and second year costs

ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$1909.9)

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. The contractual line includes \$100.0 for the first two years for establishment of an office; this money will not be necessary in subsequent years. Other costs include training contracts (\$200.0), contracts with local governments (500.0), wages and per diem for volunteer training (\$300.0), contracts with private response specialists (\$100.0), and contracts for oil spill response research (\$100.0).

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
1 Env. Cons. Mgr. (Range 22)	65.9	5.0	8.0	1.0	5.0	84.9
1 Ecologist III (Range 20)	57.7	5.0	8.0	1.0	5.0	76.7
3 Ecologist II (Range 18)	159.9	15.0	24.0	3.0	15.0	216.9
2 Ecologist I (Range 16)	87.4	10.0	16.0	2.0	10.0	125.4
1 Clk Typist III (Range 8)	29.3	0	8.0	1.0	5.0	43.3
1 Admin Asst. III (Range 16)	43.7	5.0	8.0	1.0	5.0	62.7
Totals	443.9	40.0	72.0	9.0	45.0	609.9

Position Costs	\$ 609.9
Contractual Costs	\$1,300.0
Total	\$1,909.9

This fiscal note shows "other" funds as the funding source because funding will come from the Oil and Hazardous Substance Release Fund. However, additional resources will need to be provided to the Response Fund, as there is not currently an adequate balance to support this effort.

H B

288

HOUSE COMMITTEE REPORT

(9)

Date Referred: April 13, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4-29-89

The RESOURCES Committee considered:

HB 288

HOUSE BILL NO. 288 [OIL/HAZ. SUBST. CONTINGENCY PLANS]

"An Act requiring the Department of Environmental Conservation to prepare and to annually review and revise a master oil and hazardous substance discharge and prevention contingency plan for the state and regional oil and hazardous substance discharge and prevention contingency plans for certain regions of the state, and to implementation of that plan; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 288 (Res) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact Dec
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Richard Long
Don Stiles
Mike Hargrove
Carl Williams
Bob Anthony
Chip Davis
Paul Hulse
Mike Wren

	Do Not Pass	No Rec	Amend

Chip Davis

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 4/27/89 Agency Affected: DEC
Title: An Act relating to oil and hazardous substance discharge contingency plans BRU: Environmental Quality
Sponsor: Davis, M.; Brown - Menard Components: Environmental Quality
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		246.9	246.9	246.9	246.9	246.9
TRAVEL		20.0	20.0	20.0	20.0	20.0
CONTRACTUAL		165.0	165.0	40.0	40.0	40.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		25.0	25.0	25.0	25.0	25.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		461.9	461.9	336.9	336.9	336.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		461.9	461.9	336.9	336.9	336.9
TOTAL		461.9	461.9	336.9	336.9	336.9

POSITIONS:

FULL-TIME		5	5	5	5	5
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Tomich Kent Phone: 465-2630
Division: Environmental Quality Date: 4/27/89

Approved by Commissioner: *A. D. Lyle* Date: 4/27/89
Agency: Department of Environmental Conservation

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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

Telephone:
(907) 465-2600

FISCAL ANALYSIS

CSSB 261 (Fin).

April 28, 1989

Contact: Lynn Kent

PREPARE MASTER AND REGIONAL CONTINGENCY PLANS (461.9)

The Department estimates that four technical positions and one clerical position would be required to develop an initial state master plan and regional contingency plans, to annually review and revise the plans, and to annually conduct hearings on the plans. For the first two years, contractual services in the amount of \$125.0 would be required for a consultant to assist in developing the initial plans.

The following is a breakdown of position costs. The Ecologist III would be located in the Central Office in Juneau, one Ecologist II would be located in each of the three Regional Offices (Fairbanks, Anchorage, and Juneau), and the Clerk Typist II would support efforts in the Central and Regional Offices.

Position		100	200	300	400	500	Total
Ecologist III	<i>RANGE</i> 20	57.7	5.0	8.0	1.0	5.0	76.7
Ecologist II	18	57.7	5.0	8.0	1.0	5.0	76.7
Ecologist II	18	51.1	5.0	8.0	1.0	5.0	70.1
Ecologist II	18	51.1	5.0	8.0	1.0	5.0	70.1
Clerk Typist II	7	29.3	0	8.0	1.0	5.0	43.3
Total		246.9	20.0	40.0	5.0	25.0	336.9

*In additional, there are \$125.0 in first- and second-year costs:

Position Total	336.9
Additional Contractual	125.0
Grant Total	461.9

This fiscal note shows "other" funds as the funding source because funding will come from the Oil and Hazardous Substance Release Fund. However, additional resources will need to be provided to the Response Fund, as there is not currently an adequate balance to support this effort.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environmental Conservation
 Title: An Act relating to Oil and Hazardous BRU: Environmental Quality
 Substance discharge contingency plans
 Sponsor: Davis, Brown, Mernard, et al Components: Environmental Quality
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		246.9	246.9	246.9	246.9	246.9
TRAVEL		20.0	20.0	20.0	20.0	20.0
CONTRACTUAL		165.0	165.0	40.0	40.0	40.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		25.0	25.0	25.0	25.0	25.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		461.9	461.9	336.9	336.9	336.9

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		461.9	461.9	336.9	336.9	336.9
TOTAL		461.9	461.9	336.9	336.9	336.9

POSITIONS:

FULL-TIME		5	5	5	5	5
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Tomich Kent Phone: 465-2630
 Division: Environmental Quality Date: 5/1/89

Approved by Commissioner: A. D. King Date: May 1, 1989
 Agency: Department of Environmental Conservation

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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

Telephone:
(907) 465-2600

FISCAL ANALYSIS

HB 288

May 1, 1989

Contact: Lynn Kent

PREPARE MASTER AND REGIONAL CONTINGENCY PLANS (461.9)

The Department estimates that four technical positions and one clerical position would be required to develop an initial state master plan and regional contingency plans, to annually review and revise the plans, and to annually conduct hearings on the plans. For the first two years, contractual services in the amount of \$125.0 would be required for a consultant to assist in developing the initial plans.

The following is a breakdown of position costs. The Ecologist III would be located in the Central Office in Juneau, one Ecologist II would be located in each of the three Regional Offices (Fairbanks, Anchorage, and Juneau), and the Clerk Typist II would support efforts in the Central and Regional Offices.

Position	100	200	300	400	500	Total
Ecologist III	57.7	5.0	8.0	1.0	5.0	76.7
Ecologist II	57.7	5.0	8.0	1.0	5.0	76.7
Ecologist II	51.1	5.0	8.0	1.0	5.0	70.1
Ecologist II	51.1	5.0	8.0	1.0	5.0	70.1
Clerk Typist II	<u>29.3</u>	0	8.0	1.0	5.0	<u>43.3</u>
Total	246.9	20.0	40.0	5.0	25.0	336.9

In addition, there are \$125.0 in first- and second-year costs:

Position Total	336.9
Additional Contractual	<u>125.0</u>
Grand Total	461.9

This fiscal note shows "other" funds as the funding source because funding will come from the Oil and Hazardous Substance Release Fund. However, additional resources will need to be provided to the Response Fund, as there is not currently an adequate balance to support this effort.

HB

290

HOUSE COMMITTEE REPORT

(9)

Date Referred: April 14, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3/6/90

The RESOURCES Committee considered:

HB 290

HOUSE BILL NO. 290 [RECREATION FACILITY LEASE OF STATE LAND]
 "An Act relating to the leasing of state land for recreational facilities development."

RECOMMENDATIONS:

- be replaced with CS HB 290 (RES) [] the same title
- have attached amendment(s) [] a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): _____
 (Dept)

APPROVES PREVIOUS: _____
 (Date/Dept)

- fiscal impact _____
- zero fiscal note HRC
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

[Handwritten signatures: Sam McInnis, Bill Hulse, Bob May, W. J. ...]

SIGNING:
 (Check approp. column)

	Do Not Pass	No Rec	Amend
<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<input checked="" type="checkbox"/>	

[Handwritten signature]
 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: All Agencies
 Title: Recreational Facility Lease of
State Land BRU: _____
 Sponsor: Resources Committee Components: _____
 Requestor: House Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: House Resources Committee Phone: 4944
 Division: Representative Curt Menard Date: 3/7/90

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

FISCAL NOTE

REQUEST:

Revision Date: 3/6/90 Agency Affected: Department of Fish and Game
 Title: An Act Relating to Leasing of State Land for Recreational Facilities BRU: Habitat
 Sponsor: Resources Committee Components: Habitat
 Requestor: Department of Natural Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	-					
GRANTS, CLAIMS	-					
MISCELLANEOUS	-					
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	-					
OTHER	-					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on FY 90 Budget

Prepared by: Frank Rue, Director Phone: 465-4105
 Division: Habitat Date: 3/7/90
 Approved by Commissioner: [Signature] Date: 3/8/90
 Agency: Department of Fish and Game

Distribution (by preparer):

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

JACKO

Amendment Number 1

Page 1, line 13, after AS 38.04.065. Insert "The identification and leasing of state lands for recreational facilities development which are part of a legislatively designated State Game Refuge, State Critical Habitat Area of State Game Sanctuary shall require the concurrence of the Commissioner of the Alaska Department of Fish and Game".

Amendment Number 2

Page 1, line 21, after specific type of, insert "and location of"

Amendment Number 3

Page 4, line 20, after required plans and studies, insert "If the study involves fish and game or customary and traditional use of natural resources the Department of Fish and Game shall approve the methodology and scope of the studies required of the lessee."

Davis

P. 4 line 8

PAGE 2, LINE 19, ADD THE FOLLOWING SENTENCE TO THE END OF SUB-SECTION (d):

(9) ^{for} (D) Large projects must include a preliminary assessment of the project's economic feasibility, based on available information.

PAGE 4, LINES 16 -24, AMEND AS FOLLOWS:

(h) For a large project where it has been determined under (g) of this section that there may be significant economic, social, or environmental effects or long-term commitments of natural resources, the commissioner shall require the potential lessee to prepare and submit a comprehensive economic feasibility study, to be completed prior to the execution of the lease.

6-0798J
Bannister
1/30/90

Original sponsor(s): RESOURCES COMMITTEE

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 290 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing of state land for
7 recreational facilities development."

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

9 * Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.073. RECREATIONAL FACILITIES DEVELOPMENT LEASING.

11 (a) The commissioner may identify land suitable for recreational
12 facilities development leasing. In the discretion of the commis-
13 sioner, land identified for recreational facilities development leas-
14 ing may be offered for lease under this section. Except for AS 38.-
15 05.070(a), 38.05.085(c), 38.05.090, and 38.05.103, AS 38.05.070 -
16 38.05.105 do not apply to leasing under this section.

17 (b) Before requesting proposals from developers for land identi-
18 fied under (a) of this section, the commissioner shall prepare and
19 adopt a site-specific land use plan under AS 38.04.065 unless a re-
20 gional land use plan has been prepared and adopted for the land. If a
21 regional land use plan has been prepared and adopted for the land but
22 docs not specifically allow the type of development under consider-
23 ation, the commissioner shall propose an amendment of the existing
24 regional land use plan under AS 38.04.065.

25 (c) If, after compliance with (b) of this section and after
26 evaluating the information and comments obtained under (b) of this
27 section, the commissioner determines that requesting proposals from
28 potential lessees for recreational facilities development leasing of
29 land identified under (a) of this section is in the best interests of

1 the state, the commissioner shall issue a written determination in-
2 dicating

3 (1) the specific type of recreational facilities develop-
4 ment for which the land may be leased;

5 (2) the minimum compensation that the state will accept for
6 the lease, which must at least equal the fair market rental value of
7 the land to be leased;

8 (3) the selection criteria that the commissioner will use
9 to determine the eligibility of a developer, including the developer's
10 financial backing and capability, experience in the proposed undertak-
11 ing, bonding, insurance coverage, and ability to comply with resource
12 and environmental analysis requirements; and

13 (4) the criteria that the commissioner will use to deter-
14 mine the suitability of proposals.

15 (d) After issuing the determination under (c) of this section,
16 the commissioner may issue a request for proposals from persons who
17 are interested in leasing the land for recreational facilities devel-
18 opment. The proposals submitted to the commissioner must include the
19 specific facts on which the potential lessee bases its ability to
20 develop the land, including its ability to comply with the items
21 identified in (c)(1) - (4) of this section.

22 (e) After soliciting proposals under (d) of this section, if the
23 commissioner determines that only one potential lessee is acceptable,
24 the commissioner may begin negotiations with the potential lessee to
25 develop the terms and conditions for the lease.

26 (f) After soliciting proposals under (d) of this section, if the
27 commissioner determines that two or more potential lessees are accept-
28 able, the commissioner may select the potential lessee who submits the
29 highest bid during an auction or by sealed bids, whichever method the

1 commissioner chooses. The minimum bid must equal at least the fair
2 market rental value of the land plus the administrative fee estab-
3 lished under (j) of this section. After the commissioner selects a
4 potential lessee, the commissioner may begin negotiations with the
5 potential lessee to develop the terms and conditions for the lease.

6 (g) After developing proposed lease terms and conditions with a
7 potential lessee under (e), (f), or (i) of this section, the commis-
8 sioner may issue a preliminary decision under AS 38.05.035(e) that
9 leasing the land to the potential lessee on the proposed terms and
10 conditions serves the best interests of the state. The commissioner
11 shall give public notice of the preliminary decision under AS 38.05.-
12 945 and request comments from the public and state agencies. The
13 preliminary decision must include a statement of

14 (1) the specific type of recreational facilities develop-
15 ment for which the land will be leased;

16 (2) the terms and conditions of the proposed lease agree-
17 ment;

18 (3) the compensation that the state will receive under the
19 proposed lease agreement;

20 (4) the potential economic, social, and environmental
21 effects of the proposed development, including the effect on water
22 quality and the traditional uses of the land;

23 (5) the long-term commitments of natural resources that
24 would be involved in the proposed development; and

25 (6) alternatives to the commitments identified under (5) of
26 this subsection and alternatives or measures that may reduce or elimi-
27 nate the effects identified under (4) of this subsection.

28 (h) After reviewing the comments received under (g) of this
29 section, the commissioner shall make a final determination whether the

1 proposed lease will serve the best interests of the state. If the
 2 commissioner determines that the proposed lease will serve the best
 3 interests of the state, the commissioner shall offer the lease to the
 4 proposed lessee subject to the terms, conditions, and study require-
 5 ments the commissioner determines to be necessary. If a study is
 6 required, the potential lessee may be required to provide and pay for
 7 the study.

8 (i) If a potential lessee who was selected under (f) of this
 9 section declines the lease offer made under (h) of this section, the
 10 commissioner may begin negotiations with the potential lessee who
 11 provided the next highest bid under (f) of this section to develop the
 12 terms and conditions for a lease.

13 (j) The commissioner shall require the potential lessee awarded
 14 the right to negotiate a lease under (e), (f), or (i) of this section
 15 to pay a nonrefundable administrative fee of at least \$250. The
 16 commissioner may also require the potential lessee to make an earnest
 17 money deposit under AS 38.05.860(b).

18 (k) The commissioner may reject all proposals or bids for a
 19 lease when it is in the best interest of the state.

20 (l) The compensation to be paid to the state for a lease issued
 21 under this section may include, in the discretion of the commissioner,

22 (1) a percentage of the annual gross receipts as reported
 23 to the United States Internal Revenue Service;

24 (2) a guaranteed annual minimum rent or a percentage of
 25 gross receipts, whichever is greater;

26 (3) the fair market rental value;

27 (4) a fixed annual rent that is not less than the fair
 28 market rental value of the land;

29 (5) a fee for each user; or

1 (6) a combination of the above.

2 (m) The annual compensation paid to the state for a recreational
3 facilities development lease shall be reevaluated and adjusted at
4 five-year intervals. The annual compensation for each five-year
5 period after the initial five years of the lease shall be calculated
6 by the same method and formula used to establish the compensation for
7 the initial five-year period.

8 (n) Before a lease is issued under this section, the land to be
9 covered by the lease shall be surveyed. The survey must be adequate
10 to describe the land to be covered by the lease.

11 (o) Before entering into a lease under this section, the commis-
12 sioner shall require the lessee to post a performance bond or provide
13 other security acceptable to the commissioner to cover the costs to
14 the department of one or more of the following, as determined by the
15 commissioner:

16 (1) completing the development, including site planning,
17 under the terms and conditions of the lease;

18 (2) maintaining the development under the terms and con-
19 ditions of the lease;

20 (3) restoring the lease site if the lease is abandoned or
21 terminated.

22 (p) The term of the lease may not exceed 55 years. At the
23 expiration of the lease, the commissioner may offer the lessee a right
24 of first refusal on a new lease under this section for the same land
25 if the commissioner determines that leasing the land for an additional
26 term serves the best interests of the state.

27 (q) The lessee's violation of a provision of this section or of
28 a term or provision of a lease issued under this section subjects the
29 lessee to appropriate legal action and penalties, including a

1 forfeiture of the lease.

2 (r) The commissioner of administration shall separately account
3 for all money collected under this section that the department de-
4 posits in the general fund. The annual estimated balance in the
5 account may be used by the legislature to make appropriations to the
6 department to carry out the purposes of this section.

7 (s) In this section, "recreational facilities development"
8 includes the development of lodges, resorts, and other tourism and
9 recreation-related facilities.
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6-0798D ✓
Bannister
3/6/90

Original sponsor(s): Resources Committee

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 290 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing of state land for
7 recreational facilities development."

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

9 * Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.073. RECREATIONAL FACILITIES DEVELOPMENT LEASING.

11 (a) The commissioner may not identify land suitable for recreational
12 facilities development leasing except through a regional land use plan
13 or a site specific land use plan adopted under AS 38.04.065. If an
14 adopted land use plan specifically allows the type of development
15 under consideration, the commissioner may request proposals from
16 potential lessees under (c) of this section. Consistent with AS 38.-
17 04.065, the development of a land use plan used to identify land
18 suitable for recreational facilities development leasing must consider
19 the supply of recreational opportunities and alternatives, economic
20 and social factors, and fish, wildlife, and other resources affected
21 by the specific type of recreational facilities development under
22 consideration.

23 (b) AS 38.05.070(a), 38.05.085(c), 38.05.090, and 38.05.103
24 apply to leasing under this section. The other provisions of AS 38.-
25 05.070 - 38.05.105 do not apply to leasing under this section.

26 (c) If the commissioner identifies land for recreational facili-
27 ties development leasing under (a) of this section, the commissioner
28 shall prepare a written request for proposals that includes

29 (1) the specific type of recreational facilities

1 development for which the land may be leased;

2 (2) the form of compensation that the commissioner intends
3 to require for the lease under (1) of this subsection;

4 (3) the selection criteria that the commissioner will use
5 to determine the eligibility of a developer, including the developer's
6 financial backing and capability, experience in the proposed undertak-
7 ing, ability to meet bonding or insurance requirements, and ability to
8 comply with resource and environmental analysis requirements; and

9 (4) the criteria that the commissioner will use to deter-
10 mine the suitability of proposals.

11 (d) After preparing a request for proposals under (c) of this
12 section, the commissioner may issue the request to solicit proposals
13 from persons who are interested in leasing the land for recreational
14 facilities development. The request for proposals must be advertised
15 at least three times in a newspaper of general circulation in the
16 state. The proposals submitted to the commissioner must include the
17 specific facts on which the potential lessee bases its ability to
18 develop the land, including its ability to comply with the items
19 identified in (c)(1) - (4) of this section.

20 (e) After soliciting proposals under (d) of this section, if the
21 commissioner determines that only one potential lessee is acceptable,
22 the commissioner may begin negotiations with the potential lessee to
23 develop the terms and conditions for the lease.

24 (f) After soliciting proposals under (d) of this section, if the
25 commissioner determines that two or more potential lessees are accept-
26 able, the commissioner may select the potential lessee who submits the
27 highest bid during an auction or by sealed bids, whichever method the
28 commissioner chooses. The minimum bid must equal the amount estab-
29 lished by the commissioner plus the administrative fee established

1 under (j) of this section. The commissioner shall also require the
2 potential lessee to make an earnest money deposit under AS 38.05.-
3 860(b). After the commissioner selects a potential lessee, the com-
4 missioner may begin negotiations with the potential lessee to develop
5 the terms and conditions for the lease.

6 (g) After developing proposed lease terms and conditions with a
7 potential lessee under (e), (f), or (i) of this section, the commis-
8 sioner may issue a preliminary decision under AS 38.05.035(e) that
9 leasing the land to the potential lessee on the proposed terms and
10 conditions serves the best interests of the state. During preparation
11 of the preliminary decision, the commissioner shall consult with
12 affected state agencies regarding issues within the agencies' areas of
13 responsibility and expertise. The commissioner shall give public
14 notice of the preliminary decision under AS 38.05.945 and request
15 comments from the public and state agencies. The preliminary decision
16 must include

17 (1) a statement of the specific type of recreational facil-
18 ities development for which the land will be leased;

19 (2) an analysis of alternative sites;

20 (3) a statement of the terms and conditions to be required
21 in the proposed lease agreement;

22 (4) a statement of the compensation that the state may
23 require under the proposed lease agreement;

24 (5) a statement of the potential economic, social, and
25 environmental effects of the proposed development, including the
26 effect on water quality and the traditional and recreational uses of
27 the land;

28 (6) a statement of the long-term commitments of fish,
29 wildlife, and other natural resources that would be involved in the

1 proposed development;

2 (7) a statement of alternatives to the commitments identi-
3 fied under (6) of this subsection and alternatives or measures that
4 may reduce or eliminate the effects identified under (5) of this
5 subsection; and

6 (8) an identification of any studies, including economic
7 feasibility studies, or plans to be required by the commissioner.

8 (h) After reviewing the comments received under (g) of this
9 section, the commissioner shall make a final determination whether the
10 proposed lease will serve the best interests of the state. If the
11 commissioner determines that the proposed lease will serve the best
12 interests of the state, the commissioner shall offer the lease to the
13 proposed lessee subject to the terms, conditions, and study require-
14 ments the commissioner determines to be necessary. If a study or plan
15 is required, the potential lessee shall be required to provide and pay
16 for the study or plan. For a large project where the commissioner has
17 determined under (g) of this section that there may be significant
18 economic, social, or environmental effects or long-term commitments of
19 fish, wildlife, or other natural resources, the commissioner shall
20 require the potential lessee to prepare and submit a comprehensive
21 economic feasibility study to be completed no later than 18 months
22 after the execution of the lease. State agencies with pertinent
23 expertise or responsibilities shall be involved in the review of
24 required plans and studies.

25 (i) If a potential lessee who was selected under (f) of this
26 section declines the lease offer made under (h) of this section, the
27 commissioner may begin negotiations with the potential lessee who
28 provided the next highest bid under (f) of this section to develop
29 under (f) of this section the terms and conditions for a lease.

1 (j) The commissioner shall require the potential lessee awarded
2 the right to negotiate a lease under (e), (f), or (i) of this section
3 to pay a nonrefundable administrative fee of at least \$250.

4 (k) The commissioner shall reject all proposals or bids for a
5 lease when it is in the best interest of the state.

6 (l) The compensation to be paid to the state for a lease issued
7 under this section may include, in the discretion of the commissioner,

8 (1) a percentage of the annual gross receipts as reported
9 to the United States Internal Revenue Service;

10 (2) a guaranteed annual minimum rent or a percentage of
11 gross receipts, whichever is greater;

12 (3) the fair market rental value;

13 (4) a fixed annual rent that is not less than the fair
14 market rental value of the land;

15 (5) a fee for each user;

16 (6) other compensation acceptable to the commissioner; or

17 (7) a combination of the above.

18 (m) The annual compensation paid to the state for a recreational
19 facilities development lease shall be reevaluated and adjusted at
20 five-year intervals. The annual compensation for each five-year
21 period after the initial five years of the lease shall be calculated
22 by the same method used to establish the compensation for the initial
23 five-year period.

24 (n) Before a lease is issued under this section, the land to be
25 covered by the lease shall be surveyed. The survey must be adequate
26 to describe the land to be covered by the lease.

27 (o) Before entering into a lease under this section, the commis-
28 sioner shall require the lessee to post a performance bond or provide
29 other security acceptable to the commissioner to cover the costs to

1 the department of one or more of the following, as determined by the
2 commissioner:

3 (1) completing the development, including site planning,
4 under the terms and conditions of the lease;

5 (2) maintaining the development under the terms and con-
6 ditions of the lease;

7 (3) restoring the lease site if the lease is abandoned or
8 terminated.

9 (p) The term of the lease may not exceed 55 years. At the
10 expiration of the lease, the commissioner may offer the lessee a right
11 of first refusal on a new lease under this section for the same land
12 if the commissioner determines that leasing the land for an additional
13 term serves the best interests of the state.

14 (q) The lessee's violation of a provision of this section or of
15 a term or provision of a lease issued under this section subjects the
16 lessee to appropriate legal action and penalties, including a forfei-
17 ture of the lease.

18 (r) The commissioner of administration shall separately account
19 for all money collected under this section that the department de-
20 posits in the general fund. The annual estimated balance in the
21 account may be used by the legislature to make appropriations to the
22 department to carry out the purposes of this section.

23 (s) In this section, "recreational facilities development"
24 includes the development of lodges, resorts, and other tourism and
25 recreation-related facilities.
26
27
28
29

MEMORANDUM

State of Alaska

Department of Natural Resources - Division of Land and Water Management

TO: Gary Gustafson
Director

DATE: November 21, 1989

FILE NO: SB 213/HB 290

THRU:

TELEPHONE NO: 762-2692

SUBJECT: Comparison of
commercial leasing
bills

FROM: Salli Slaughter 
Natural Resource Manager

You have asked for a comparison of the two commercial leasing bills introduced in the Alaska legislature last spring. Both bills propose to a new commercial recreational leasing provision to the Alaska Land Act (although one refers to "commercial development leasing" and the other to leasing for "recreational development," the definitions for the activities covered is identical).

The first, most obvious difference between the bills is length: SB 213 was introduced by Senator Kerttula on March 10, 1989, is only three pages; HB 290, introduced by House Resources on April 14, 1989, is nearly twice as long. This appears to be reflective of the process envisioned by the two different schemes: the process for the House bill is more intricate and appears to take longer (see attached flow chart).

Both bills exempt this leasing process from certain leasing provisions of AS 38. Two provisions are not exempted in either bill (AS 38.05.070(a) and AS 38.05.090), but the House bill adds AS 38.05.085(c) (advance rental payment) to that list.

PROCESS Both versions start with the identification of land available for leasing and taking care of any planning requirements. From that point on, the processes diverge.

The Senate version goes to a general public and agency notice that the land is being considered for commercial leasing. A combined decision and solicitation of bids, together with another public notice (presumably with a 30-day comment period), follows. The successful applicant is chosen on the basis of high bid (if we have more than one qualified applicant). The specific terms and conditions are then negotiated with the successful applicant,

and a specific preliminary decision/public notice/final finding process follows. After this process is complete, a lease can be offered and a reclamation bond posted. If the applicant refuses the lease, the commissioner can begin again with the next highest bidder.

The House version goes to an agency review, followed by a draft decision and public notice with a 90-day review period. A final finding is then drafted and another public notice is given. A request for proposals is made (proposals must include information concerning the applicants ability to develop the lease and comply with (proposed?) terms and conditions). Applicants must then submit a deposit sufficient to cover administrative costs . . . (unsuccessful applicants will get this money refunded). We can then negotiate acceptable terms and conditions of the lease (presumably based on the proposed terms and conditions and resulting comment). The successful applicant then deposits a non-refundable filing fee. Another preliminary decision/public notice/ final finding follows. The lease offer, if accepted, is followed by survey and deposit of a performance and reclamation bond.

DECISION The heart of the different approaches of the two bills is contained in the proposed contents of the initial decision to lease. The Senate version proposes a dual purpose document: it would not only contain the commissioner's decision to lease, it would also serve as a solicitation of proposals. It is to include a description of the type of commercial development that will allowed, ask for proposals containing "certain information" showing lessees ability to develop the land, and stating the criteria to be used to judge an applicant's eligibility.

The House bill, like the Senate bill states that the decision is to describe the type of recreation facilities allowed, and the selection criteria to be used to judge an applicant's eligibility. Unlike the Senate version, a decision under the House bill must also set out the following: proposed terms and conditions of a lease; minimum compensation (at least FMV); potential impacts (economic, social, etc.); "irreversible and irretrievable commitments of natural resources" in proposed development; alternatives considered or mitigation offered; economic feasibility; and the criteria used to judge the proposals.

SELECTION CRITERIA The criteria used to select a successful applicant for a lease in the Senate bill is high bid. The criteria used to select an applicant who will be awarded the "right of first refusal" in the House bill is the best proposal (presumably judged on the criteria set out in the decision, above). The Senate version also states that the commissioner can

Commercial Leasing Bills

Page 3

reject all bids if that is in the best interest of the state. The House version allows for a request for reconsideration of a decision to disqualify an applicant or of selection of a successful applicant within five days.

TERMS AND CONDITIONS In both bills, the selected applicant gets to negotiate the terms and conditions of the lease (subject to public review), and a process is put in place for starting over by selecting one of the other applicants if the first applicant falls out somewhere along the process. The maximum term allowed (55 years) is also identical. However, the House bill allows for what we would think of as a "preference right" to a second lease term, if that action is in the best interest of the state... .

COMPENSATION The possible methods of compensation are identical. However, the House bill provides for five-year adjustments to the compensation (methods and formulas cannot be changed). The House bill also sets up a program receipts system.

BONDING The Senate bonding requirement only covers reclamation. The House bonding requirement covers performance as well: enough money must be deposited to complete and maintain the development.

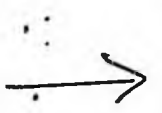
VIOLATIONS The House bill sets out legal (cost recovery) penalties and lease forfeiture for violation of this law or a lease issued under it.

ADMINISTRATIVE COSTS The House version states that the lessee will pay administrative costs, and that amount must be deposited before the lessee is chosen. It then requires a non-refundable filing fee from the successful applicant before the second finding and decision is done. It also sets up a "program receipts" account outside the General Fund.

Attachment (Flow Chart)

①
Senate
Bill

①
Commissioner
identifies
land for
leasing



②
Planning
requirements
met



③
Public and
Agency
Notice that
land is being
considered for

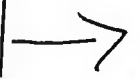


Commercial
Leasing.

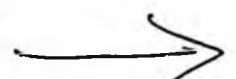
④
Combined
decision and
solicitation
of bids /
Public
notice (30 days?)

House
Bill

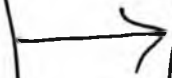
①
Commissioner
identifies
land for
leasing



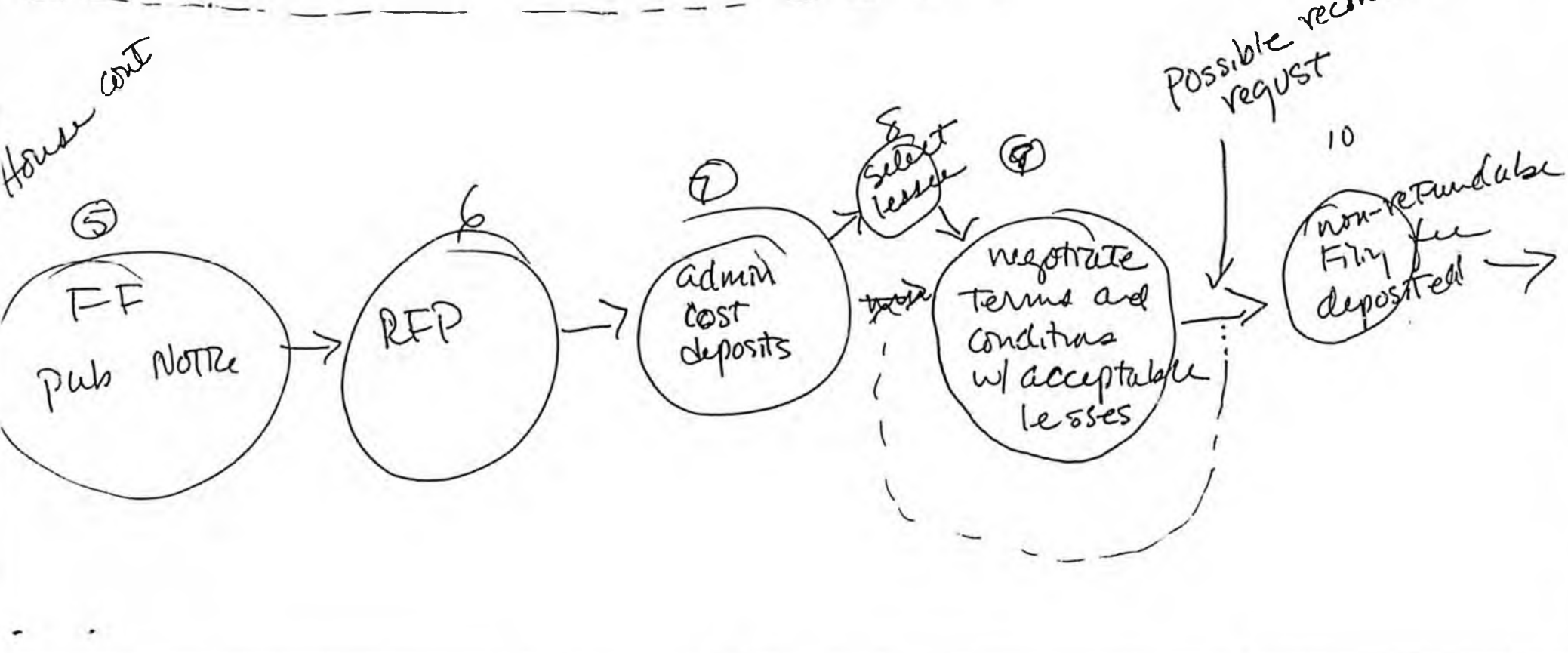
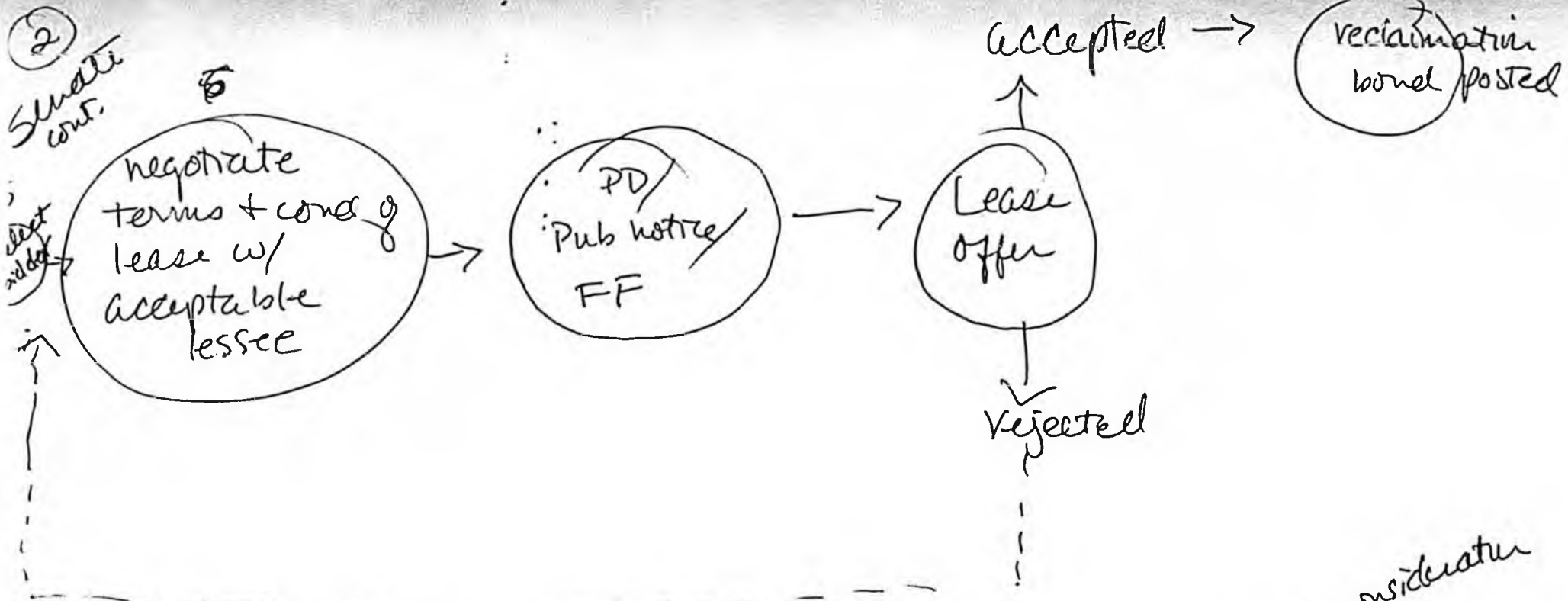
②
Planning
requirements
met



③
Agency
review
(60 days)

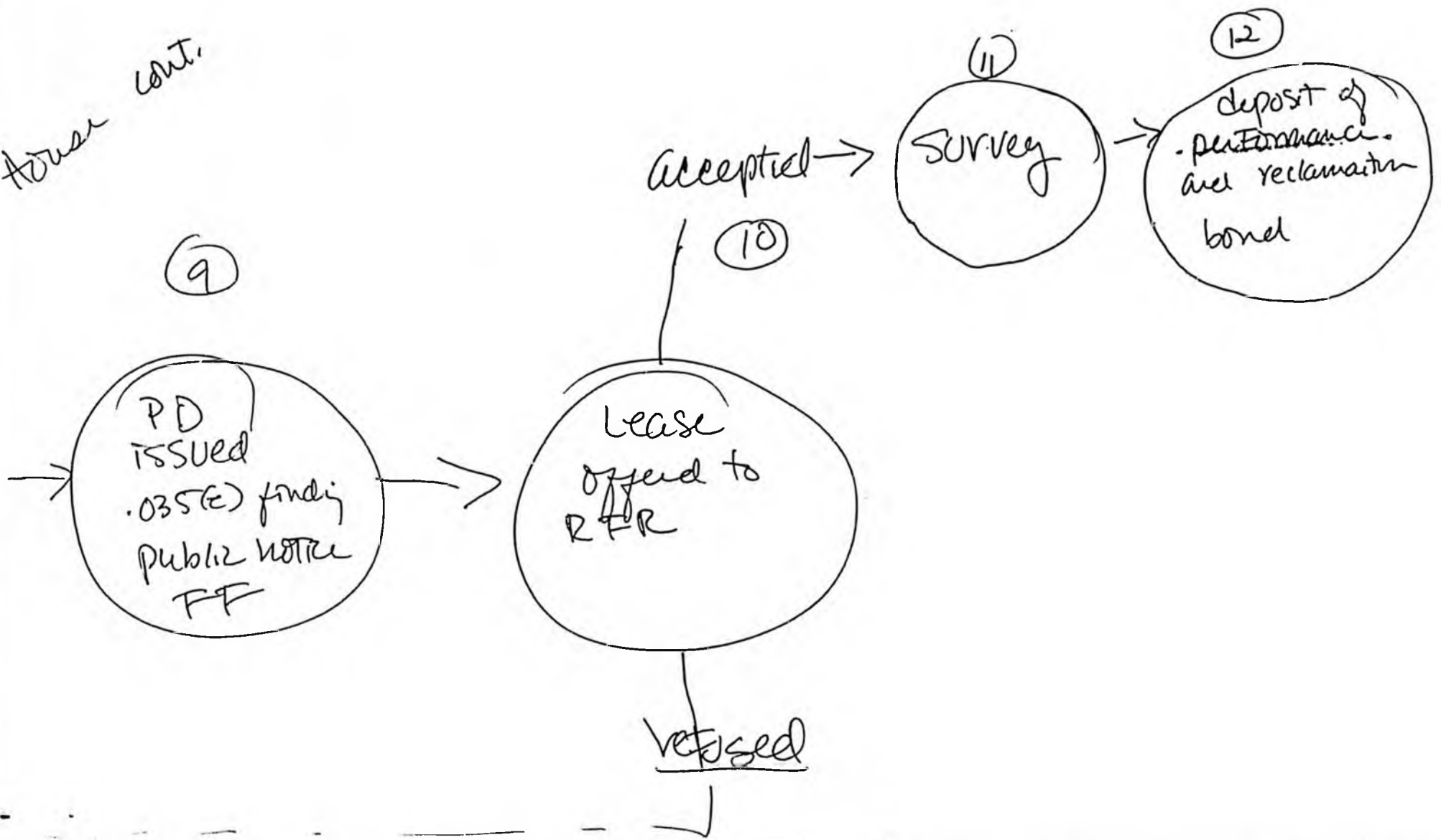


④
Draft BIF
90-day
Public notice



3

Answer cont.



STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

STEVE COWPER, GOVERNOR

3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 561-2020

February 14, 1990

The Honorable Curt Menard
Co-Chairman, House Resources Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Curt:

I was pleased to attend Tuesday night's teleconference hearing on CSHB 290(Res). This is already a solid bill that deserves support and enactment. The Department of Natural Resources recommends the following additional amendments that would further enhance and clarify the bill. We have attempted to cover concerns voiced at the two hearings, as well as ideas presented by departmental staff.

Reorder and amend AS 38.05.073(a) -- (b) as follows:

(a) The commissioner may identify land suitable for recreational facilities development leasing. In the discretion of the commissioner, land identified for recreational facilities development leasing may be offered for lease under this section. [EXCEPT FOR AS 38.05.070(A), 38.05.085(C), 38.09.090, AND 38.05.103, AS 38.05.070 -- 38.05.105 DO NOT APPLY TO LEASING UNDER THIS SECTION.] [(B)] Before requesting proposals from developers for land identified for leasing under [(A) OF] this section, the commissioner shall prepare and adopt a site-specific land use plan under AS 38.04.065 unless a regional land use plan has been prepared and adopted for the land. If a regional land use plan has been prepared and adopted for the land but does not specifically allow the type of development under consideration, the commissioner shall propose an amendment of the existing land use plan under AS 38.04.065.

(b) AS 38.05.070 -- 38.05.105 do not apply to leasing under this section, except for AS 38.05.070(a), 38.05.085(c), 38.09.090, and 38.05.103.

Justification: The new order puts the planning requirement in its proper place--early in the process. The revision within the new (b) is for clarity.

Amend (c) as follows:

(c) If the commissioner identifies land for recreational facilities development leasing under (a) of this section, the commissioner shall prepare a written request for proposals that includes [IF, AFTER COMPLIANCE WITH (B) OF THIS SECTION AND AFTER EVALUATING THE INFORMATION AND COMMENTS OBTAINED UNDER (B) OF THIS SECTION, THE COMMISSIONER DETERMINES THAT REQUESTING PROPOSALS FROM POTENTIAL LESSEES FOR RECREATIONAL FACILITIES DEVELOPMENT LEASING OF LAND IDENTIFIED UNDER (A) OF THIS SECTION IS IN THE BEST INTERESTS OF THE STATE, THE COMMISSIONER SHALL ISSUE A WRITTEN DETERMINATION INDICATING]

(1) the specific type of recreational facilities development for which the land may be leased;

(2) the form of compensation that the commissioner intends to require [THE MINIMUM COMPENSATION THAT THE STATE WILL ACCEPT] for the lease, as provided in (1) of this section [WHICH MUST AT LEAST EQUAL THE FAIR MARKET RENTAL VALUE OF THE LAND TO BE LEASED];

(3) the selection criteria that the commissioner will use to determine the eligibility of a developer, including the developer's financial backing and capability, experience in the proposed undertaking, ability to meet bonding or insurance requirements, [INSURANCE COVERAGE,] and ability to comply with resource and environmental analysis requirements; and

(4) the criteria that the commissioner will use to determine the suitability of proposals.

Justification: Describing the document as a written request for proposals, rather than a written determination after previously determining that "requesting proposals...is in the best interests of the state," clarifies its real purpose. This is not intended to be a "best interest finding" under AS 38.05.035(e) on the leasing decision itself; that occurs at a later point. The change in (c)(2) is necessary because at this stage in the process, the appraised value of the land and its fair market rental value are not yet known.

Amend (d) to read:

(d) After preparation of a request for proposals [ISSUING THE DETERMINATION] under (c) of this section, the commissioner may issue the request to solicit [FOR] proposals from persons who are interested in leasing the land for recreational facilities development. A request for proposals must be advertised at least three times in a newspaper of general circulation. The proposals submitted to the commissioner must include the specific facts on which the potential lessee bases its ability to develop the land, including its ability to comply with the terms identified in (c)(1) -- (4) of this section.

Justification: Changing the name of the document is to conform with the change in (c). The advertising requirement is necessary so that people do not misread the "may" in the first sentence to mean the commissioner has the discretion to request proposals in a non-public fashion.

Amend (f) to read:

(f) After soliciting proposals under (d) of this section, if the commissioner determines that two or more potential lessees are acceptable, the commissioner may select the potential lessee who submits the highest bid during an auction or by sealed bids, whichever method the commissioner chooses. The minimum bid is as determined by the commissioner [MUST EQUAL AT LEAST THE FAIR MARKET RENTAL VALUE OF THE LAND] plus the administrative fee established under (j) of this section. The commissioner shall also require the potential lessee to make an earnest money deposit under AS 38.05.860(b). After the commissioner selects a potential lessee, the commissioner may begin negotiations with the potential lessee to develop the terms and conditions for the lease.

Justification: As indicated earlier, the first addition is necessary because no appraisal would have been done at this stage. The second addition is a sentence moved here from subsection (j) to make the process flow more logically. The bid deposit should be mandatory to ensure good-faith bargaining.

Add to (g), after the sentence concerning notice under AS 38.05.945, the following: "During preparation of the preliminary decision, the commissioner shall consult with affected state agencies regarding issues within their area of responsibility and expertise."

Justification: Requiring interagency review reassures the public that other state agencies will have an appropriate voice in the whole leasing process.

Also in (g), add a new (2), renumber the subsequent paragraphs, and add a new (8) as follows:

(2) analysis of alternative sites:

(8) any studies or plans to be required by the commissioner, which may include an economic feasibility study.

Justification: An analysis of alternative sites is an important protection for the state. Allowing public review of alternatives aids in achieving the right project at the right location. Letting the commissioner require an economic feasibility study helps to prevent wasting agency time or even capital improvement funds on a project that has little prospect for success.

Amend the last part of (h) to read,

If a study or plan is required, the potential lessee shall [MAY] be required to provide and pay for it [THE STUDY]. For a large project where it has been determined under (g) of this section that there may be significant economic, social, or environmental effects or long-term commitments of natural resources, the commissioner shall require the potential lessee to prepare and submit a comprehensive economic feasibility study, to be completed no later than 18 months after the execution of the lease. State agencies with pertinent expertise or responsibilities shall be involved in the review of required plans and studies.

Justification: The payment question is related to the requirement for a feasibility study for certain large projects--to ensure that the developer's financial commitment does not lag behind the state's. Interagency review assures that appropriate expertise will be brought to bear on any required studies.

Amend (i) to read,

(i) If a potential lessee who was selected under (f) of this section declines the lease offer made under (h) of this section, the commissioner may begin negotiations with the potential lessee who provided the next highest bid under (f) of this section to develop the terms and conditions for a lease, in accordance with (g) of this section.

Justification: This addition is to clarify the intent. Some members of the public had thought this subsection was a

loophole that would let the commissioner negotiate a completely new set of terms and conditions with the next highest bidder without any public review.

In (j), as noted above, the second sentence should be removed and inserted into (f).

Amend (l) as follows:

(5) a fee for each user; [OR]

(6) other compensation acceptable to the commissioner; or

(7) any [A] combination of the above.

Justification: To increase the flexibility available to the department in negotiating a lease.

Amend the last sentence of (m) to read,

The annual compensation for each five-year period after the initial five years of the lease shall be calculated by the same method [AND FORMULA] used to establish the compensation for the initial five-year period.

Justification: It is fair and proper to retain the same valuation method, but the formula would not necessarily remain the same. Even for a simple calculation of rental that is expressed as a percentage of the parcel's fair market value (one of the ways to compute fair market rental), the percentage that a willing lessor would require varies over the years depending on inflation, interest rates, and other factors.

I would be pleased to work with you or Johanna Munson of your staff to clarify any of these proposed amendments.

Cordially,



Gary Gustafson
Director

cc: Frank Rue, ADF&G
Sue Flensburg, Bristol Bay CRSA

February 22, 1990

Rep. Curt Menard, Co-Chair
House Resources Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Re: Recreational Facilities Development Leasing (HB 290)

Dear Representative Menard:

We appreciate the opportunities your committee is providing for public testimony on proposed legislation regulating recreational facilities development leasing. We thought it might be useful to clarify and expand somewhat the oral testimony ACE offered at the February 1 hearing.

We very much support the goal of the committee and DNR to ensure that the state receives a reasonable financial return from the leasing for private benefit of its most valuable long-term public resource, its land. Historically, on both state and federal lands, within and outside of Alaska, compensation to the public landholder has generally at best been adequate to manage impacts generated by the project, that is, impacts that would not have occurred but for the project, providing no net benefits to the landholder's coffers.

Furthermore, we strongly support focusing our commercial facility development efforts on the state's unreserved multiple use lands, the lands managed by the Division of Land and Water Management. With a large unreserved state land base, we have no excuse for making the serious mistake made Outside, where commercial development on park lands has in far too many instances destroyed or substantially degraded the very natural resources which were the basis for the establishment of the park. Unfortunately, and totally unnecessarily, we seem to be headed in that direction at Denali State Park.

And we have seen how extremely controversial commercial facility development leasing proposals can be, especially those for major facilities, like the ones proposed for Eagle River, Hatcher Pass, and Denali State Park, and those that could pose substantial conflicts to subsistence uses, like lodge proposals in rural Alaska. Attractive sites for commercial recreational facilities will generally have long ago been recognized and widely used for a variety of other purposes. An orderly, comprehensive procedure can benefit everyone--the agencies, the possible developers, and the public--by weeding out speculative or inappropriate projects, preventing wasteful expenditures of time and money, and avoiding litigation.

If this bill is to address concerns other than ensuring a reasonable financial return to the state, we would like to address a few of those issues.

1. Initial Land Allocation Decision. The initial land allocation decision is critical and deserves very careful consideration. The decision should be an interagency one and should require full public involvement. We feel uncomfortable relying totally on regional land use plans and believe that in every case the public should have some opportunity to comment before the process has proceeded all the way to the approval of lease terms and conditions phase. Regional plans deal with millions of acres of land. The decisions are necessarily somewhat abstract. In those situations where a site-specific plan or an amendment would be required (see subsection (b)), we feel fairly comfortable with the initial public participation opportunity. However, we have two concerns regarding the third situation (where a regional plan "specifically allows" the type of development under consideration).

Recommendations:

a. It should be made very clear that the mere fact that a land use designation or classification (such as "Resource Management") in the regional plan allows commercial development doesn't qualify as a specific allowance. The Management Intent or Management Guidelines narrative should have to specifically mention, and authorize, the type of development under consideration.

b. Even if a plan specifically mentions and authorizes the development, some minimal opportunity to comment should be provided at this initial stage, when the reality of a specific, focused proposal on a specific piece of land is first concretely proposed to the public without the distraction of hundreds of other competing issues affecting millions of acres of land. We suggest the following at the end of subsection (b): "If an adopted regional land use plan specifically allows the type of development under consideration, the commissioner shall nevertheless, before issuing a request for proposals, provide the public and other interested agencies with an opportunity to offer scoping comments regarding the proposed development and the issues which should be addressed in the Preliminary Decision required under (g) of this section."

including
local
government
groups

2. Lands Available for Lease. This bill appears to allow DNR to lease lands regardless of any legislative or other designation they might have received. This is clearly inappropriate.

Recommendation: For legislatively designated lands entrusted to the management of an agency other than the Division of Land and Water Management (such as ADF&G), DNR should be allowed to proceed only with the concurrence of that agency.

3. Agency Involvement. Other interested agencies should be closely involved throughout the process. Their involvement should not be limited to commenting on a preliminary decision at the same time the public is commenting; when that happens the public does not have the benefit of the other agencies' perspectives and

concerns prior to commenting.

Recommendation:

a. Insert at the end of subsection (b): "In preparing a site-specific plan or proposing a plan amendment, the commissioner shall consult with other interested state agencies."

b. In subsection (g), insert the language proposed by Gary Gustafson.

4. Economic Feasibility. At least for major projects, economic feasibility, not environmental or social feasibility, generally determines whether or not the projects go forward. This was true for Eagle River and Hatcher Pass, and it appears that it will also be the case for South Denali. Unfortunately, there is no requirement, and to date we have not decided administratively to require, that a determination of likely economic feasibility be made prior to the expenditure of thousands of agency hours and thousands of public dollars. When, for varying reasons, economic feasibility determinations were finally made for Eagle River and Hatcher Pass, the conclusion reached was that the projects were not feasible. We don't know what will happen at South Denali, since after about 2 1/2 years of agency work attempting to justify the most recent proposal, an economic feasibility determination acceptable to the Division of Parks has yet to be made public.

In all three of these cases, we believe enough was known about the projects to do a determination long before one was actually done. For example, what did Mitsui learn a couple of weeks ago about the nature or scope of its proposed project from the phone calls it made to a few travel agents and airlines (after which it pulled out) that it did not know more than a year ago when it submitted its concept development plan--or even earlier? The relatively little money Mitsui spent doing low quality work on a prospective multi-million dollar project was for it a drop in the bucket. For state resource agencies with far too few individuals to do an adequate job of on-the-ground management of state lands, and budgets stretched about as thin as they can get, the waste of hours and dollars was substantial (please also see Tim Bradner's Feb 11, 1990 column in the Anchorage Daily News, which we have enclosed).

Recommendations:

a. For large projects, a preliminary determination of economic feasibility, based on available information, should be made either by the state before it requests proposals, or by the companies submitting proposals.

b. Within six months after a lease is signed the lessee should be required to submit a more detailed determination.

We appreciate Gary Gustafson's proposals addressing this issue, and

support authorizing the commissioner in subsection (g) to require lessees to prepare an economic feasibility study. This flexibility is probably appropriate in most situations. For large projects, however, which Gary would address in subsection (h), we believe that waiting 18 months for such a study is far too long and unnecessarily puts at risk too many hours and dollars of public resources.

5. State Subsidies. Another economic issue that is of great interest to the public, and to many decision-makers, is the amount of public subsidies a project is likely to require. For example, only when it became apparent that Mr. Rogner wanted millions of dollars worth of state loan guarantees did we decide to put a halt to lease processing pending the completion of an economic feasibility study, and require him to fund 1/2 of it (it's unfortunate that we aren't as protective of our public lands as we sometimes are of our public monies). The South Denali Preliminary Decision circulated for public comment contained no discussion of possible public subsidies. It was only after a direct question was asked at the Anchorage public meeting that DNR said that a \$6-10 million state subsidy for resort roads and utilities was likely. In the relatively short time since that meeting the estimate has risen to some \$14 million. At the Preliminary Decision stage, DNR should be required to estimate the likely amount of public dollars that will be needed (we know that would have been possible, at least roughly, for South Denali).

Recommendation: Insert a new (c)(3): "the estimated capital and operating costs to the state;".

6. Social, Economic and Environmental Studies. It is not unusual, at the federal level, for those who wish to profit from public resources to be required to bear the costs of any social, economic or environmental studies that are needed by the decision-makers and the public to arrive at a sound decision about the best use of public lands or resources. We agree with Mr. Bradner that, for large resource development projects, the state should follow the federal lead and require the developer to pay for necessary studies. The state should be a prudent steward of its lands and natural resources, not a pushover. Will such a requirement really discourage serious developers who have done their homework? We doubt it. What it might do is prevent the public waste of precious agency time and money, and weed out the speculators and the flakes.

Recommendation: In subsection (h) change "may" to "shall".

7. Adequate Financial Return to State. We understand that one of the primary reasons for this bill is DNR's desire to ensure that the public receives a reasonable return for the use of public land for profit making purposes by private individuals or businesses. As we said earlier, we fully support that goal. However, why shouldn't this goal apply to all leases, not just those for recreational facilities? And why is Gary proposing to delete the requirement that the state receive at least fair market rental

value for its lease? Although a dollar figure might not be able to be calculated until an appraisal is done, the ultimate requirement should remain.

Recommendations:

- a. Apply the financial return provisions to all leases.
- b. At subsection (l), page 4, line 21, insert between "section" and "may" the phrase "must at a minimum equal the fair market rental value of the land to be leased and".

8. Evaluation of Alternative Sites. After a general area for possible leasing has been identified in subsection (b), it is still critical that several potential specific locations be evaluated. The environmental impacts at, or the political acceptability of, different specific locations can vary tremendously, as our experience at South Denali has demonstrated.

Recommendation: Insert at subsection (g) the language suggested by Gary Gustafson.

9. Bonding. At subsection (o), why shouldn't the bond cover all three possible needs: completing the development, maintaining the development, and restoring the lease site?

Recommendation: Rewrite lines 14 and 15 at page 5 to read "the department of the following:".

Thank you again for all your work on this bill. We would be happy to answer any questions you might have or to help in any way we can.

Sincerely,

Cliff Eames

Cliff Eames
Issues Director

cc: Committee Members
Senator Kerttula
Gary Gustafson

State can learn from the failure of ambitious resort plans

Mitsui's cancellation of its Hatcher Pass ski resort was a real disappointment. But coming not long after Austrian developer Robert Rogner shelved his ambitious Eagle River ski resort plan, it should have been no surprise.

In terms of winter tourism development, we're now left with Seibu's planned expansion at Mount Alyeska, which fortunately is moving ahead, Seibu Alaska told state officials last week.

All this seems to confirm the cynic's view that these ambitious plans were spawned by Anchorage's

Anch. Daily News
Feb 11, 1990

tim bradner



Winter Olympics bid. That having failed, for now at least, the "world-scale" resort projects faded away fast.

What have we learned from this? Two things are striking about Mitsui's plan, and that of Rogner's as well.

First is that neither seemed to have their project really thought out in terms of markets and problems like getting seats on international air carriers coming into Anchorage, both pretty basic. The second is that both projects required a considerable

investment of public dollars in dealing with their applications.

Let me first deal with this second issue: State agencies and local governments put a lot of time and money, including contracted consulting studies, into dealing with projects that in retrospect seemed highly speculative. Rogner and Mitsui also put up money, but I'll wager the public expenditure exceeded that private investment.

I'll admit the counter-argument that public agencies may spend too much money on planning and studies. But

I don't really buy that, in these cases.

Another argument. The planning work may not be wasted if it can be used by others someday proposing resorts in Hatcher Pass or Eagle River. That, however, just reminds me of the huge public expenditure we blew on environmental and feasibility studies for the Susitna River hydro project, now abandoned, that are still sitting around on shelves.

I'm a believer in the idea of public-private partnership in economic development, and that, at a certain point, it makes sense for public

investment to help a private project that generates public benefits move along.

But having seen two "world-scale" international tourism projects fade away, I would suggest federal and state governments require developers of these large resource-development projects to pay for an environmental impact statement (or an environmental assessment, in the case of state agencies) that also includes social and economic components. This work is actually done by private contractors working

Please see Page E-3, BRADNER

BRADNER: Alaskans can learn from disappointment after resort plans fall through

Continued from Page E-1

for the agencies involved, but with considerable involvement by the developer.

If this has the effect of increasing a developer's front-end investment in the conceptual stage, that's not all bad. If we up the entry fee a bit, it might make entrepreneurs and developers look more carefully, and perhaps do their homework

more thoroughly, before launching a process that costs us all money, arouses our expectations and then leads to disappointment.

Going to the first point made earlier: I was surprised at the evident lack of basic market research by Rogner and Mitsui. Rogner hadn't done a real market study until the legislature, as a condition to discussions of state investment, required

him to foot half the bill for a study done through Alaska Industrial Development and Export Authority. Rogner's project didn't look very good in that assessment, possibly a factor in his shelving the project.

With Rogner, we can accept, even admire, a certain amount of entrepreneurial seat-of-the-pants venturing, even if it costs us money. But we hold Mitsui, which is

a major Japanese world trading company, to a different standard.

We assumed Mitsui had its project thought-out and knew its own market in Japan. Turns out, it didn't. As far as state officials involved with the project could determine, Mitsui never did do a real market study. It did make inquiries of tour agencies and airlines,

the company told state officials.

In fairness, Mitsui always candidly said that its project was contingent on markets and feasibility. If Alaskans allowed their expectations to soar, that was their problem, not Mitsui's.

But all this has left a bit of a sour taste for me. We desperately need new tourism facilities in Alaska, and a winter resort, properly

planned, could help ease the overcrowding during summer. I just hope our disappointment with the Rogner and Mitsui projects doesn't hurt public acceptance of other tourism proposals.

□ Tim Bradner is editor of an Alaska economic reporting service, and does research and writing for private clients, including petroleum companies.

Tanana Chiefs Conference, Inc.

122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
Fax (907) 451-8936

February 2, 1990

Representative Curt Menard
Alaska State Legislation
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Menard:

The Tanana Chiefs Conference, Inc. would like to comment on HB 290, "an Act relating to the leasing of State land for recreational facilities development". The implications of this legislation greatly concerns us. As you can imagine, a commercially leased hunting lodge on a river can have as much impact in terms of competition for Natural Resources as a state subdivision could have.

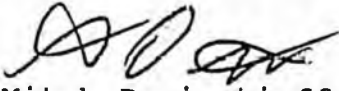
With the history of problems surrounding land disposals in our region in the past, we must insist on a through review of this legislation by your committee complete with public hearing.

Our region has 2 area plans and a large part of the region is not covered by an area plan. The area plans are not nearly site specific enough to base a decision to lease a commercial facility on. We are not comfortable with the public participation process outlined in the site specific planning process for areas not covered by area plans.

We appreciate your consideration of our concerns and look forward to working with you on this in the future.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.


Mitch Demientieff
President

CC: Members of House Resource Committee



Tanana Chiefs Conference, Inc.



122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
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February 27, 1990

Representative Curt Menard
Alaska State Legislature
P.O. Box IV (MS 3100)
Juneau, Alaska 99811

Dear Representative Menard:

Enclosed is a resolution passed by the Tanana Chiefs Conference Executive Board on February 21, concerning the State Land Leasing Bill, HB 290. Our region is about the size of France and has an abundance of State land mixed with Federal and Native land. The potential effects of this bill are very serious for the region.

We have had a great deal of experience with state land disposal activity. The 100,000 acre mandate of the early 80's left a wake of outrage in the region with proposals made by the state in extremely sensitive areas. One lawsuit over a disposal still remains and the future of state land disposal activity in the region is unclear. The biggest potential threat of land disposal or lease is increased competition for natural resources. The land is already at human carrying capacity for the most part.

The course of the bill is very unsettling. The attempts of the original bill to involve the public and Fish and Game early in the process were removed in the current working draft adding insult to injury.

The Tanana Chiefs Conference supports the adjustment to the statutes allowing the state to receive fair compensation for leases it presently does. But, as the resolution states, we do not support authorizing the Commissioner of Natural Resources to identify lands for leasing.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

Mitch Demientieff

Mitch Demientieff
President

TANANA CHIEFS CONFERENCE, INC.
Executive Board
Resolution No. 90- 20

LEASING OF STATE LAND

WHEREAS the uses of State land can profoundly affect the availability of natural resources for the TCC villages, and;

WHEREAS a program by the Department of Natural Resources to actively go out and identify new lands to offer to the general public for leasing could result in unmitigated competition for resources the villages depend on, and;

WHEREAS the public in-put process and Alaska Department of Fish and Game in-put process is not adequate in the proposed version of House Bill 290.

NOW THEREFORE BE IT RESOLVED that the Tanana Chiefs Conference opposes the provisions of House Bill 290 that allow the Commissioner of Natural Resources to identified land for leasing.

C E R T I F I C A T I O N

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc. Board of Directors on February 21, 1990 at Umeau, Alaska and a quorum was duly established.

Daisy Northway / R.L.J.
Daisy Northway
Secretary-Treasurer
Tanana Chiefs Conference, Inc.

Submitted by: VGS

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1989

SUBJECT: Sectional analysis of HB 290
(Work Order No. 6-0798E)

TO: Representative Curt Menard
Chair, Resources Committee

FROM: Theresa L. Bannister *TLB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 is the only section of the bill.

Sec. 38.05.073(a) authorizes the commissioner of natural resources to identify land that is suitable for recreational facilities development leasing. Authorizes the commissioner to offer the land for such leasing. Identifies certain sections that do and do not apply to leasing under this section.

Sec. 38.05.073(b) directs the commissioner to prepare and adopt a site-specific land use plan, if none exists, or to amend an existing plan, if an incompatible one exists, for the identified land before requesting leasing proposals from developers.

Sec. 38.05.073(c) directs the commissioner, after certain events, to determine in writing whether or not requesting leasing proposals from potential developers is in the best interests of the state. Identifies what this best interests decision must include.

Sec. 38.05.073(d) directs the commissioner to consult with and obtain comments from certain state agencies before making the detailed statement discussed under (c). Requires the agencies to provide their comments within 60 days.

Sec. 38.05.073(e) directs the commissioner to issue a draft best interests decision in writing and to publish notice of the decision under AS 38.05.945. Directs that copies be made available to the public. Allows the public 90 days from publication to comment on the decision.

Sec. 38.05.073(f) directs the commissioner to issue a final best interests decision after reviewing and considering the public comments and to give public notice of the decision under AS 38.05.945.

Sec. 38.05.073(g) allows the commissioner to request proposals for leasing the land for recreational facilities development if the commissioner finds that the request best serves the interests of the state. Identifies what the proposals must include.

Sec. 38.05.073(h) directs the commissioner to require a developer who submits a proposal for development to the commissioner under (g) to make a deposit to cover certain expenses. Requires the resulting lessee to pay the total administrative expenses of making the offering. Directs that the deposits of other developers submitting proposals be refunded after the land is leased.

Sec. 38.05.073(i) authorizes the commissioner to grant a right of first refusal to, and to begin negotiations of lease terms with, a developer who satisfies the proposal requirements, if only one developer satisfies the requirements.

Sec. 38.05.073(j) authorizes the commissioner to grant a right of first refusal to, and to begin negotiations of lease terms with, the developer who has submitted the best proposal, as determined by the commissioner, if the commissioner determines that the proposals of two or more developers satisfy the proposal requirements.

Sec. 38.05.073(k) authorizes the commissioner to require each developer who is offered a right of first refusal to pay a nonrefundable filing fee.

Sec. 38.05.073(l) allows a person aggrieved by a decision of the commissioner under (i), (j), or (n) to request the commissioner to reconsider the decision.

Sec. 38.05.073(m) authorizes the commissioner, after agreeing on proposed lease terms with a developer, to issue a preliminary decision in the manner provided in AS 38.05.-035(e) that leasing the land under the proposed terms best serves the interests of the state. Requires the commissioner to give public notice of the decision under AS 38.05.945 and to request comments from the public. If, after the notice and comment period, the commissioner makes a final determination that a lease will best serve the interests of the state, authorizes the commissioner to offer the lease to the developer. Directs the commissioner, when making the final determination, to consider certain items.

Sec. 38.05.073(n) authorizes the commissioner to offer a right of first refusal to the developer who provided the next best proposal, if a developer selected under (j) declines the lease offer. Authorizes the commissioner to go down the list of proposals that satisfy the proposal requirements until the commissioner finds a developer who accepts the offer of a right of first refusal. Authorizes the commissioner to begin negotiations on the terms of the potential lease with the developer who is granted a right of first refusal under this subsection.

Sec. 38.05.073(o) states that the commissioner is not obligated to grant a right of first refusal under (i), (j), or (n) of this section.

Sec. 38.05.073(p) states that the compensation to be paid for a lease under this section may include certain items in the discretion of the commissioner.

Sec. 38.05.073(q) directs that the annual compensation paid for a lease is to be reevaluated and adjusted at five-year intervals. Directs that the same method and formula used for the first five-year period is to be used to establish the compensation for subsequent five-year periods.

Sec. 38.05.073(r) requires that before a lease is issued under this section the land must be surveyed.

Sec. 38.05.073(s) requires the commissioner, before entering into a lease, to require the lessee to provide certain secu-

Representative Curt Menard
Page 4
April 18, 1989

rity to cover costs to the department involving one or more listed items, as determined by the commissioner.

Sec. 38.05.073(t) prohibits a lease from having a term that exceeds 55 years. Allows the commissioner, when the lease expires, to offer the lessee a right of first refusal on a new recreational facilities development lease for the same land if the commissioner determines that leasing the land for an additional term best serves the interests of the state.

Sec. 38.05.073(u) subjects a lessee to appropriate legal action and penalties, including forfeiture of the lease, if the lessee violates a provision of this section or of the lease.

Sec. 38.05.073(v) directs the commissioner to separately account for the money collected under this section that the department deposits in the general fund. Authorizes the legislature to use the annual estimated balance in the account to make appropriations to the department to carry out the purposes of this section.

Sec. 38.05.073(w) defines "recreational facilities development".

If I may be of further assistance, please advise.

TB:kb
wkk4/020