

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6561 SENATE RESOURCES

8672

965

the negotiations. The end result after several rounds of talks was that Japan dropped their request for the 1989 fishing season because the U.S. counterproposal was unacceptable.

The 1989 mothership fishery was then carried out with an old Hokuten trawler serving as the "mothership" (the vessel was reportedly going into bankruptcy and was commissioned very cheaply) and 56 catcherboats divided into two fleets. Reports indicate that many of the catcherboats already had freezer capacity installed and that some deliveries were made directly to trampers or to shore. The Soviet quota for the mothership fleet for the 1989 season was 2834 mt. The Japanese harvest reportedly fell short of this because the fleet reached the pink cap early in the fishery. Please see enclosure 1.

The Japanese have again raised the conversion issue at INPFC. This issue is the subject of on-going negotiations between Canada, Japan and the U.S. The next round of talks is scheduled for March 27, 1990.

In 1989, the Japanese once again sought entry back into the U.S. EEZ for the mothership fleet. This was successfully blocked.

U.S./U.S.S.R. Agreement

In May, 1988 the U.S. and the U.S.S.R. signed a comprehensive fisheries agreement. The Legislature recognized this as a significant new opportunity to address the high seas problem. Specifically, the resolution stated:

...be it FURTHER RESOLVED that the Alaska State Legislature respectfully requests the United States Department of State to immediately begin negotiating a joint enforcement agreement with the Soviet Union in order to prevent illegal fishing in the North Pacific Ocean; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests the United States Department of State to begin negotiating with all the salmon producing countries for an international treaty that would ban all high seas salmon fishing...

Status: The State of Alaska has been very successful to date with the U.S./U.S.S.R. initiative. The U.S./U.S.S.R. comprehensive fisheries agreement was signed in May of 1988. Ratifying legislation passed the Congress later that year. The state was able to get language establishing a North Pacific and Bering Sea Advisory Body (Advisory Body) inserted

into the legislation. The Advisory Body consists of the Commissioner of Alaska Department Fish and Game, the Director of Washington Department of Fisheries, and ten industry representatives (five each from Alaska and Washington). Two legislators, Senator Binkley and Representative Cotten, also serve on the Advisory Body. Through the Advisory Body we have been able to accomplish most of our U.S./U.S.S.R. objectives.

The first meeting of the ICC occurred in February of 1989 in Washington, D.C. The U.S. government was not well prepared for this meeting. The state was able to get a draft cooperative enforcement proposal introduced despite initial objections to the concept by Coast Guard and Defense. This cooperative salmon enforcement MOU was signed at the February meeting.

Also at this meeting, the Soviets tabled what appeared to be a hastily drafted salmon proposal. It was agreed that discussions should proceed on salmon management issues at the next ICC meeting, which was scheduled to take place in the U.S.S.R. Previous to this, the U.S. and U.S.S.R. had not discussed salmon management issues in any depth despite several earlier opportunities.

In response, the state, working with industry, drafted a proposed salmon management regime for the North Pacific. This was reviewed and adopted by the U.S./U.S.S.R. Advisory Body. The proposal would replace INPFC with a new treaty which would prohibit the taking of salmon on the high seas. The treaty would be between Japan, Canada, the U.S.S.R. and the U.S. This draft eventually became a formal U.S. proposal which was presented to the Soviets in Leningrad in late September, 1989. After several days of negotiations the proposal was conceptually approved by the two countries. Drafts have been presented to Canada and Japan for their review. Four way negotiations will probably begin later in 1990.

In addition to the above, the state pushed for a joint U.S./U.S.S.R. salmon science conference. The purpose is to foster improved communication among our respective scientists on salmon matters. Up to now, most of the information we have had on U.S.S.R. stocks has come from the Japanese. Similarly, the Japanese have supplied the Soviets most of the information they have had regarding our stocks. The same situation existed for data regarding catch and quota statistics for the Japanese high seas salmon fisheries. The idea to hold a salmon conference was floated in October, 1988 at the U.S./U.S.S.R. science bilaterals. The first such conference was hosted by the U.S.S.R. at Sakhalin in early September 1989.

Magnuson Act Reauthorization

Regarding the Magnuson Act reauthorization and the high seas interception issue, the Legislature resolved in CSSJR6:

that the Alaska State Legislature respectfully requests the Congress to amend the Magnuson Fisheries Conservation and Management Act (16 U.S.C. 1801 - 1882) to ensure that United States jurisdiction over American anadromous species on the high seas will be effectively enforced to stop interception of salmon and steelhead on the high seas...

Status: The state developed language to strengthen U.S. assertions of jurisdiction over anadromous species. This language, or a variation of it, is in both House and Senate versions of the MFCMA reauthorization bills. The House version recently passed; the Senate has yet to act. In addition, given events on the international front regarding driftnets, the state will be working to strengthen the Driftnet Act as well.

High Seas Squid Driftnet Fisheries

The squid driftnet fleets of Taiwan, Korea, and Japan are having a significant impact on North American salmon and steelhead stocks, marine mammals, seabirds, and other living marine resources. The Legislature recognized this problem, and the state mounted an aggressive campaign on this issue in 1989. The Legislature stated in the resolution:

...be it FURTHER RESOLVED that the Alaska State Legislature respectfully requests the United States Department of State and the Congress to take whatever actions are necessary to control the illegal and unregulated fishing activities of the South Korean, Taiwanese, and Japanese squid fleets...

Status: The state mounted an aggressive campaign to address the squid driftnet issue on a number of levels. The state has been deeply involved in the strategy sessions and attended nearly all of the 1988/1989 negotiations conducted under the Driftnet Act of 1987. There now are agreements with all three driftnet fishing nations. Each agreement is somewhat different, each has its strong points and its weak points. These agreements are summarized in enclosure 2. Two countries were certified for failing to meet the deadlines contained in the Act: Taiwan and Korea. No trade sanctions were taken in either case.

As part of the international effort, a state representative was sent to the South Pacific Forum meeting in Suva, Fiji to attend the first round of talks between the Forum Fisheries Agency (FFA) representing 16 South Pacific nations and delegations from Japan, Taiwan, and Korea. These talks centered on the impacts of driftnets on southern albacore stocks. The state was able to assist the FFA on both a technical and political level, and established a good working relationship with the FFA countries. A meeting was held in New Zealand following the Suva meeting with the now-Prime Minister where a North/South strategy was discussed to address our mutual concerns regarding driftnet fisheries, including taking this issue to the United Nations.

The state also joined up with British Columbia and the states of Washington, Oregon, California, Idaho, and Hawaii to bring pressure to bear on the federal governments of Canada and the U.S. This coalition of Alaska, the Province and 5 western states issued a Proclamation on High Seas Driftnet Fisheries in the North Pacific Ocean which called for a number of actions to be taken collectively by the two nations to protect North American fisheries resources, marine mammals, seabirds, and other living marine resources of the North Pacific. The Proclamation also called for an international ban on driftnet fishing on the high seas.

In addition, the state embarked on an ambitious campaign to bring together a broad coalition of interest groups to attack the driftnet problem on both a national and international level, including environmental organizations, commercial and sport fishing groups, and other public interest groups.

The result of all this effort has been greatly heightened international concern regarding high seas driftnets. The United Nations resolution on driftnets (enclosure 2), which passed in December 1989, is a good demonstration of this. While not an answer in and of itself, the resolution does point up increased international concern on the issue, and calls for a moratorium on large scale driftnet fisheries by 1992 unless effective conservation measures are in place. Of course, the interpretation of "effective conservation measures" will be a contentious issue, and the state will need to stay on top of implementation of the resolution.

Pelly Amendment

The Legislature stated the following regarding the Pelly Amendment:

...be it FURTHER RESOLVED that the Alaska State Legislature respectfully requests the Congress to expand the Pelly Amendment to

- (1) provide for sanctions against foreign nations whose fishermen intercept anadromous species on the high seas or who refuse to cooperate with the United States in developing and enforcing international fishing regulations to prevent interception of anadromous species on the high seas; and
- (2) include in the sanctions against those nations embargoes on fisheries and other products imported from those nations...

Status: The state has expressed strong support for legislation pending in Congress to strengthen and broaden the Pelly Amendment sanctions.

Funding to Address High Seas Issues

The Legislature called for increased funding for high seas programs, stating:

that the Alaska State Legislature respectfully requests the Congress to provide continued funding for the United States high seas observer program and other salmon research programs and to provide funding for increased enforcement of high seas conservation agreements by the United States Coast Guard.

Status: The state joined with industry and other states to address a number of funding issues for federal fisheries programs. This was a successful effort and federal fisheries budgets for high seas interception have been substantially increased. Enforcement and monitoring budgets have been increased over last year, and \$3 million was specifically added to the NOAA budget to implement the Driftnet Act agreements. This year we will be asking for \$7.5 million for this program.

Enclosures

THE HIGH SEAS SALMON FISHERIES OF JAPAN, 1989

by

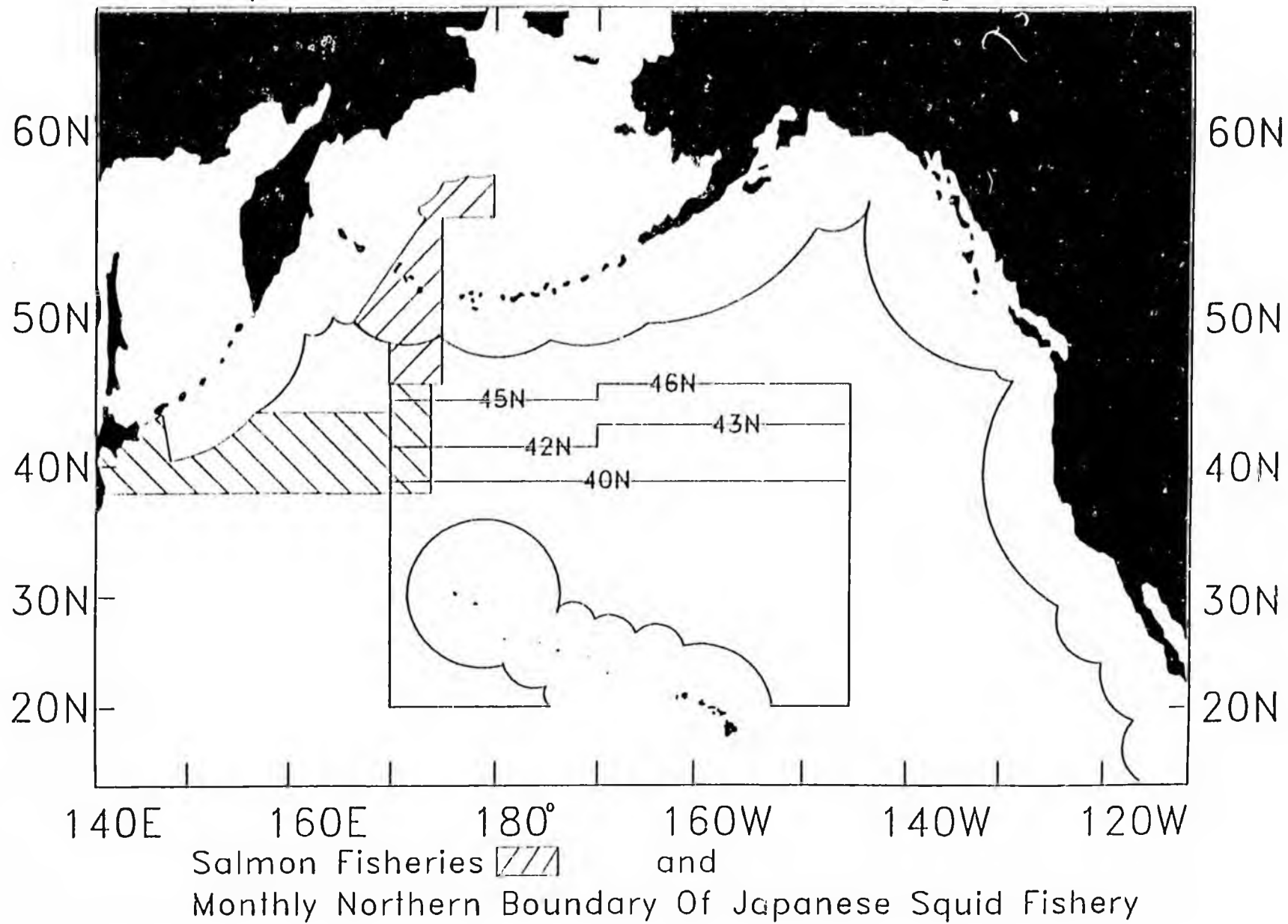
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(907) 789-6002

Submitted to the
U.S. NATIONAL SECTION

INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

1989 U.S. Section Meeting of INPFC
Anchorage, Alaska
September 28, 1989

Squid And Salmon Driftnet Fishing Areas



Japanese High Seas Salmon Fisheries, 1989

Mothership Fishery

Fishing Effort

The Nikkeiren (Federation of Japan Salmon Fisheries Cooperative Associations) chartered the factory trawler Zuiyo maru (2,459 GT), at the request of the bankruptcy administrator of Hokkaido Gyogyo Kosha, from May 9 to August 8 to serve as a mothership during the 1989 fishing season. The vessel was hastily repaired by its crew of 37 in May and because of its smaller size operating costs were reduced to one-tenth of those in the past. The mothership with 32 catcher boats departed Hakodate on May 29, began fishing on June 2 in Area 2-a, and ended fishing there on June 25 (21 days). Sixteen standard fleet days (14,190 tans) were fished in Area 2-a in 1989, the same fishing effort as in 1988.

After June 25, the mothership moved to Area 4 where they were joined by a fleet of 24 catcher boats which had departed Hakodate on June 21. Fishing in this area began on June 29 and ended on July 11 (12 days), after which the vessels left the area and returned to Hakodate and other ports on or about July 20. About 7 fleet days of standard fishing effort were expended in Area 4 in 1989 as compared to 18 fleet days in 1988. The 1989 CPUE must have been at least twice that of 1988 in order to catch 1,234mt in 12 days with only 24 catcher boats. In the 1988 fishing season, 1,452mt were reported caught with 18 standard fleet days of fishing effort using 43 catcher boats in Area 4.

Catch

The total quota for Area 2-a set by Japan/Soviet bilateral negotiations was 2,981 mt. Of this, the domestic allocation for the mothership fleet was 1,600 mt, or about 54% of the total Area 2-a quota. The quota in Area 4 was set by the bilateral negotiations at 1,234 mt. The total mothership quota (Areas 4 and 2-a combined) of 2,834 mt was reportedly not met because of "poor catches in Area 2-a". The fleet reportedly left the fishing grounds when the pink salmon quota was achieved, leaving about 30% of the other species quotas unmet.

Retention of Salmon Aboard Catcher boats

The Soviet Union, at the April 1989 bilateral salmon negotiations with Japan, approved a Japanese request for allowing processing of salmon on board some of the catcherboats (without transferring to the mothership). Approval was also given for the processed salmon to be brought back to Japan aboard the catcher boats provided that the salmon were inspected by Japanese and Soviet inspectors aboard the mothership before leaving the fishing area.

Japanese High Seas Salmon Fisheries, 1989

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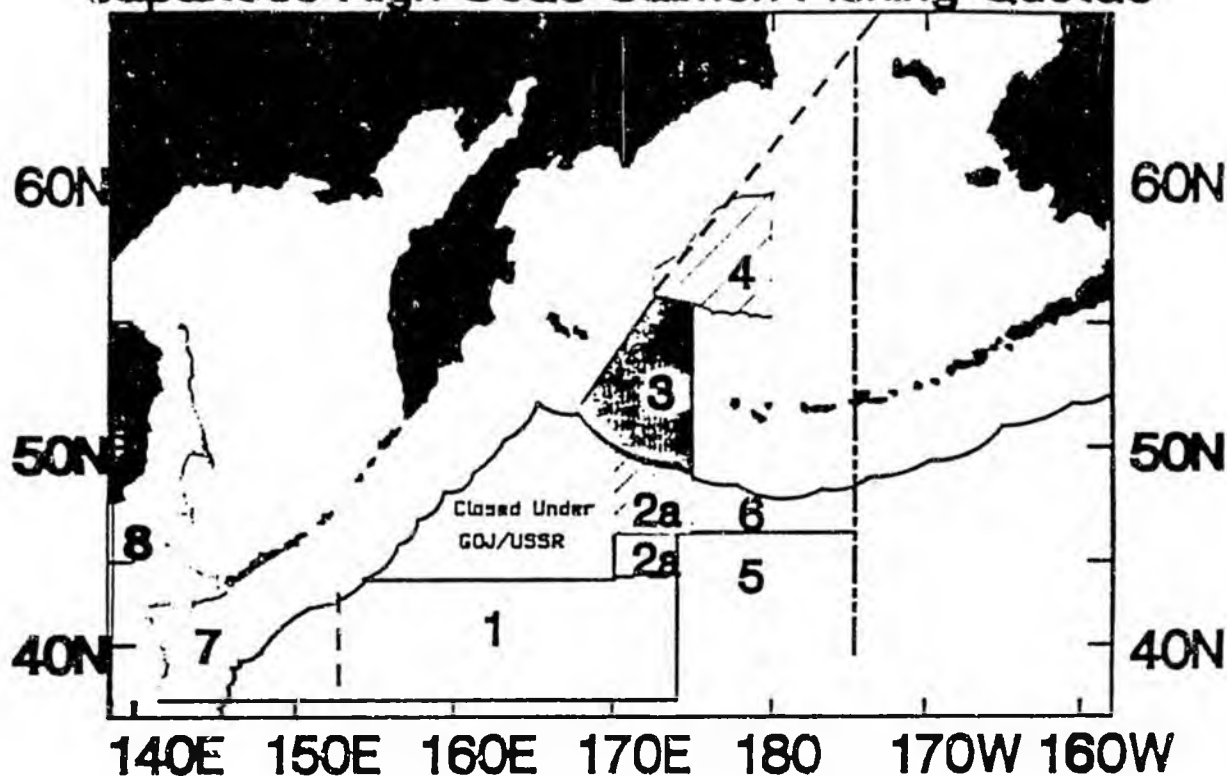
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Based on Soviet approval, 10 of the 32 catcherboats fishing in Area 2-a and 8 of the 24 catcherboats fishing in Area 4 did not transfer their catches to the mothership. Instead, they salted their catches (in a manner similar to that done by the LBDN fleet) and brought them back to Japan, landing them at Hakodate, Kushiro, Hanasaki, Nemuro and Akkeshi, much to the dismay of the traditional landbased salmon fishermen. The date for landing and auction of the product from the mothership catcher boats was adjusted in order to avoid auction on the same day as that for the LBDN fleet. The remaining catcher boats transferred their catches to the mothership for freezing. Two transport vessels brought frozen salmon back to Japan from the mothership.

Landbased Salmon Fishery

Total 1989 catch information for this fishery is not yet available. Species composition data indicate increased proportions of sockeye and pink salmon caught in 1989 as compared to 1988. The relative proportion of chum salmon decreased from 59% of the catch in 1988 to 38% in 1989.

Japanese High Seas Salmon Fishing Quotas



Quotas by area:	Metric Tons	
	1988	1989
1	7,984	6,485
2a Landbased	1,240	1,381
2a Mothership	1,415	1,600
3	0	0
4	1,851	1,234
7	2,878	2,356
8	2,300	1,944
Totals	17,668	15,000

1989 Japan-Soviet Salmon Agreement
--Quotas--

1. Quota by Species:	<u>Metric Tons</u>		<u>1,000 Fish</u>		Change in No. (%)
	<u>1988</u>	<u>1989</u>	<u>1988</u>	<u>1989</u>	
<u>Species</u>					
Pink Salmon	11,295	9,935	11,329	9,948	-12
Chum Salmon	4,086	3,410	2,035	1,710	-16
Red Salmon	949	744	483	383	-21
Coho Salmon	954	588	504	266	-47
<u>King Salmon</u>	<u>384</u>	<u>323</u>	<u>113</u>	<u>95</u>	<u>-14</u>
Total	17,668	15,000	14,464	12,402	-14

2. Quota by Area:	<u>Metric Tons</u>	
	<u>1988</u>	<u>1989</u>
Area 1 Traditional Land-Based	7,984	6,485
Area 2a Traditional Land-Based	1,240	1,381
Mothership	1,415	1,600
Area 3 Mothership in the U.S. EEZ	0	0
Area 4 Mothership in Bering donut	1,851	1,234
Area 7 Pacific Coastal	2,878	2,356
<u>Area 8 Sea of Japan</u>	<u>2,300</u>	<u>1,944</u>
Total	17,668	15,000

3. Fishing Season:	<u>1988</u>	<u>1989</u>
	Traditional Land-Based	May 25-July 5
Mothership	June 1-July 31	June 1-July 31
Pacific Coastal	May 25-June 20	May 20-June 15

4. Fishing Fee Paid by Japan:
 1989 = 3.35 billion Yen (\$26.8 million)
 1988 = 3.35 billion Yen (\$25.2 million)

5. In addition, 5,000 mt of salmon within the Soviet 200-mile zone were allocated in 1989 to Japanese partners of joint venture(s) for salmon reproduction (2,000 mt in 1988).

Source: American Embassy, Tokyo, 5/2/89.

Catch statistics of the Japanese high seas salmon gillnet fisheries, 1986-88. (Catch in thousands of fish and cumulative fishing effort in thousands of tans). Source: INPFC Documents 3132 (Rev. 1), 3269 and 3375.

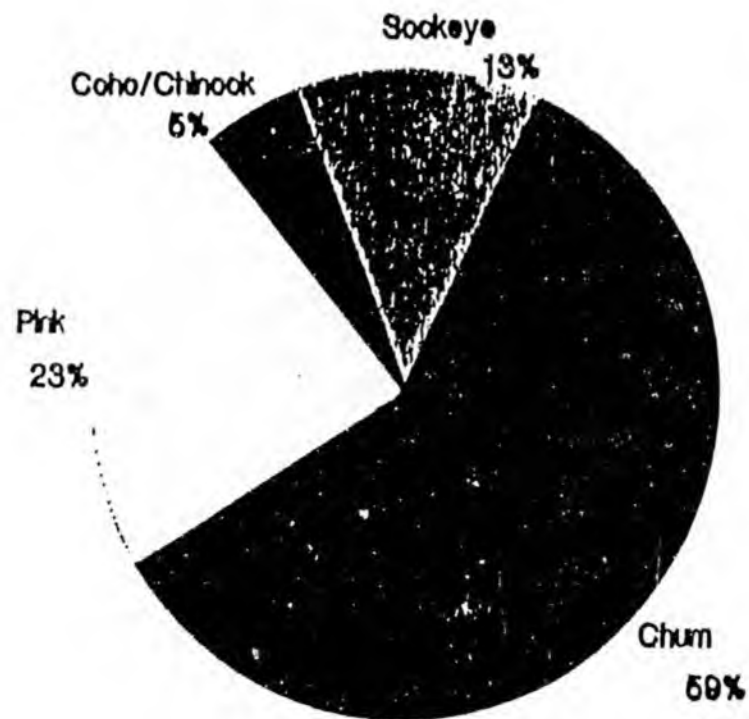
	All Species	Species					Fishing Effort
		Sockeye	Chum	Pink	Coho	Chinook	
1986							
Mothership	3,170	729	1,925	390	65	60	1,930
Landbased	<u>7,978</u>	<u>138</u>	<u>940</u>	<u>6,345</u>	<u>478</u>	<u>77</u>	<u>1,435</u>
Total	11,148	867	2,865	6,735	543	137	3,365
1987							
Mothership	3,530	667	1,822	966	35	39	1,282
Landbased	<u>7,677</u>	<u>140</u>	<u>936</u>	<u>6,068</u>	<u>459</u>	<u>74</u>	<u>1,156</u>
Total	11,207	807	2,758	7,034	494	113	2,438
1988							
Mothership	1,199	225	892	56	<1	26	482
Landbased	<u>6,289</u>	<u>116</u>	<u>751</u>	<u>5,083</u>	<u>292</u>	<u>47</u>	<u>793</u>
Total	7,488	341	1,643	5,139	292	73	1,275

Estimates of interceptions of North American salmon by the Japanese mothership salmon fishery in thousands of fish, 1986-1988.¹

Year	Sockeye	Chum	Pink	Coho	Chinook	Total
1986	142	29	<1	16	47	235
1987	134	26	<1	9	32	211
1988	117	42	1	0	23	183

¹Source: Michael Dahlberg, NOAA Fisheries, Auke Bay. INPFC Docs 3132, 3269 and 3375, September 28, 1989.

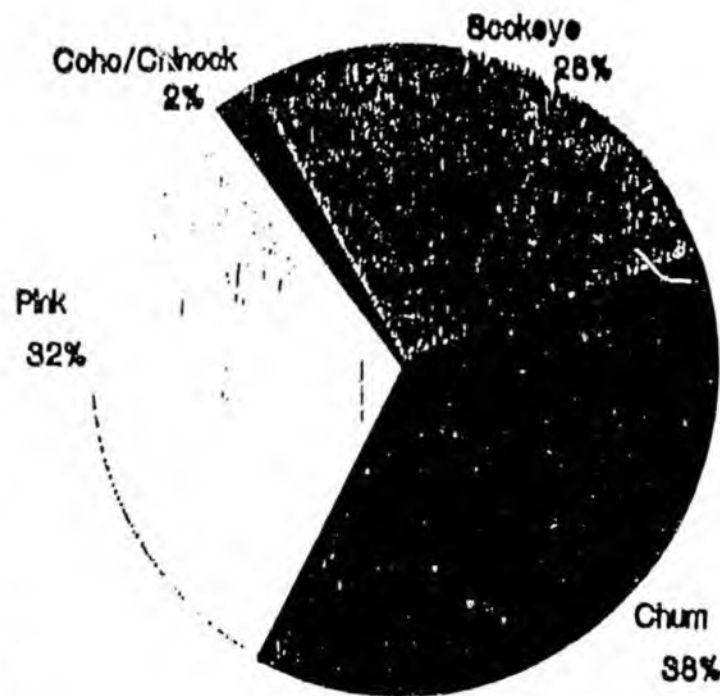
SPECIES COMPOSITION OF LANDBASED SALMON CATCH



1988

Quota 10,186 mt

Catch 7,614

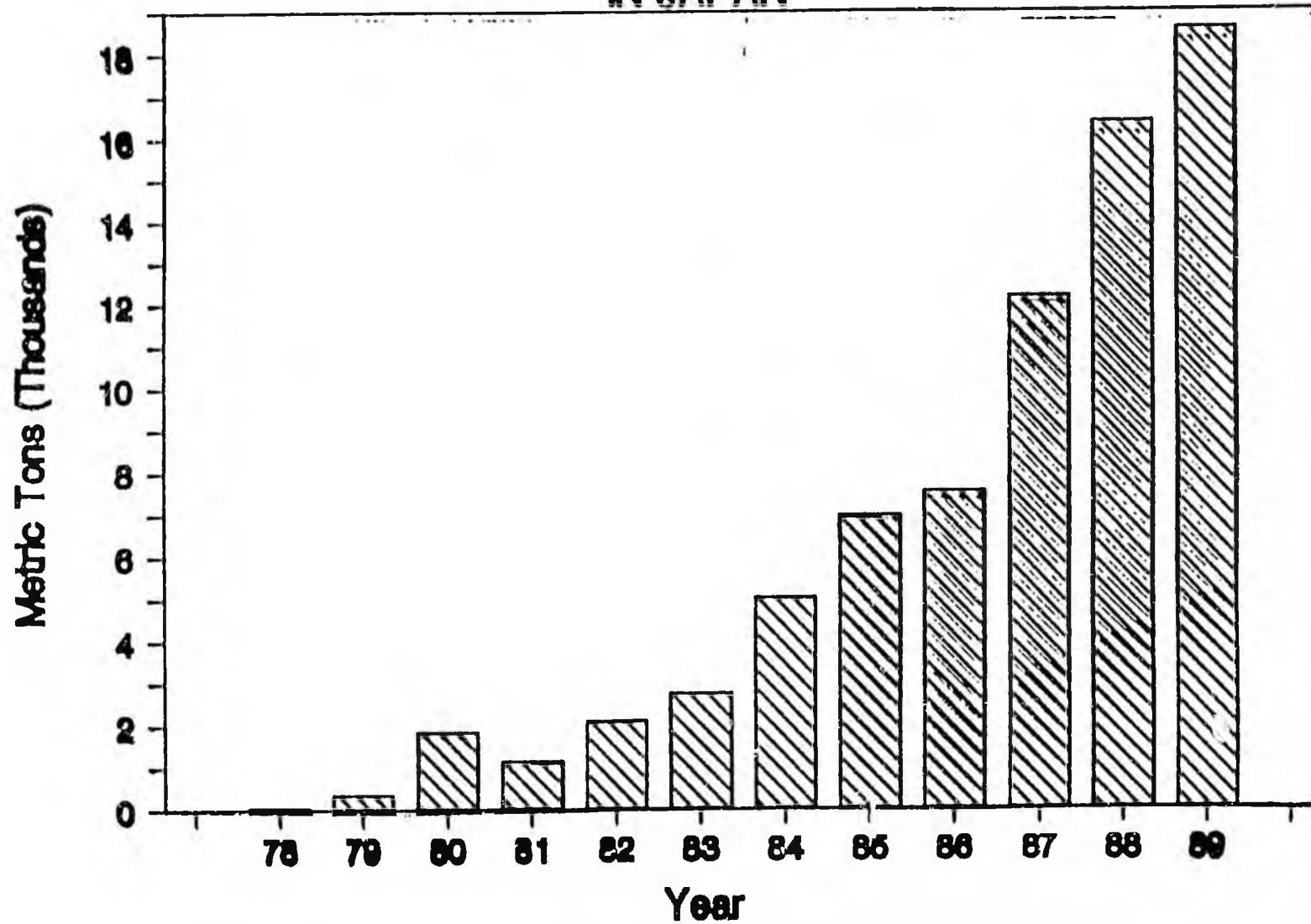


1989

Quota 8,611 mt

Catch n/a

PRODUCTION OF FARMED OCHO SALMON IN JAPAN



Source: American Embassy, Tokyo, August 17, 1989.

**LARGE-SCALE PELAGIC DRIFTNET FISHING AND ITS IMPACTS
ON LIVING MARINE RESOURCES OF THE WORLD'S OCEANS AND SEAS**

The General Assembly,

Disturbed about a dramatic increase in the use of large-scale pelagic driftnets which can reach or exceed 30 miles length to catch living marine resources on the high seas of the world's oceans,

Mindful that large-scale pelagic driftnet fishing is an indiscriminate fishing method which threatens the effective conservation of living marine resources such as highly migratory and anadromous species of fish, birds and marine mammals,

Expressing serious concern that in addition to targetted fish species, nontarget species of fish, marine mammals, seabirds and other living marine resources of the world's oceans, including endangered species, become entangled and die in such driftnets that are being actively fished and in such driftnets that are lost or discarded,

Recognizing that several thousand fishing vessels use such large-scale pelagic driftnets in the high-seas areas of the Pacific Ocean, the Atlantic Ocean, the Indian Ocean, the Mediterranean Sea, and in other waters beyond the exclusive economic zone of any nation,

Affirming that all members of the international community have a duty to cooperate globally and regionally in the conservation and management of living resources on the high seas, and a duty to take, or to cooperate with others in taking, such measures for their nationals as may be necessary for the conservation of the living marine resources of the high seas,

Noting that the nations of the Forum Fisheries Agency and the South Pacific Commission, in recognition of the existing scientific data indicating that such fishing is having an unacceptable impact on the marine life of that region, have called for a cessation of large-scale pelagic driftnet fishing in the South Pacific and the implementation of effective management programmes,

Also noting the declaration adopted by South Pacific Heads of Government at Tarawa on 11 July 1989 which inter alia called for a ban of such driftnet fishing methods in that region and that some members of the international community have entered into negotiations on a convention which will establish the cessation of large-scale pelagic driftnet fishing in the exclusive economic zones of those members, or such fishing practices by the nationals of those members,

Further noting that some members of the international community have entered into cooperative enforcement and monitoring arrangements to evaluate and mitigate the adverse impacts of large-scale pelagic driftnet fishing,

Recognizing that some members of the international community have taken steps to reduce their driftnet operations in some regions in response to regional concerns,

[1] Calls upon all those involved in large-scale pelagic driftnet fishing to cooperate fully with the international community in the continued and enhanced collection of scientific data on the impact of such fishing methods and the conservation of the world's living marine resources;

[2] Recommends that all members of the international community review by 30 June 1991, or earlier reflecting the emergence of an international or regional consensus, the existing data on the effects of large-scale pelagic driftnet fishing, and agree to cooperative regulation and monitoring as needed to mitigate the adverse effects of these practices;

[3] Further recommends that all members of the international community agree to:

[a] an immediate ban on the practice of driftnet fishing in the South Pacific region to prevent severely adverse, perhaps irremediable, effects on South Pacific fisheries and to allow time for the development of comprehensive fisheries management programs;

[b] a moratorium on all high-seas driftnet fishing by 30 June 1992 unless or until it is agreed that the unacceptable impacts of such practices can be prevented and that the conservation of the world's living marine resources can be ensured;

[4] Asks the appropriate organs, organizations and programs of the United Nations system to include consideration of this question in their regular programme of activities;

[5] Requests the Secretary-General to bring this resolution to the attention of all members of the international community, intergovernmental organizations, nongovernmental organizations in consultative status with the Economic and Social Council, and well-established scientific institutions with expertise in relation to living marine resources;

[6] Requests the Secretary-General to report to the General Assembly at its 45th session on the implementation of the present resolution;

[7] Decides to include this question in the provisional agenda of its 45th session.

Forty-fourth session

Japan

DRAFT Resolution

Driftnet fishing and its impacts
on living marine resources of the world's oceans and seas

The General Assembly,

Noting the concern of some countries over increasing use of driftnets which may have impacts on living marine resources of the world's oceans,

Mindful that driftnet fishing can be an indiscriminate fishing method which may threaten the effective conservation of living marine resources unless properly regulated,

Expressing concern that in addition to targetted fish species, non-target species of fish, marine mammals, seabirds and other living marine resources of the world's oceans may become entangled and die in driftnets that are in active use and in similar driftnets that are lost or discarded,

Recognizing that a large number of fishing vessels use driftnets in the Pacific Ocean, the Atlantic Ocean, the Indian Ocean, the Mediterranean Sea, and in other waters within and beyond the exclusive economic zone of any nation,

Also recognizing that any regulatory measures to be taken for conservations of living marine resources should be based on scientific data and analysis,

Affirming that all members of the international community have a duty to cooperate globally and regionally in the conservation and management of living resources and a duty to take, or to cooperate with others in taking such measures for their nationals as may be necessary for the conservation of the living marine resources,

Noting that some members of the international community have implemented cooperative enforcement and monitoring programs to evaluate the impacts of driftnet fishing,

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- 2 -

1. Calls upon members of the international community to review regularly the existing data on the effects of driftnet fishing, and cooperate with other countries concerned in regulation and monitoring as needed to mitigate the adverse effects of these practices;
2. Recommends that members of the international community agree to take further appropriate regulatory measures including a moratorium on driftnet fishing in case that available scientific data necessitates such measures;
3. Asks the appropriate organs, organizations and programs of the United Nations system to consider this question in their activities;
4. Requests the Secretary-General to bring this resolution to the attention of all members of the international community, intergovernmental organizations, and well-established scientific institutions with expertise in relation to living marine resources;
5. Requests the Secretary-General to report to the General Assembly at its forty-fifth session on the implementation of this resolution.

12. 13. 89 11 08 AM *U. S. MISSION TO U. N. P O 2

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UNITED
NATIONS

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General Assembly

Distr.
LIMITEDA/C.2/44/L.81
11 December 1989

ORIGINAL: ENGLISH

Forty-fourth session
SECOND COMMITTEE
Agenda item 82 (E)DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION:
ENVIRONMENT

Draft resolution submitted by the Vice-Chairman of the Committee, Mr. David Payton (New Zealand), on the basis of informal consultations held on revised draft resolutions A/C.2/44/L.11/Rev.1 and L.10/Rev.1

Large-scale pelagic driftnet fishing and its impacts on the living marine resources of the world's oceans and seas

Noting that many countries are disturbed by the increase in the use of large-scale pelagic driftnets, which can reach or exceed 30 miles (48 kilometres) in total length, to catch living marine resources on the high seas of the world's oceans and seas,

Mindful that large-scale pelagic driftnet fishing, a method of fishing with a net or a combination of nets intended to be held in a more or less vertical position by floats and weights, whose purpose is to ensnare fish by drifting on the surface of or in the water, can be a highly indiscriminate and wasteful fishing method which is widely considered to threaten the effective conservation of living marine resources such as highly migratory and anadromous species of fish, birds and marine mammals,

Noting that the present resolution does not address the question of small-scale driftnet fishing traditionally conducted in coastal waters, especially by developing countries, which provides an important contribution to their subsistence and economic development,

12. 13. 88 11:08 AM *U. S. MISSION TO U. N. P O 3

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A/C.2/44/L.81

English

Page 2

Expressing concern that, in addition to targeted species of fish, non-targeted fish, marine mammals, seabirds and other living marine resources of the world's oceans and seas can become entangled in large-scale pelagic driftnets, either in those in active use or in those that are lost or discarded, and as a result of such entanglement, are often either damaged or killed,

Recognizing that more than one thousand fishing vessels use large-scale pelagic driftnets in the Pacific Ocean, the Atlantic Ocean, the Indian Ocean, and in other areas of the high seas,

Recognizing that any regulatory measures to be taken for the conservation and management of living marine resources should take account of the best available scientific data and analysis,

Recalling the relevant principles elaborated in the United Nations Convention on the Law of the Sea,

Affirming that, in accordance with the relevant articles of the Convention on the Law of the Sea, all members of the international community have a duty to co-operate globally and regionally in the conservation and management of living resources on the high seas, and a duty to take, or to co-operate with others in taking, such measures for their nationals as may be necessary for the conservation of the living resources of the high seas,

Recalling, in accordance with the relevant articles of the Convention on the Law of the Sea, the responsibility of all members of the international community to ensure the conservation and management of living marine resources and the protection and preservation of the living marine environment within their exclusive economic zones,

Making the serious concern, particularly of coastal States and States with fishing interests, that when living marine resources are overexploited in the high seas adjacent to the exclusive economic zones of coastal States, this is likely to have adverse impacts on the same resources within such zones, and in this regard, the responsibility for co-operation in accordance with the relevant articles of the Convention on the Law of the Sea,

Also noting that the countries of the South Pacific Forum and the South Pacific Commission, in recognition of the importance of living marine resources to the people of the South Pacific region, have called for a cessation of such fishing in the South Pacific and the implementation of effective management programmes,

Also noting the adoption by South Pacific Heads of Government of the Declaration on this subject at Tarawa on 11 July 1989 and the adoption by South Pacific States and territories of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, at Wellington on 24 November 1989,

Further noting that some members of the international community have entered into co-operative enforcement and monitoring programmes for the immediate evaluation of the impacts of large-scale pelagic driftnet fishing,

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English
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Recognizing that some members of the international community have taken steps to reduce their driftnet operations in some regions in response to regional concerns,

1. Calls upon all members of the international community, particularly those with fishing interests, to strengthen their co-operation in the conservation and management of living marine resources;

2. Calls upon all those involved in large-scale pelagic driftnet fishing to co-operate fully with the international community, and especially with coastal States and the relevant international and regional organisations, in the enhanced collection and sharing of statistically sound scientific data, in order to continue to assess the impacts of such fishing methods, and to secure conservation of the world's living marine resources;

3. Recommends that all interested members of the international community, particularly within regional organisations, continue to consider and, by no later than 30 June 1991, review the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and agree upon further co-operative regulation and monitoring measures, as needed;

4. Further recommends that all members of the international community, bearing in mind the special role of regional organisations and regional and bilateral co-operation in the conservation and management of living marine resources, as reflected in the relevant articles of the Convention on the Law of the Sea, agree to:

(a) Moratoria on all large-scale pelagic driftnet fishing on the high seas by 30 June 1992 with the understanding that such a measure will not be imposed in a region, or if implemented, can be lifted, should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent unacceptable impacts of such fishing practices in that region and to ensure the conservation of the living marine resources of that region;

(b) Take immediate action to reduce progressively large-scale pelagic driftnet fishing activities in the South Pacific region leading to the cessation of such activities by no later than 1 July 1991, as an interim measure, until appropriate conservation and management arrangements for South Pacific albatross tuna resources are entered into by the parties concerned;

(c) An immediate cessation to further expansion of large-scale pelagic driftnet fishing on the high seas of the North Pacific and all the other high seas outside the Pacific Ocean, with the understanding that this measure will be reviewed subject to the conditions in 4 (a);

5. Encourages coastal countries which have exclusive economic zones adjacent to the high seas to take appropriate measures and to co-operate in collection and submission of scientific information on driftnet fishing in their own exclusive

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Page 4

economic zones, taking into account the measures taken on the high seas for the conservation of living marine resources;

6. Requests specialised agencies, particularly the Food and Agriculture Organisation of the United Nations and other appropriate organs, organisations and programmes of the United Nations system, as well as the various regional and subregional fisheries organizations, to study urgently large-scale pelagic driftnet fishing and its impacts on the living marine resources and to report their views to the Secretary-General;

7. Requests the Secretary-General to bring the present resolution to the attention of all members of the international community, intergovernmental organizations, non-governmental organizations in consultative status with the Economic and Social Council, and well-established scientific institutions with expertise in relation to living marine resources;

8. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a report on the implementation of the present resolution for its consideration.

12 13 88
11:00 AM
U. S. MISSION TO U. N.
PO5

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 26, 1989

The Honorable James Baker
Secretary of State
2201 C St., NW
Room 7226
Washington, D.C. 20520

Dear Secretary Baker:

I want to thank you for your efforts to secure a resolution at the United Nations on the problem of high seas driftnets. As you know, these driftnets are causing severe conservation problems for North American steelhead and salmon stocks, and are having major impacts on marine mammals, seabirds and other living marine resources.

Unfortunately, while demonstrating international concern about the impacts of driftnets, the compromise resolution does not provide clear guidance for action to solve this problem, especially in the North Pacific. The language of the resolution is vague and will undoubtedly be subject to numerous interpretations. This could weaken the efforts of the United States to address this problem in other international arenas. Accordingly, the United States must make a concerted effort to ensure careful implementation of the provisions of the compromise resolution to protect U.S. interests. I strongly encourage both you and Secretary Mosbacher to devote the resources necessary to accomplish this task.

In addition, the State of Alaska believes there is sufficient justification to seek an immediate moratorium on driftnets in the North Pacific. This position also is reflected in the Proclamation on High Seas Driftnet Fisheries in the North Pacific recently forwarded to you by the states of Alaska, Washington, Oregon, Idaho, California and Hawaii, and joined by the province of British Columbia. By calling for a moratorium on the use of high seas driftnets, the original resolution put forward by the United States would have gone a long way toward resolving the issue.

Mr. Secretary, it is critical the United States make a clear and forceful statement regarding its concerns about the impacts of driftnets on the world's living marine resources. While the U.N. resolution can be used to demonstrate international

Mr. James Baker

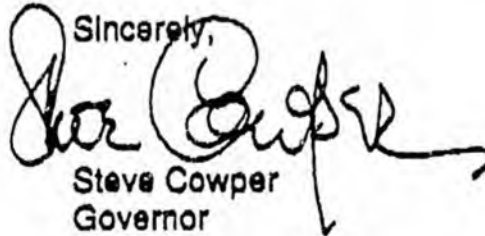
December 26, 1989

Page 2

concern over driftnets, the U.S. must not allow it to be used as a stalling tactic by the driftnet fishing nations. Any moratorium, be it immediate or in 1992, must go into effect unless the driftnet fishing nations can demonstrate, through statistically verifiable scientific data acceptable to the entire international community, that driftnet fishing does not pose an unacceptable threat to the living marine resources of the world's oceans. There should be no doubt with regard to the views of the United States in this matter.

Once again, I wish to thank you for your personal efforts in this matter. It is heartening that this issue has been raised to such a level of international concern.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", with a long horizontal flourish extending to the right.

Steve Cowper
Governor

Proclamation
on
High Seas Driftnet Fisheries
in the
North Pacific Ocean

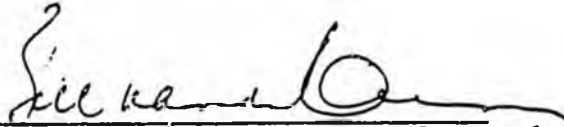
October 1989

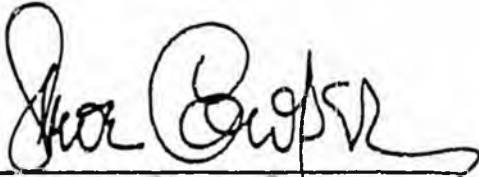
The Province of British Columbia, and the States of Alaska, Washington, Oregon, Idaho, California, and Hawaii recognize the severe impacts that high seas driftnet fisheries in the North Pacific Ocean, conducted by Japan, Taiwan, and South Korea, have on coastal fisheries for salmon and other anadromous fish, albacore, billfish, and on populations of seabirds, marine mammals, and other living marine resources. We formally request the federal governments of Canada and the United States to:


1. Seek further reductions in Japanese landbased and motherhip directed high seas salmon fisheries.
2. Immediately seek additional measures to reduce the impact of high seas squid fleets on salmonids, albacore, seabirds, marine mammals, and other living marine resources.
3. Take immediate action to establish a new convention in the North Pacific, signed by Canada, Japan, the USSR and the United States, which would prohibit the directed or incidental harvesting of salmonids on the high seas beyond the 200-mile zones established by coastal nations.
4. Take immediate steps to form the multinational research organization PICES (Pacific International Council for Exploration of the Seas).
5. Secure long-term commitments of substantially increased fiscal and personnel resources for monitoring and enforcement of international agreements.
6. Negotiate international agreements to prohibit the sale, import, or transshipment of salmon illegally harvested on the high seas.

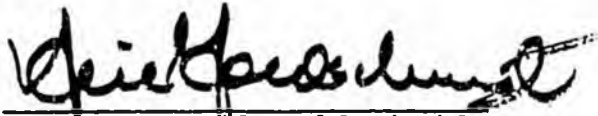
These requests are further specified in the related document entitled Statement on High Seas Driftnet Fisheries in the North Pacific Ocean. A driftnet is defined as a gillnet composed of a panel of monofilament plastic webbing one and one-half mile or more in length; driftnet fishing is a fish harvesting method in which a driftnet is placed in the water and allowed to drift with the winds and currents for the purpose of entangling fish in the webbing.

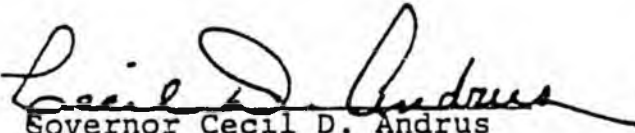
If successfully implemented, these recommendations will represent a significant first step. However, to ensure the long-term protection of North American fisheries and living marine resources of the North Pacific, Canada and the United States should join together and initiate diplomatic efforts through the United Nations and other appropriate international forums to secure an international ban on driftnet fishing on the high seas.

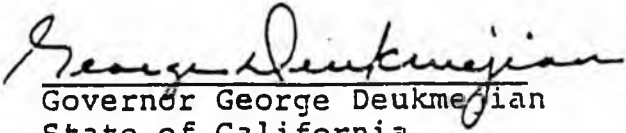

Premier William N. Vander Zalm
Province of British Columbia



Governor Steve Cooper
State of Alaska


Governor Booth Gardner
State of Washington


Governor Neil Goldschmidt
State of Oregon


Governor Cecil D. Andrus
State of Idaho


Governor George Deukmejian
State of California


Governor John Waihee
State of Hawaii

Statement on
High Seas Driftnet Fisheries
in the North Pacific Ocean

by

The Province of British Columbia
and
The States of Alaska, Washington,
Oregon, Idaho, California, and Hawaii

October 1989

The use of driftnets on the high seas has become an issue of growing global significance. Expansion of North Pacific high seas driftnet fisheries for squid, salmon, tunas, and billfishes is a cause of major concern for coastal nations attempting to conserve anadromous fish species, albacore, seabirds, marine mammals, and other living marine resources. The recent growth of the driftnet fleets in the South Pacific has, concurrently, given rise to a call by 16 South Pacific nations for an international ban on high seas driftnets in that region. Similar restrictions in the North Pacific may be warranted.

For the purposes of this paper, a driftnet is defined as a gillnet composed of a panel of monofilament plastic webbing one and one-half miles or more in length, and driftnet fishing means a fish harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

This statement of concern outlines a plan of action which the Province of British Columbia and the affected states of Alaska, Washington, Oregon, Idaho, California, and Hawaii have agreed could significantly contribute to the solution of these problems and further our mutual interest in protecting and conserving anadromous fish and other living marine resources of the North Pacific. This statement provides the rationale for the Proclamation on High Seas Driftnet Fisheries in the North Pacific Ocean signed by the leaders of affected regions in western North America.

Background

Some of the richest fisheries in the world take place in the waters of the North Pacific and Bering Sea. Fleets from all over the world fish these waters for salmon, herring, crab, bottomfish, and other fish species. In recent years, these fisheries have grown in size, area of operation, number of nations participating, and species harvested. Management of these fisheries involves a complex mix of domestic and international bodies, treaties, regulations, and agreements.

Consistent with this trend, the high seas driftnet fisheries of the North Pacific have experienced dramatic growth over the past few years. Along with this growth have been interceptions of salmon bound for North America and an incidental mortality of vast numbers of seabirds and marine mammals. These driftnet fisheries, and recent events surrounding the driftnet issue, are summarized below.

1. INPFC Fisheries

The United States, Canada, and Japan signed the International North Pacific Fisheries Convention (INPFC) in 1952. This treaty prohibited the Japanese from fishing to the east of 175 degrees west longitude (the longitude of Atka Island in the Aleutians) in the belief that this would protect salmon of North American origin while allowing the Japanese to continue their historical harvest of Asian salmon.

Data on the continent of origin of the catch (Asia versus North America), and on the harvest size itself, in these early years are not verifiable, but the estimate of the Japanese catch of Bristol Bay sockeye alone averaged 2.5 million fish per year. The total catch of North American salmon may have been over five million fish a year. Taking into account drop-out, this could mean an annual impact of over ten million salmon per year. The impact on certain stocks such as Bristol Bay sockeye and western Alaska coho was particularly severe.

While a great deal of valuable research was conducted under the auspices of the INPFC, no significant reductions were achieved in the level of interceptions until adoption of the 100-mile zones by coastal nations. In the U.S. this was done under the Magnuson Fishery Conservation and Management Act passed by U.S. Congress in 1976; in Canada this was accomplished by the Territorial Sea and Fishing Zones Act.

The 200-mile limit extension gave the U.S. control over significant areas that had been fished by the Japanese high

seas salmon fleets. In the renegotiation of the INPFC in 1978, concessions were negotiated in all of the Japanese high seas salmon fisheries. This renegotiation resulted in a western retreat of the Japanese landbased and mothership fleets by about 500 miles and may have reduced interceptions by as much as 70 percent.

Continuing research, however, showed that the Japanese were still intercepting significant numbers of North American salmon under the 1978 agreement. Another series of bilateral negotiations took place in 1985-86, resulting in further reductions of the Japanese mothership fishery in the central Bering Sea. Restrictions were achieved on allowable effort in the mothership fishery as well as some reduction in their landbased fishery. Research and enforcement were increased in areas that it was known the Japanese were either misreporting their catches or fishing in closed areas. Although British Columbia salmon are protected by the new INPFC boundaries, U.S. salmon stocks, Canadian salmon from the Yukon, and U.S. and Canadian steelhead are all intercepted.

In 1988 the Japanese requested changes under the INPFC to convert the mothership fishery to a landbased-type operation which would operate in the mothership fishing area. This request was the subject of several rounds of negotiations which eventually resulted in no changes for the 1989 fishing season. This issue may arise again at the 1989 INPFC meeting.

These fisheries are also regulated under a Japan/USSR Salmon Treaty in which the Soviets have placed time/area restrictions and quotas on Japanese catch in various areas. The Soviets have announced a goal of phasing out the Japanese high seas fleet by 1992. The USSR/Japan high seas salmon quota has been consistently reduced over time.

2. Squid Driftnet Fisheries

In addition to high seas fisheries directed at salmon, there has been a new development in the North Pacific that also threatens North American salmon stocks. Large resources of squid have been discovered to the south of the mothership and landbased salmon fishing areas. These "flying squid" are relatively large creatures and are captured with driftnets of the same mesh size as the nets fished by the Japanese mothership and landbased salmon fleets. Japan, Taiwan, and Korea currently have roughly 1,200 vessels in their combined squid fleets, with Japan having the bulk of these vessels. The aggregate amount of driftnet fished by these fleets is about 30,000 miles of net set per night.

The squid driftnet fisheries are suspected of incidentally taking large numbers on non-target living marine resources including salmon, seabirds, and marine mammals. Definitive information on these incidental takes is not available at present; however, there is evidence that these fisheries are having significant impacts on fish and marine wildlife of the North Pacific. Amounts of illegally harvested salmon recovered through various enforcement actions total over 40,000 metric tons. Estimates for the incidental taking of marine mammals run to the tens of thousands (some estimates, based on limited research vessel data, run as high as 50,000 to 80,000 animals). Seabird estimates run as high as 1 million birds killed annually. Taking these estimates into account, the amount of gear put in the water by these fisheries and the suspected takings of other species such as billfish, tunas, pomfret, sharks, and sea turtles, strong evidence exists that these driftnet fisheries are having a significant impact on living marine resources of the North Pacific.

3. Large-Mesh Fisheries

The Japanese, Taiwanese, and Koreans all conduct large-mesh driftnet fisheries in the southern North Pacific and in the South Pacific, fishing for tunas and billfishes. Approximately 400 vessels operate in the Japanese fishery. Taiwan has reported roughly 180 vessels. Japan has limited time/area restrictions on its fleet and is in the process of establishing further regulatory controls. There are presently no regulatory controls on Taiwanese large-mesh fisheries in the South Pacific.

Many of the vessels operating in the Japanese and Taiwanese large-mesh fisheries also operate in the squid fisheries in the north. These vessels fish squid part of the year and tuna/albacore at other times of the year, and often carry both kinds of fish on board. The combination of squid and tuna makes for a more economically viable fishing year for the vessel. There is a direct economic linkage between the South Pacific albacore problem and the squid fishery problems we have in the North.

4. Driftnet Act Negotiations

In 1987 the U.S. Congress passed the Driftnet Monitoring and Control act. The act required the Secretary of Commerce, through the Secretary of State, to negotiate monitoring and enforcement agreements with nations which have high seas driftnet fleets. If successful agreements are not reached, then the Secretary of Commerce is required to certify the nation (or nations) under the so-called Pelly Amendment.

Certification then opens the door for trade sanctions against fishery products imported into the United States from the certified country.

Currently, there have been negotiations with Taiwan, Korea, and Japan under the Driftnet Act. To date, these negotiations have provided information on the size and nature of these fleets and their operations. There have been agreements reached with each of the three nations. Each of these agreements contains provisions for scientific monitoring of the respective fleets as well as installation of satellite vessel location devices, restrictions on transshipments of product from the squid fleets, enhanced enforcement of time/area restrictions, and restrictions on the illegal harvesting of salmonids. While these agreements are a first step toward protecting North American fisheries resources, they each have significant shortcomings and have been the subject of intense debate and controversy in the United States.

5. South Pacific Forum

In early 1989 the Forum Fisheries Agency (FFA), on behalf of 16 South Pacific Island nations, hosted a series of meetings regarding the growing presence of Japanese and Taiwanese driftnet fleets in that region. The size of the driftnet fleets has grown dramatically over the past few years and is posing a significant conservation problem for southern albacore stocks.

In June the FFA nations met with the driftnet fishing nations of Japan, Taiwan, and Korea in Suva, Fiji. Alaska and British Columbia had representatives at that meeting. Several days of discussions resulted in an impasse between the FFA and the distant water fishing nations of Taiwan and Japan. (Korea announced its intent to pull its one or two vessels out of the region and Japan has offered to limit the size of its fleet.)

The Suva meeting was followed by a meeting of Heads of State for the FFA countries where they issued the Tarawa Declaration calling for an international ban on driftnet fishing in the region. The FFA is now seeking support for an international ban on driftnets.

6. British Columbia Conference

In July 1989, the Province of British Columbia hosted the North Pacific Driftnet Conference, a three-day meeting on the driftnet issue. The conference was attended by representatives from Alaska, Washington, Oregon, Idaho,

California, British Columbia, and the federal governments of Canada and the United States. The Communique from the July meeting in Sydney, British Columbia established a number of principles under which fisheries could be conducted responsibly on the high seas beyond the 200-mile zones of coastal nations. These principles include:

- There must be provision for conservation and rational management of salmon, tuna, billfish and other stocks.
- There must be recognition of the rights of states of origin to manage anadromous species and action to ensure that these fisheries are not harmful to the environment and to resources originating within the 200-mile zones of coastal states.
- High seas fisheries must be conducted in a manner that minimizes or eliminates the incidental taking of seabirds, marine mammals, and other living marine resources.
- Marine debris resulting from fishing operations must be minimized or eliminated.
- Fishing activities must be strictly controlled through effective scientific monitoring and enforcement systems.
- All nations should take steps to ensure that their channels of commerce are not used to market marine resources illegally harvested on the high seas.

The Problem

Concerns over the effects that increased high seas driftnet fishing have on a variety of living marine resources continue to mount, and it has become evident that traditional management agreements are not adequate to protect stocks and existing coastal fisheries. The negotiations which have taken place to date may lead to improved research, monitoring, and enforcement efforts, which in turn should begin to help minimize the incidental take of salmon, seabirds, and marine mammals. However, these agreements must be viewed as interim measures which do not provide the long-term solution.

Driftnet fisheries presently taking place on the high seas of the North Pacific pose several problems which render traditional management and conservation measures ineffective over the long-term. These include:

1. The scale of the operations and the nature of the technology make for wasteful fishing practices.

Dropout rates for target and nontarget fish species may run up to 50 percent. Driftnets are nonselective and have high incidental harvest rates for nontarget fisheries resources such as tunas, billfishes, and salmonids.

2. Conventional regulatory measures may reduce problems in one fishery but, when viewed in the aggregate, may shift the problems to other fisheries and other areas.

Solutions in the South Pacific may shift the fleets to the north which will only increase our existing conflicts, or vice versa.

3. Driftnet fisheries have high incidental mortalities of other nontarget living marine resources.

Estimates indicate that, for the total North Pacific driftnet fleet, incidental takings of marine mammals probably number in the tens of thousands, and seabirds number over one million annually.

4. Substantial scientific monitoring and observer programs would be required to verify any possible rational conduct of such fisheries.

Driftnet fishing nations are reluctant to host the numbers of North American observers necessary to collect statistically verifiable data. Observer safety is a major concern in some fleets. Scientific research budgets are at a minimum now, with little likelihood for increases in the foreseeable future.

5. Maintaining an adequate enforcement presence will be extremely difficult and costly.

Protecting North American interests will place a great burden on U.S. and Canadian enforcement agencies. The North Pacific squid fleet alone operates over an area larger than the continental United States. Yet, the only way for the U.S. and Canada to ensure adequate implementation of any monitoring and enforcement measures is to mount significant programs themselves. Long-term costs may be prohibitive.

6. Commerce in illegally harvested salmon is extremely difficult to trace and eliminate.

Substantial quantities of salmon suspected of being harvested illegally have been showing up in the world market from processors located in Singapore and Thailand. Tens of thousands of metric tons of illegally caught fish have been confiscated in various enforcement actions this year. Identifying illegally harvested salmon is difficult because there is no international marking and tracking system for processed fisheries product, and treaty arrangements regarding processing illegally harvested fish are either weak or nonexistent.

Recommendations

Recent activities in the U.S. Congress and on the international front indicate the dawning of a new era in fishery conservation, utilization, and management in the North Pacific. International realignments between the United States, Canada, Japan, and the USSR could mean increased opportunities to protect North American origin salmonids and other North Pacific living marine resources. The following actions are recommended for protecting, conserving, and managing resources of the North Pacific.

British Columbia, Alaska, Washington, Oregon, Idaho, California, and Hawaii, recognizing the magnitude and urgency of the high seas driftnet problem in the North Pacific, recommend that the following actions be taken immediately by our respective federal governments to take advantage of every opportunity to address the high seas driftnet issue, including:

1. The United States and Canada should seek further reductions in the Japanese landbased and mothership directed high seas salmon fisheries.

These reductions should be negotiated at the 1989 meeting of the INPFC. And, the 1992 phase-out date targeted by the USSR should be supported by both countries.

2. Canada and the United States should immediately seek additional measures to address the impact of high seas squid fleets on salmonids, albacore, seabirds, marine mammals, and other living marine resources.

These additional measures, effective for the 1990 season and beyond, should include effort limitations and reductions in fleet size, 100 percent coverage of the fleet with real-time satellite vessel location devices, and a comprehensive scientific observer

program. For the Japanese fleets, negotiations should be pursued at the 1989 meeting of the INPFC.

3. The United States and Canada should take immediate action to establish a new Convention in the North Pacific which would prohibit the directed or incidental harvesting of salmonids on the high seas beyond the 200-mile zones established by coastal nations.

The primary parties to such a Convention should be the major salmon producing nations of Canada, Japan, the USSR, and the United States. Such a Convention could lead eventually to a comprehensive multilateral fisheries management regime for the North Pacific. If necessary, both the U.S. and Canada must strengthen their respective claims, as states of origin, to management authority over anadromous species throughout their range.

4. Canada and the United States should take immediate steps to form the multinational research organization PICES.

The Pacific International Council for Exploration of the Seas should implement a comprehensive research program regarding the impacts of driftnet fishing on North Pacific living marine resources.

5. The United States and Canada must make long-term commitments of substantially increased fiscal and personnel resources for monitoring and enforcement of international agreements.

Each nation should immediately allocate the resources necessary to conduct comprehensive research, monitoring, and enforcement activities on the high seas. The two nations should establish cooperative scientific and enforcement programs, as appropriate, to increase the overall effectiveness of their efforts to protect North American salmonid resources and the other living marine resources of the North Pacific. The burden of these costs should be shifted to the fishing nations as soon as possible, while preserving the integrity of monitoring and enforcement programs.

6. Canada and the United States should negotiate international agreements to prohibit the sale, import, or transshipment of salmon illegally harvested on the high seas.

Bilateral or multilateral agreements should be put in place which prohibit the transshipment, purchase, sale, or import of illegally harvested salmon. Such agreements should be made with all nations which process or import salmon products, and should be accompanied by domestic implementing legislation in each of the respective importing or processing nations.

The goal of the west coast states and the Province is to ensure the long-term protection, conservation, and management of fish and other living marine resources of the North Pacific. The principles identified at the North Pacific Driftnet Conference were crafted with this overall goal in mind. Review of North Pacific high seas driftnet fisheries strongly suggests that traditional management measures and agreements are not adequate to ensure that fisheries can be conducted in a manner which will satisfy either those principles, or meet the overall goal.

If successfully implemented, the six recommendations outlined above will represent a significant first step in our joint effort to protect North American fisheries and the living marine resources of the North Pacific. However, to ensure the long-term protection of these resources, Canada and the United States should join together and initiate diplomatic efforts through the United Nations and other appropriate international forums to secure an international ban on driftnet fishing on the high seas.

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PROPOSED AGENDA
FOR SECOND MEETING OF THE
US-USSR INTERGOVERNMENTAL
CONSULTATIVE COMMITTEE ON FISHERIES
LENINGRAD- SEPTEMBER 19-22, 1989

- I. Introductory Remarks by Heads of Delegation:
Agreement on the agenda and procedures

- II. Questions on Preserving Reserves of Anadromous Species
in the North Pacific Ocean
 - A. The possibility of developing a convention on
conserving reserves of anadromous species in the
North Pacific Ocean. Discussion of the structure and
activities of the international organization on
conserving anadromous species in the North Pacific
Ocean.

 - B. Examination of other forms of Soviet-American
cooperation in this field.

 - C. Consideration of Implementation of the February 6,
1989 Memorandum of Understanding on Salmon
Enforcement.

- III. Problems of Unregulated Fishing in the Central Bering Sea
Region
 - A. Examination of possible mutually acceptable methods
in connection with unregulated fishing in the
Central Bering Sea region.

 - B. Examination of the Soviet proposal on a Council
on the living resources of the Bering Sea.

- IV. Discussion of other items pertaining to the implementation
of the comprehensive fishing agreement.

JOINT PRESS STATEMENT

The U.S.-U.S.S.R. Intergovernmental Consultative Committee on Fisheries (the Committee), which was established pursuant to the May 31, 1988, Comprehensive Fisheries Agreement, held its second meeting in Leningrad, U.S.S.R., from September 19-22, 1989. The Committee considered a number of issues, including the conservation of salmonids on the high seas of the North Pacific Ocean, the expanded and unregulated pollock fisheries in the central Bering Sea, and enforcement issues related to implementation of the Memorandum of Understanding on anadromous resources in the North Pacific Ocean, signed on February 9, 1989. The two delegations were headed by their respective Representatives on the Committee, Dr. V.K. Zilanov, Deputy-Minister, Soviet Ministry of Fisheries, and Ambassador Edward E. Wolfe, Deputy Assistant Secretary for Oceans and Fisheries Affairs, U.S. Department of State.

The Committee reached agreement on the principles that would form the basis of a new convention for the conservation of anadromous stocks of fish in the North Pacific Ocean. The convention would promote the conservation and rational management of valuable anadromous resources of mutual concern. The two sides discussed possible terms of the convention and agreed to present them in the near future for consideration by other North Pacific countries of origin of anadromous species.

The convention terms discussed reflect the view of the two sides that high seas fishing for anadromous resources is irrational and wasteful. The terms include significant enforcement provisions designed to prevent the unauthorized harvest of North Pacific anadromous resources, as well as provisions for increased multilateral cooperation on scientific research. If successfully implemented, the convention would provide broader multilateral participation than the regimes currently in place, and would for the first time include all four of the major countries of origin of North Pacific anadromous resources.

The Committee reviewed the rapidly expanding high seas squid and other driftnet fisheries in the North Pacific. Both sides expressed great concern over the interception of anadromous resources in certain of these fisheries and their other adverse impacts on the North Pacific marine environment. They noted their intention to cooperate in gathering information on the impact of driftnet fisheries and in gaining multilateral cooperation in effectively regulating such fishing practices.

Both sides concurred that the recent level of unregulated pollock fishing in the Central Bering Sea (the so-called "donut") when combined with regulated fisheries in the respective U.S. and Soviet zones, greatly exceeds the total allowable biological catch. The Committee recommended that the total pollock catch in the donut be reduced to the level that will eliminate any adverse impact on the pollock stocks in the two countries' zones.

The Committee agreed to establish a bilateral auxiliary body called the Bering Sea Fisheries Advisory Body (BSFAB) to advise the Committee on Bering Sea fisheries including the donut area. This body will advise the Committee on the rational management of fisheries in the Bering Sea including the donut area and on actions which may be taken to reach agreements to control the unregulated fisheries in the donut. The BSFAB will attempt to identify and assess Bering Sea pollock resources, establish a common databank, coordinate Bering Sea fisheries research, and examine and report on a variety of fish management issues. The first meeting of the BSFAB has been tentatively scheduled for November 1989 in Seattle, Washington, to allow it to present its conclusions to the Committee as early as possible in 1990.

The Committee also discussed implementation of the February 9, 1989, Memorandum of Understanding on anadromous resources of the North Pacific Ocean. Enforcement experts from the two exchanged significant information and views on their respective measures for effective high seas enforcement patrols, and on areas where increased cooperation could be attained.

The Committee agreed to hold its next meeting in the United States at a time to be agreed upon.

US DELEGATION LIST (cont'd)

Industry Representatives

22. Katherine E. Graham	5-30-49	07047700
23. Richard B. Lauber	3-5-28	070278420
24. Henry V. E. Mitchell	7-19-46	071101346
25. Terry J. Baker	9-25-46	070690272
26. John R. Gilbert	5-5-27	071445163
27. Kevin L. Kaldestad	1-24-54	070893853
28. Robert F. Morgan	1-7-24	070681642
29. Alvin R. Burch	9-25-36	E263284

US-SOVIET FISHERIES CONSULTATIONS
SEPT. 19-22
LENINGRAD

PROPOSED US DELEGATION

	<u>DOB</u>	<u>Passport #</u>
<u>State Dept.</u>		
1. Edward E. Wolfe	1-20-47	900039200
2. Larry Sneed		
3. Donna Darm	2-11-54	900035409
4. Wayne Neill	4-24-57	900029295
<u>Coast Guard</u>		
5. Scott Buschman	2-12-62	800354500
6. William H. Anderson	11-29-48	800388792
<u>National Oceanic and Atmospheric Administration</u>		
7. Carmen Blondin	5-13-30	800369979
<u>National Marine Fisheries Service</u>		
8. Steven Pennoyer	9-28-44	071107806
9. Rolland Schmitt	8-25-44	P800300128
10. William Aron	6-25-30	800272499
11. George Herrfurth (or Dean Swanson)	2-18-60	800258797
12. Robert A. Taylor	5-29-53	800170961
<u>Commissioner, U.S. Section- INPFC</u>		
13. Clem Tillion	7-3-25	800214680
<u>State Government Representatives</u>		
14. David Benton	6-6-52	070731805
15. Donald W. Collinsworth	9-6-41	070382958
16. Jonne E. Binkley	2-4-53	012529795
17. Joseph R. Blum	1-16-40	D1577756
18. Mark G. Pedersen	7-1-47	072227253
19. Samuel R. Cotten	7-15-47	072242119
20. Donald Bevan	2-22-21	EO23027

СОСТАВ

делегации СССР на 2 сессии советско-американского
Межправительственного консультативного комитета
по рыбному хозяйству /Ленинград, 19-22.09.1969 г./

Министерство рыбного хозяйства СССР

1. Зиланов В.К.
2. Цукалов В.И.
3. Минеев В.И.
4. Вылегжанин А.И.
5. Сухов В.А.
6. Макеев В.Г.
7. Панкратова С.В.

Министерство иностранных дел СССР

8. Бугаев А.Б.

Главное Управление пограничных войск КГБ СССР

9. Лазров А.А.

Бассейновое производственное объединение "Дальрыба"

10. Лузиков Т.Т.

Всесоюзный научно-исследовательский институт морского рыбного хозяйства и океанографии /ВНИРО/

11. Гриценко О.Ф.
12. Чуриков А.А.
13. Рязанцев М.Б.

Тихоокеанский научно-исследовательский институт морского рыбного хозяйства и океанографии /ТИХОРО/

14. Новиков Е.П.
15. Костарев В.Л.
16. Селифонев М.М.

Всесоюзный научно-исследовательский и проектно-конструкторский институт экономики, информации и автоматизированных систем управления рыбного хозяйства /ВНИЭСР/

17. Сливакова Т.И.

Государственный ордена "Знак Почета" научно-исследовательский и проектно-конструкторский институт по развитию и экспл. латинии плота Минрыбхоза СССР

18. Романов Б.А.
19. Поляков А.В.

S J R

85

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 4/20/90

FURTHER:

24 hr. notice waived
Date of 5-Day Notice: 5-5-90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 5-5-90

Resources

Committee considered

SJR 85

Incidental take of Stellar sea lions by commercial fisheries.

and recommended:

- replace with _____ CS _____ same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

William Sturgis

Debra

Paul

OTHER RECOMMENDATIONS:

Fahrenkamp Do Pass

Chair: Signature and Recommendation

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Incidental take of Steller sea lions
 Sponsor: Senate Resources Committee
 Requestor: _____

Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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


FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Nancy Petersen  Phone: 465-3834
 Division: Staff, Senate Resources Committee Date: 5-6-90

Approved by Commissioner: _____ Date: _____
 Agency: _____

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



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 405-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BOSTON BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Bettye Fahrenkamp
Chair - Senate Resources Committee

FROM: Senator Fred F. Zharoff

DATE: April 25, 1990

RE: Senate Joint Resolution 85 - "Relating to the incidental take of Steller sea lions by commercial fisheries."

I respectfully request that SJR 85 be heard by the Senate Resources Committee at the earliest opportunity.

SJR 85 addresses the recent declaration that Alaska's Steller sea lions are a threatened species under the Endangered Species Act. With this declaration, the National Marine Fisheries Service implemented a series of interim protective measures. One of the measures was to reduce by half the annual incidental kill quota from 1,350 to 675. Once the kill quota is reached, commercial fishing operations that impact sea lions will be in jeopardy.

The interim measures will be in effect until Dec. 31, 1990, at which time NMFS will have adopted a permanent regulation. The kill quota will most likely remain the same.

SJR 85 requests NMFS to use June 1 as the date at which to start the count on future annual kill quotas. This date would be most advantageous to Alaska's commercial salmon fishing industry. A January 1 date would allow the Bering Sea factory trawl fishery -- which is notorious for its excessively high catch of incidental species -- the first opportunity to take sea lions.

Attached as backup are a NMFS news release announcing the adoption of emergency regulation for sea lions and a copy of the official Federal Register notice declaring sea lions a threatened species. The provision SJR 85 is concerned with is on pages 12647-12648 (pages 3-4) under the heading: 3. Establish Incidental Kill Quota.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

FOR IMMEDIATE RELEASE

April 5, 1990

Steller Sea Lions Designated as a Threatened Species

Juneau . . . The National Marine Fisheries Service adopted an emergency regulation today that designates Steller sea lions as a "threatened" species under the Endangered Species Act. This action was taken in response to a dramatic decline in the number of Steller sea lions counted at major rookeries in central and western Alaska between 1960 and 1989.

The emergency regulation prohibits shooting at or near any Steller sea lion in U.S. waters, except for Native subsistence. It also prohibits boats from coming within three miles of certain Steller sea lion rookeries (locations where pups are born) and empowers the Secretary of Commerce to place observers on any fishing vessel in order to monitor the accidental capture of sea lions in fishing gear. In addition, the regulation restricts the number of sea lions which may be accidentally caught and killed during fishing operations west of 141 degrees W. longitude to 675 animals.

The National Marine Fisheries Service will immediately initiate work on a plan to guide the long-term recovery of the Steller sea lion population. The Service will also continue to investigate the cause of the decline of the sea lion population. Possible causes include shooting, accidental capture during



commercial fishing operations, the influence of commercial fishing on food supply, disease, natural environmental fluctuations, or other unknown changes in the ecosystem. Surveys by the National Marine Fisheries Service have shown that counts of Steller sea lions in central and western Alaska have dropped 63% since 1985 and 82% since 1960. On rookeries from the Kenai Peninsula to Kiska Island in the western Aleutians, the total number of sea lions counted has declined from a high of 140,000 in 1956-60 to about 25,000 in 1989.

Violations of laws protecting Steller sea lions are subject to severe civil and criminal penalties, including fines of up to \$25,000, imprisonment for up to one year, and vessel forfeiture.

For more information on this emergency regulation, contact Steve Pennoyer, Regional Director, National Marine Fisheries Service, at 586-7221.

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COMPLIMENTS OF
UNITED FISHERMEN'S MARKETING ASSOCIATION, INC.
Box 1035, Kodiak, Alaska 99615
Tel. (907) 486-3453

performs as its principal function any activity pertaining to the enforcement of criminal laws." The commentator asserts that NSF's Office of Inspector General (OIG) does not perform as its principal function any activity pertaining to criminal laws, but implies that an investigative unit within OIG may well do so. We do not agree with the commentator that OIG does not perform as its principal function any activity pertaining to criminal laws. The Inspector General Act of 1978, as amended, specifically mandates Inspectors General to investigate allegations of criminal violations and NSF's Office of Inspector General does so. Moreover, NSF's Office of Inspector General Investigative Files are, in fact, maintained by the Office of Inspector General's Investigations Unit as the commentator implies would be preferable.

This rule has been reviewed under Executive Order No. 12291 and has been determined not to be a "major rule" since it will not have an annual effect on the economy of \$100 million or more. In addition, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 45 CFR Part 613

Privacy Act.

For the reasons set forth above 45 CFR, Chapter IV, part 613, is amended as follows:

PART 613—PRIVACY ACT REGULATIONS

1. The authority citation for Part 613 continues to read as follows:

Authority: 5 U.S.C. 552a(b).

2. Section 613.6 (c) and (d) is added as follows:

§ 613.6 Exemptions.

(c) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(d) *OIG Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled "Office of Inspector General

Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f):

Dated: March 30, 1990.

Charles H. Herz,

General Counsel.

[FR Doc. 90-7882 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-44

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 900387-0087]

Listing of Steller Sea Lions as Threatened Under Endangered Species Act With Protective Regulations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule and request for comments.

SUMMARY: The number of Steller (northern) sea lions (*Eumetopias jubatus*) observed on certain rookeries in Alaska declined by 63% since 1985 and by 82% since 1980. The declines are spreading to previously stable areas and accelerating. Significant declines have also occurred on the Kuril Islands, USSR. NMFS is listing the Steller sea lion as a threatened species under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA) and is establishing protective regulations as emergency interim measures to begin the population recovery process. Comments are requested on whether or not the species should be listed as endangered or threatened, possible causes of the decline, and conservation measures and protective regulations needed to prevent further declines.

DATES: This emergency rule is effective on April 5, 1990, and expires on December 31, 1990. Comments are requested by May 7, 1990.

ADDRESSES: Comments should be mailed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs (E/PR), NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Karnella, Chief, Protected Species Management Division, Silver Spring, MD, 301-427-2322, or Dr. Howard Braham, Director, National

Marine Mammal Laboratory, Seattle, WA, 206-526-4046.

SUPPLEMENTARY INFORMATION:

Background

The Steller (northern) sea lion, *Eumetopias jubatus*, ranges from Hokkaido, Japan, through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, Gulf of Alaska, southeast Alaska, and south to central California. There is not sufficient information to consider animals in different geographic regions as separate populations. The centers of abundance and distribution are the Gulf of Alaska and Aleutian Islands, respectively. Rookeries (breeding colonies) are found from the central Kuril Islands (40° N.) to Ano Nuevo Island, California (37° N.); most large rookeries are in the Gulf of Alaska and Aleutian Islands. More than 50 Steller sea lion rookeries and a greater number of haulout sites have been identified.

In 1985, 68,000 animals were counted in Alaska from Kenai Peninsula to Kiska Island, compared to 140,000 counted in 1950-60. A 1988 Status Report concluded that the population size in 1985 was probably below 50% of the historic population size in 1950-60 and below the lower bound of its optimum sustainable population level under the Marine Mammal Protection Act, 16 U.S.C. *et seq.* (MMPA). A 1989 survey showed that the number of observed animals from Kenai to Kiska declined to 25,000 animals. This indicates a decline of about 82% from 1950-60 to 1989 in this area. The counts are not an estimate of total numbers of animals but include only those animals on the beach (excluding pups) at the time of the survey. As such, they can be used to indicate trends in abundance, rather than estimating total species abundance. Copies of the 1988 Status Report and a 1989 Update are available from the ADDRESSES listed above.

Species abundance estimates during the late 1970s ranged from 245-290,000 adult and juvenile animals. Although we do not have current population estimates, total counts of sea lions during the 1989 survey were about 66,000, with declines reported on the Kuril Islands, Aleutian Islands, and the Gulf of Alaska:

Alaska	63,000
WA, OR and CA	4,000
British Columbia	18,000
Soviet Union	0,000
	66,000

Designation Under the MMPA

Based on the 1988 Status Report, NMFS intended to prepare a proposed rule to designate the Steller sea lions in Alaska as depleted under the MMPA and published an Advance Notice of Proposed Rulemaking (53 FR 10290, May 6, 1988). Most comments expressed strong concern that a depletion designation for Steller sea lions would seriously curtail or possibly end commercial fishing, especially trawl fishing, in the sea lion's range because incidental take of depleted stocks was prohibited by the MMPA.

In October 1988, the MMPA was amended to include a new section 114 to replace most earlier provisions for granting incidental take authority to commercial fishermen with an interim exemption system valid until October 1, 1993. The purpose of the new system was to provide better information on interactions between commercial fisheries and marine mammals and allows commercial fishing operations to continue whether or not depleted stocks or stocks of unknown status were taken. Information collected during the exemption period will be used in the development of a long-term program governing the taking of marine mammals associated with commercial fishing after October 1, 1993.

Petition for Listing

On November 21, 1989, the Environmental Defense Fund and 17 other environmental organizations petitioned NMFS for an emergency rule listing all populations of Steller sea lions in Alaska as endangered and to initiate a rulemaking to make that emergency listing permanent. Under section 4 of the ESA, NMFS determined that the petition presented substantial information indicating the action may be warranted and requested comments (February 22, 1990, 55 FR 6301). Comments received in response to that notice and this emergency rule will be considered in determining whether the species should be proposed for listing as endangered or threatened.

Summary of Factors Affecting the Species

An endangered species is any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of

the ESA. These factors as they apply to Steller sea lions are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Steller sea lions breed on islands in the North Pacific Ocean generally far from human habitations. Although rookery space availability could be a limiting factor for this species, there is no evidence of rookery habitat curtailment. In fact, as the number of animals continues to decline, rookeries are being abandoned and available rookery space is increasing.

The feeding habitats of Steller sea lions in Alaska may have changed. State of Alaska biologists found that populations in the Gulf of Alaska during the 1980s had slower growth rates, poorer physical fitness (lower weights, smaller girth), and lowered birth rates. Some data show a high negative correlation between the amount of walleye pollock caught and sea lion abundance trends in the eastern Aleutians and central Gulf of Alaska. It is possible that a reduction in availability of pollock, the most important prey species in most areas, is a contributing factor in the decline in the number of Steller sea lions in western and central Alaska.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Between 1963-72, over 45,000 Steller sea lion pups were commercially harvested in the eastern Aleutian Islands and Gulf of Alaska. This harvest may explain declines seen in these areas through the 1970s. Small subsistence harvests of Steller sea lions occur in Alaska but are not of sufficient magnitude to contribute to the overall decline. A small number has also been taken for public display and scientific research purposes.

C. Disease or predation. Sharks, killer whales and brown bears are known to prey on Steller sea lion pups. Mortality from sharks and bears are not considered to be significant. When sea lion abundance was high, the level of mortality from killer whales was probably not significant but as sea lion numbers decline this mortality may exacerbate the decline in certain areas.

Disease resulting in reproductive failure or death could be a source of increased mortality in Steller sea lion populations, but it probably does not explain the massive declines in numbers. Antibodies to two types of pathological bacteria (*Leptospira* and *Chlamydia*) and one marine calicivirus (San Miguel Sea Lion Virus) were found in the blood of Steller sea lions in Alaska. *Leptospira* and San Miguel sea

lion viruses may be associated with reproductive failures and deaths in California sea lions and North Pacific fur seals. *Chlamydia* has not been studied previously in sea lions, but is known from studies of Pribilof Island fur seals. None of these agents is thought to be a significant cause of mortality in Steller sea lions.

D. The inadequacy of existing regulatory mechanisms. Some protection for the Steller sea lion is provided under MMPA which prohibits the taking of Steller sea lions with certain exceptions including an interim exemption for commercial fishing. Once 1,350 Steller sea lions have been killed incidental to commercial fishing, section 114 of the MMPA requires NMFS to prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Intentional lethal takes are prohibited. In addition, section 114(g) of the MMPA provides that regulations may be prescribed to prevent taking of a marine mammal species in a commercial fishery if it is determined that the incidental taking of the marine mammal in that fishery is having or will likely have a significant adverse impact on that marine mammal population stock. The MMPA also requires NMFS to prepare a conservation plan for Steller sea lions by December 31, 1990.

E. Other natural or manmade factors affecting its continued existence. Steller sea lions are taken incidental to commercial fishing operations in the Gulf of Alaska and the Bering Sea.

Between 1973-1988, U.S. observers on foreign and joint venture vessels operating in these areas reported 3,661 marine mammals taken. Steller sea lions accounted for 90% of this observed total. Based on these observed takes and an extrapolation of total tonnage of fish caught over this time period, the total number of Steller sea lions incidentally killed by the foreign and joint venture commercial trawl fisheries during 1973-1988 is an estimated 14,000. However, since 1985 the level and rate of observed incidental take has decreased to the point where, by itself, it is not sufficient to account for the most recently observed declines. Incidences of fishermen shooting adult Steller sea lions at rookeries, haul out sites, and in the water near boats have been reported, but the magnitude of this source of mortality is unknown.

Observer programs under the MMPA, and for the groundfish fisheries of Alaska under the Magnuson Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (Magnuson Act), will assist NMFS in

determining whether the incidental take of Steller sea lions during commercial fishing operations or other observable activities are factors in the decline in the number of these animals in Alaska.

Reasons for Emergency Determination

As discussed above, the number of Steller sea lions observed on certain rookeries in Alaska declined by 63% since 1985 and by 82% since 1980. The declines are spreading to previously stable areas and accelerating. The decline has spread from the eastern Aleutian Islands, where the decline began in the early 1970s, east to the Gulf of Alaska, and west to the previously stable central Aleutian Islands. Significant declines have also occurred on the Kuril Islands, USSR. The rates of decline in the eastern Aleutian Islands and the western Gulf of Alaska are increasing. The cause(s) of these declines have not been determined, and essential research is continuing.

NMFS concludes that the Steller sea lion should be listed as a threatened species on an emergency interim basis and believes that immediate implementation of the protective measures of the ESA will aid recovery efforts.

Available Conservation Measures

Conservation measures for species that are listed as endangered or threatened under the ESA include recognition, recovery actions, implementation of certain protective measures, and designation and protection of critical habitat. Section 7(a) of the ESA requires Federal agencies to carry out programs for the conservation of endangered and threatened species. Section 7(b) requires that each Federal agency insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat.

In the case of the Steller sea lion, Federal actions most likely to affect this species include approval and implementation of Fishery Management Plans and regulations under the Magnuson Act, permitted activities associated with timber, mineral, and oil development on land near rookeries and haulout sites, and leasing activities associated with oil and gas exploration and development on the Outer Continental Shelf.

In addition, the following emergency conservation measures are being implemented by NMFS to facilitate recovery of the Steller sea lion:

A. Management Actions

1. Monitoring incidental take in fisheries. Under the Interim exemption system established by the 1988 MMPA amendments, all Category I fisheries are subject to 20-35% observer coverage. Similarly, almost all Federally-licensed vessels in groundfish fisheries off Alaska will carry observers. All groundfish vessels over 125 feet in length and all foreign vessels will carry observers at all times. Each groundfish vessel of 60-125 feet in length will carry observers during 30% of its operations in each three-month period. These observer programs, together with estimates of fishing effort, will be used to make monthly estimates of the level of incidental kill of Steller sea lions in observed fisheries. NMFS may also establish additional observer programs in other fisheries under the authority in this emergency rule. These actions will allow NMFS to monitor a quota or catch limit for Steller sea lions.

2. Enforcement. NMFS intends to aggressively enforce these regulations, especially as they relate to intentional, lethal takes of Steller sea lions. Enforcement resources will be provided, to the extent possible, to cover areas and seasons where Steller sea lions are most vulnerable, to initiate an active TIP/Reward Program, and to promote public awareness.

3. Establishment of a Recovery Program. NMFS is establishing a Recovery Team to provide recommendations on further conservation measures. Members of the North Pacific Fishery Management Council, the Marine Mammal Commission, state agencies, and other prominent scientists and environmentalists will be invited to participate in developing and implementing a recovery program. The Pacific States Marine Fisheries Commission, in emergency consultation with interested parties, held a workshop on February 21-22 to identify and assess additional possible actions that might be undertaken on an emergency basis.

B. Protective Regulations

1. Prohibit shooting near sea lions. Although the MMPA prohibits intentional lethal take of Steller sea lions in the course of commercial fishing, fishermen have not been prohibited from harassing sea lions that are interfering with their gear or catch by shooting at or near them. Since these practices may result in inadvertent mortalities, NMFS is prohibiting shooting at or near Steller sea lions.

2. Establish Buffer Zones. NMFS is establishing a buffer zone of 3 nautical

miles around the principle Steller sea lion rookeries in the Gulf of Alaska and the Aleutian Islands. Rookeries in southeastern Alaska, east of 141° W longitude, have not experienced the declines reported in central and western Alaska and no buffer zones are established for these areas. No vessels are allowed to operate within the 3-mile buffer zones during the period of this emergency rule. Similarly, no person may approach on land closer than one-half (½) mile or within sight of the listed Steller sea lion rookeries. On Marmot Island, no person may approach closer than one and one-half (1½) miles from the eastern shore. Marmot Island has traditionally been the most important Steller sea lion rookery in Alaska and the eastern beaches are used throughout the year by Steller sea lions.

The purposes of the buffer zones include restricting the opportunities for individuals to shoot at sea lions and facilitating enforcement of this restriction; reducing the likelihood of interactions with sea lions, such as accidents or incidental takings in these areas where concentrations of these animals are expected to be high; minimizing disturbances and interference with sea lion behavior, especially at pupping and breeding sites; and, avoiding or minimizing other related adverse affects. Exceptions are provided for emergency situations and navigational transit of certain passageways and straits. Furthermore, a mechanism is provided to allow the Regional Director, with the concurrence of the Assistant Administrator, to provide exemptions for certain activities. All exemptions must be in writing and obtained in advance of the activity. In order to be eligible for an exemption, the activity must not have a significant adverse impact on sea lions, the activity must have been conducted historically or traditionally in the buffer zones, and there must be no feasibly available and acceptable alternative to or site for the activity.

An exception is included in the regulations for conducting research on Steller sea lions provided that the research is authorized by a scientific permit issued under the MMPA. Because this is an emergency action and NMFS does not want to delay valuable research, NMFS is not requiring a separate research permit under the ESA.

3. Establish Incidental Kill Quota. When the MMPA was amended in 1988 to require emergency regulations once 1,350 Steller sea lions were incidentally killed in any year, the population numbers were based, in part, on 1985 data. In four study areas in Alaska,

Steller sea lions declined by an average of 63% from 1985 to 1989. Therefore, as an emergency interim measure NMFS believes that the incidental killing of more than 675 Steller sea lions on an annual basis should be prohibited in Alaskan waters and adjacent areas of the U.S. Exclusive Economic Zone (EEZ) west of 141° W longitude. The most serious declines in numbers of Steller sea lions have occurred in this area. As discussed above, in association with this quota, NMFS is instituting a more efficient monitoring system. If NMFS determines and publishes notice that 675 Steller sea lions have been killed in this area during 1990, it will be unlawful to kill any additional Steller sea lion. Animals killed during 1990 prior to the publication of this emergency rule will be counted against this quota. NMFS may issue emergency rules to allocate the quota among various fisheries, establish closed areas, or take other action to ensure that commercial fishing operations do not exceed the quota.

Critical Habitat

The ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time the species is proposed for listing. NMFS intends to propose critical habitat at the earliest possible date as a part of the permanent rulemaking. NMFS will consider physical and biological factors essential to the conservation of the species that may require special management consideration or protection. These habitat requirements include breeding rookeries, haulout sites, feeding areas and nutritional requirements. In describing critical habitat, NMFS will take into consideration terrestrial habitats adjacent to rookeries and their need for protection from development and other uses, such as logging or mining.

Classification

Since the Assistant Administrator for Fisheries, NOAA, has determined that the present situation poses a significant risk to the well-being of Steller sea lion populations, emergency regulations can be issued under section 4(b)(7) of the ESA. The Assistant Administrator finds that reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under section 553(b) and (d) of the Administrative Procedure Act.

Section 4(b)(1) of the ESA restricts the information which may be considered when assessing species for listing. Based on this limitation and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d 829 (9th cir., 1981), NMFS has categorically excluded all listing actions under the ESA from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413-23, February 8, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

List of Subjects in 50 CFR Part 227

Endangered and Threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: April 2, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

PART 227—[AMENDED]

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. Section 227.4 is amended by adding a new paragraph (f) from April 5, 1990 through December 3, 1990, to read as follows:

§ 227.4 Enumeration of threatened species.

(f) Steller (northern) sea lion (*Eumetopias jubatus*).

3. Section 227.12 is added to subpart B from April 5, 1990, through December 3, 1990, to read as follows:

§ 227.12 Steller sea lion.

(a) *Prohibitions*—(1) *No discharge of firearms.* Except as provided in paragraph (b) of this section, no person subject to the jurisdiction of the United States may discharge a firearm at or near a Steller sea lion. A firearm is any weapon, such as a pistol or rifle, capable of firing a missile using an explosive charge as a propellant.

(2) *No approach in buffer areas.* Except as provided in paragraph (b) of this section:

(i) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles of a Steller sea lion rookery site listed in paragraph (a)(3) of this section;

(ii) No person may approach on land not privately owned within one-half statutory mile or within sight of a Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater, except on Marmot Island; and

(iii) No person may approach on land not privately owned within one and one-half statutory miles or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater.

(3) *Listed sea lion rookery sites.* Listed Steller sea lion rookery sites consist of the rookeries in the Aleutian Islands and the Gulf of Alaska listed in Table 1.

TABLE 1.—LISTED STELLER SEA LION ROOKERY SITES¹

Island	From		To		NOAA chart	Notes
	Lat.	Long.	Lat.	Long.		
Outer I.	59°20.5 N	150°23.0 W	51°21.0 N	150°24.5 W	16681	S quadrant.
Sugarloaf I.	58°53.0 N	152°02.0 W			16580	whole island.
Marmot I.	58°13.0 N	151°48.0 W	58°09.5 N	151°52.0 W	16580	SE quadrant.
Chirikof I.	55°47.5 N	155°33.5 W	55°48.5 N	155°43.0 W	16580	S quadrant.
Chowiet I.	56°02.0 N	156°41.0 W	56°01.5 N	156°44.0 W	16013	S quadrant.
Atkins I.	55°03.5 N	159°18.5 W			16540	whole island.
Chemsura I.	54°47.5 N	159°31.0 W	54°45.5 N	159°33.5 W	16540	SE corner.
Pinnacle Rock	54°48.0 N	161°48.0 W			16540	whole island.
Clubbing Rocks(N)	54°43.0 N	162°28.5 W			16540	whole island.
Clubbing Rocks(S)	54°42.0 N	162°26.5 W			16540	whole island.
Sea Lion Rocks	55°28.0 N	163°12.0 W			16520	whole island.
Ugamak I.	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W	16520	E end of island.
Akutan I.	54°17.5 N	165°34.0 W	54°18.0 N	165°31.0 W	16520	Blings Hoop Blight.
Akutan I.	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W	16520	SW corner, Cape Mergan.

TABLE 1.—LISTED STELLER SEA LION ROOKERY SITES ¹—Continued

Island	From		To		NOAA chart	Notes
	Lat.	Long.	Lat.	Long.		
Bogosiof I.	53°56.0 N	168°02.0 W			16500	whole island.
Ogchul I.	53°00.0 N	168°24.0 W			16500	whole island.
Adugak I.	52°54.5 N	169°09.5 W			16500	whole island.
Yunaska I.	52°42.0 N	170°38.5 W	52°41.0 N	170°34.5 W	16500	NE end.
Seguam I.	52°21.0 N	172°35.0 W	52°21.0 N	172°33.0 W	16480	N coast, Saddleridge Pt.
Agligadak I.	52°06.25 N	172°54.0 W			16480	whole island.
Kasatochi I.	52°10.0 N	175°31.0 W	52°10.5 N	175°29.0 W	16480	N half of island.
Adak I.	51°38.0 N	176°55.5 W	51°38.0 N	176°59.0 W	16460	SW point, Cape Yakak.
Gramp rock	51°29.0 N	178°20.5 W			16460	whole island.
Tag I.	51°33.5 N	178°34.5 W			16460	whole island.
Ulak I.	51°20.0 N	178°57.0 W	51°18.5 N	178°59.5 W	16460	SE corner, Hasgox Pt.
Semisopchnoi	51°58.5 N	179°45.5 E	51°57.0 N	179°46.0 E	16440	E quadrant, Pochnoi Pt.
Semisopchnoi	52°01.5 N	179°37.5 E	52°01.5 N	179°39.0 E	16440	N quadrant, Petrel Pt.
Amchilka I.	51°23.5 N	179°26.0 E	51°22.0 N	179°23.0 E	16440	East Cape.
Amchilka I.	51°32.5 N	178°50.0 E			16440	Column Rocks.
Ayugadak Pt.	51°45.5 N	178°24.5 E			16440	SE coast of Rat I.
Kiska I.	51°56.5 N	177°19.0 E	51°58.0 N	177°20.5 E	16440	W central, Lief Cove.
Kiska I.	51°53.0 N	177°13.0 E	51°54.0 N	177°14.0 E	16440	Cape St. Stephen.

¹ Each site extends from the first coordinates listed for latitude and longitude along the shoreline at mean lower low water to the second coordinates listed; or, if only one set of coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

BILLING CODE 3510-22-M

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8

SENATE COMMITTEE REPORT

FURTHER

FINANCE

2/9/89

DATE TURNED INTO OFFICE

4/7/89

Mr. President:

RESOURCES

Committee considered CSHB 8 (FIN)

addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park

and recommended

replace with S CS HB 8 (Resources)) same title
 or adopt _____ CS _____) new title
 attached amendment(s) and technical title change (HB only)

Senate Resources letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

Adrian Sturgulovich
[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature]
[Signature] No Rec
[Signature] NO REC

[Signature]
 Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: 2/1/89
Title: Addition to Kachemak Bay
State Park
Sponsor: Navarre/Swackhammer
Requestor: _____

Agency Affected: DNR
BRU: Park Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Finance Committee
Division: Co-Chairman Ron Larson *Ronald Larson*

Phone: 465-3727
Date: 2/1/89

Approved by Commissioner: _____
Agency: _____

Date: _____

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

*Changes in Re Resources CS have
no fiscal effect - This fiscal note
is appropriate*

page 1 of 1

DC. 4/7/89

6-0091H
Bradley
4/3/89

Original sponsors: Navarre, Swackhammer,
and Ellis

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 8 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the addition of land to Kachemak
7 Bay State Park and Kachemak Bay State Wilderness
8 Park."

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

10 * Section 1. LEGISLATIVE FINDINGS. The legislature, in its designation
11 of additional land to the Kachemak Bay State Wilderness Park, intends that
12 the land within the park be managed for its recreational values without
13 preventing reasonable access to inholdings in the Petrof View subdivision.
14 On Nuka Island, in recognition of planning conducted by the commissioner of
15 natural resources under AS 38.04.065, the legislature intends that the
16 island support

- 17 (1) a commercial lodge in a suitable place;
- 18 (2) renovation of existing facilities at Herring Pete's Cove;
- 19 (3) the construction and operation of one or two public use
20 cabins;
- 21 (4) docks, trails, and moorings necessary to provide for recre-
22 ational use; and
- 23 (5) maintenance of Berger Bay in an undeveloped state.

24 * Sec. 2. AS 41.21.131(a) is amended to read:

25 (a) The presently state-owned land and water, and all that
26 acquired in the future by the state, lying within the parcels describ-
27 ed in this section are designated as the Kachemak Bay State Park. In
28 order to protect and preserve this land and water for its unique and
29 exceptional scenic value, the park is established and shall be managed

1 as a scenic park. The land and water lying within the following
 2 described parcels is reserved from all uses incompatible with its
 3 primary function as a scenic park and is assigned to the department
 4 for control, development and maintenance:

5 (1) Township 5 South, Range 10 West, Seward Meridian
 6 Chugachik Island
 7 Sections 31 - 32

8 (2) Township 5 South, Range 11 West, Seward Meridian

9 Section 2: Lot 1, excluding Tract A

10 Section 3: Lots 1 - 8, SW1/4NE1/4, S1/2NW1/4,
 11 N1/2SW1/4

12 Section 4: Lots 1 - 4, S1/2N1/2, SE1/4, E1/2SW1/4

13 Section 8: E1/2NE1/4, SE1/4

14 Section 9: Lots 1 and 2, NW1/4NE1/4, NE1/4NW1/4,
 15 W1/2NW1/4, N1/2NE1/4SW1/4, SW1/4NE1/4SW1/4,
 16 excluding Lot 6

17 Section 10: Lot 1

18 Section 16: Lot 1

19 Section 17: Lots 1, 3, 4, NW1/4SW1/4, S1/2NW1/4

20 Section 18: Lot 4, SE1/4, E1/2NE1/4

21 Section 19: Lots 1-6, NW1/4NE1/4, NE1/4NW1/4

22 Section 20: Lot 1

23 Sections 24 - 25, excluding tide and submerged land
 24 within the Kachemak Bay Critical Habitat Area

25 Section 26: SE1/4, excluding tide and submerged land
 26 within the Kachemak Bay Critical Habitat Area

27 Section 35, excluding tide and submerged land

28 within (Aurora Lagoon) Kachemak Bay CHA

29 Section 36

1 (3) [(2)] Township 6 South, Range 11 West, Seward Meridian

2 (4) [(3)] Township 7 South, Range 11 West, Seward Meridian

3 Sections 1 - 4

4 Section 5: N1/2

5 Sections 7 - 36

6 (5) [(4)] Township 7 South, Range 12 West, Seward Meridian

7 Section 12, except N1/2 NE1/4

8 Section 13

9 Sections 19 - 36

10 (6) [(5)] Township 7 South, Range 13 West, Seward Meridian

11 Sections 25 - 26

12 Sections 35 - 36 [25, 26, 35 AND 36]

13 (7) [(6)] Township 8 South, Range 11 West, Seward Meridian

14 Sections 1 - 8

15 Section 9: N1/2

16 Section 10: N1/2

17 Section 11: N1/2

18 Section 12: N1/2

19 Sections 17 - 18 [17 AND 18]

20 (8) [(7)] Township 8 South, Range 12 West, Seward Meridian

21 (9) [(8)] Township 8 South, Range 13 West, Seward Meridian

22 Sections 1 - 2 [1 AND 2]

23 Sections 10 - 14

24 Section 15: E1/2

25 Section 23: N1/2 and SE1/4

26 Sections 24 - 25 [24 AND 25]

27 Section 26: E1/2

28 Section 35: E1/2

29 Section 36

1 (10) Township 9 South, Range 8 West, Seward Meridian

2 Section 2: W1/2

3 Sections 3 - 10

4 Sections 15 - 22

5 Sections 27 - 34

6 (11) Township 9 South, Range 9 West, Seward Meridian

7 (12) Township 9 South, Range 10 West, Seward Meridian

8 Sections 10 - 15

9 Sections 22 - 27

10 Sections 34 - 36

11 (13) [(9)] Township 9 South, Range 12 West, Seward Meridian

12 Sections 1 - 6

13 Section 8: NE1/4

14 Sections 9 - 12

15 Section 13: N1/2

16 Section 14: N1/2

17 (14) [(10)] Township 9 South, Range 13 West, Seward Meridian

18 Sections 1 - 2 [1 AND 2]

19 (15) Township 10 South, Range 8 West, Seward Meridian

20 Sections 4 - 8

21 Sections 17 - 19

22 (16) Township 10 South, Range 9 West, Seward Meridian

23 Sections 1 - 4

24 Sections 10 - 15

25 Sections 22 - 24.

26 * Sec 3. AS 41.21.140(a) is amended to read:

27 (a) The presently state-owned land and water, and all that
28 acquired in the future by the state, lying within the parcels describ-
29 ed in this section are designated as the Kachemak Bay State Wilderness

1 Park. In order to protect and preserve this land and water for its
2 unique and exceptional wilderness value, the park is established and
3 shall be managed as a wilderness park. The land and water lying
4 within the following described parcels is reserved from all uses
5 incompatible with its primary function as a wilderness park and is
6 assigned to the department for control and maintenance:

7 (1) Township 8 South, Range 11 West, Seward Meridian

8 Section 9: S 1/2

9 Section 10: S 1/2

10 Section 11: S 1/2

11 Section 12: S 1/2

12 Sections 13 - 16

13 Sections 19 - 36

14 (2) Township 9 South, Range 10 West, Seward Meridian

15 Sections 1 - 3

16 (3) Township 9 South, Range 12 West, Seward Meridian

17 Section 7

18 Section 8: S 1/2 and NW 1/4

19 Section 13: S 1/2

20 Section 14: S 1/2

21 Sections 15 - 36

22 (4) [(3)] Township 9 South, Range 13 West, Seward Meridian

23 Section 11: NE 1/4

24 Sections 12 - 13

25 (5) [(4)] Township 10 South, Range 9 West, Seward Meridian

26 Sections 5 - 7

27 (6) [(5)] Township 10 South, Range 10 West, Seward Meridian

28 (7) [(6)] Township 10 South, Range 11 West, Seward Meridian

29 (8) [(7)] Township 10 South, Range 12 West, Seward Meridian

1 (9) [(8)] Township 11 South, Range 10 West, Seward Meridian
2 (10) [(9)] Township 11 South, Range 11 West, Seward Meridian
3 (11) [(10)] Township 11 South, Range 12 West, Seward Merid-
4 ian

5 Sections 1 - 10

6 Section 11: W 1/2 and E 1/2

7 Sections 12 - 17

8 Sections 21 - 24.

9 * Sec. 4. This Act does not prohibit the commissioner of natural re-
10 sources from conveying 50 acres, more or less, on Nuka Island to the Uni-
11 versity of Alaska in accordance with the final finding of the commissioner
12 of natural resources issued December 4, 1987, or its amendments. This Act
13 does not apply to land conveyed to the University of Alaska under the
14 commissioner's decision dated December 4, 1987.

CS HB 8 (Finance)

"An Act relating to the addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park."

JUSTIFICATION SUMMARY

House Bill 8 adds three major parcels to Kachemak Bay State Park and Kachemak Bay State Wilderness Park. Those additions are outlined in this summary.

NUKA ISLAND AND NUKA UPLANDS: 42, 092 ACRES +/-

Nuka Island and its adjacent uplands have been identified in the U.S. Congressional Record for inclusion within the boundary of the Kenai Fjords National Park. As state land, it cannot be part of Kenai Fjords, but this is a good illustration of the nationally recognized values of this island area.

(As a matter of interest, the February 1988 edition of Alaska Magazine contains an article on the Kenai Fjords National Park. The article and its accompanying illustrations still describe Nuka Island and Nuka uplands as national park lands.)

Some of the significant values are:

* The area has some of the most varied representation of shore and tidal marine life along the Kenai Fjord area.

* The outstanding scenic beauty complements hiking, fishing, boating and other similar recreational opportunities.

* Management of a commercial lease for facility development on the west side of the island corresponds with the current Nuka Island Management Plan. Development of recreational and tourism use by the Division of Parks and Outdoor Recreation make Nuka Island the logical "jumping off" point for enjoyment of Kachemak Bay State Wilderness Park, Kenai Fjords National Park, and other parts of the island itself.

* It is the only potential development link between Seward and Homer via cruise ship and state ferry system, and the only sheltered development site from Gore Point to Cape Resurrection also safe from earthquake and tsunami waves.

* Nuka Island has been identified by the Kachemak Bay State Park Citizen's Advisory Board for inclusion into the park since 1982. The Nuka Island Management Plan, completed in December of 1986, cites the islands high recreational potential.

NUKA ISLAND (cont'd.)

NOTE: The state has reached a land settlement with the University of Alaska, and certain Nuka Island lands are part of this agreement. The University has made a tentative selection of two 25 acres sites (one at Mike's Bay, and one at Herring Pete's Cove). These sites are available for commercial lodge development under the Nuka Island Management Plan, and are subject to conditions of the plan. House Bill 8 provides for these parcels.

COTTONWOOD CREEK AND EASTLAND CREEK: 2,310 ACRES, +/-

The Cottonwood-Eastland Creek parcels have been under consideration as potential park for over a decade. In 1979, the Division of Parks and Outdoor Recreation identified these parcels as desirable park land, following a recreational development feasibility study.

Located on the northern shore of Kachemak Bay, these lands are not contiguous to the balance of Kachemak Bay State Park. However, they will meet a strong need for road accessible recreational park land near Homer that can be readily developed. The nearest developed state park facility is the Anchor River State Recreational Area (approximately 16 miles north of Homer on the Sterling Highway), which is primarily used for fishing and camping. The Homer Spit is the only other area with public recreational facilities (operated by the City of Homer), and the summer impact to the spit will be relieved somewhat by development of Cottonwood-Eastland.

The 1979 feasibility study noted archaeological sites in the area, and recommended investigation, evaluation, and excavation if necessary, to preserve and protect these sites. Transfer to park status would help assure this.

Other justification for inclusion of Cottonwood-Eastland parcels in this legislation include:

- * High scenic and wildlife values
- * Developed road to area
- * Strong likelihood of year-round public use, when facilities are developed.

AURORA LAGOON: 2, 553 ACRES +/-

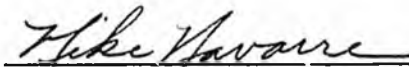
This is a logical adjustment to the boundary of the park. In discussions with former legislators, it seems apparent that the omission of Aurora Lagoon from the original Kachemak Bay State Park legislation was an oversight. Currently, the lagoon is heavily used for recreational pursuits.

AURORA LAGOON (cont'd.)

Aurora Lagoon itself offers high scenic and recreational values, and is one of the few locations of safe high tide moorage in this area of Kachemak Bay unaffected by inclement weather. Additionally, there are good beach landing sites for small craft.

Other justifications include:

- * Excellent camping and hiking potential.
- * Strong potential as a public use cabin site.
- * Good recreational fishing in area - salmon, crab, clams.
- * The Kachemak Bay State Park Citizen's advisory board has identified Aurora Lagoon for inclusion in the park since 1984.
- * Commercial development (a wilderness lodge) is taking place on private lands at nearby Bear Cove. State park status of these Aurora Lagoon lands would enhance and encourage recreation in the entire Aurora Lagoon/Bear Cove area, which has an excellent potential for trail development.



Rep. Mike Navarre
prime sponsor, HB8

(4) "wilderness park" means an area whose predominant character is the result of the interplay of natural processes, large enough and so situated as to be unaffected, except in minor ways, by what takes place in the nonwilderness around it, a physical condition which activates the innermost emotions of the observer and where development of man-made objects will be strictly limited and depend entirely on good taste and judgment so that the wilderness values are not lost. (§ 1 ch 161 SLA 1970; am § 1 ch 82 SLA 1972; am § 43 ch 85 SLA 1988)

Revisor's notes. — Enacted as AS 41.20.220 and renumbered as AS 41.20.047 in 1970. Renumbered again in 1983. Paragraphs (3) and (4) were enacted as AS 41.20.450 (1) and (2) and renumbered in 1972.

Cross reference. — For additional definitions, see AS 41.99.900.

Effect of amendments. — The 1988 amendment repealed former paragraphs (1) and (2), which defined "commissioner" and "department," respectively.

Chapter 22. Outdoor Recreational, Open Space, and Historic Properties Development.

[Renumbered as AS 41.98.170 — 41.98.180.]

Chapter 23. Multiple Use Management of Public Resources.

Article

- 1. Public Use Areas (§§ 41.23.010 — 41.23.130)
- 2. Recreation Rivers (§§ 41.23.400 — 41.23.510)

Editor's notes. — Section 2, ch. 48, SLA 1985 provides: "Nothing in AS 41.23.010 — 41.23.040 as enacted in § 1 of this Act may be construed to restrict the development and establishment of the Susitna Hydroelectric Project."

Article 1. Public Use Areas.

Section

- 10. Purpose of AS 41.23.010 — 41.23.040
- 20. Management
- 30. Incompatible uses
- 40. Nelchina Public Use Area
- 50. Purpose of AS 41.23.050 — 41.23.080
- 60. Management
- 70. Incompatible uses

Section

- 80. Ernie Haugen Public Use Area
- 100. Purpose of AS 41.23.100 — 41.23.130
- 110. Management
- 120. Incompatible uses
- 130. Hatcher Pass public use area

ons.

issuance of citation

tes a provision of this
ter is guilty of a mis-
y a fine of not more
han six months, or by

970. Renumbered again in

For offenses commit-
ct to the department's
ficers of the state and
r and the regulations

l by the commissioner;

missioner.

ion may, when enforc-
on adopted under this

l by an officer or court

or affidavit; and
violates a provision of
s chapter. (§ 1 ch 161

amendments. — The 1984
inserted "or issue a citation
aph (3) of subsection (b).

tion. (a) When a peace
e commission of a mis-
r recreational facility
ficer may issue a cita-
3 of AS 12.25.180 —
ay not be required to

hose offenses that are
nce and shall establish
ot to exceed fines pre-

scribed by law, for those offenses. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two persons from the Department of Natural Resources, two district court judges, one member of the House Resources Committee, and one member of the Senate Resources Committee of the legislature. If the offense for which the citation is issued is one that may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for an offense for which a bail amount has been established under (b) of this section may, within 15 days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation indicating the offender's waiver of appearance, plea of no contest, and direction to forfeit the bail and any items seized from the offender.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Bail forfeited under this section and the forfeiture of items seized from the offender is a complete satisfaction for the offense, and the clerk of the court shall provide the offender with a receipt stating that fact.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons for a misdemeanor charge and the offender shall be proceeded against in the manner prescribed by law.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section. (§ 3 ch 102 SLA 1984)

Sec. 41.21.990. Definitions. In this chapter

(1), (2) [Repealed, § 43 ch 85 SLA 1988.]

(3) "scenic park" means relatively spacious areas of outstanding natural significance, where major values are in their natural geological, faunal or floral characteristics, the purpose of which is directed primarily toward the preservation of its outstanding natural features and where development is minimal and only for the purpose of making the areas available for public enjoyment in a manner consistent with the preservation of the natural values such as camping, picnicking, sightseeing, nature study, hiking, riding and related activities which involve no major modification of the land, forests or waters, and without extensive introduction of artificial features or forms of recreational development that are primarily of urban character;

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS & OUTDOOR RECREATION

KENAI AREA
BOX 1247
SOLDOTNA, ALASKA 99669
PHONE: 262-5581

March 1, 1989

Dear Mariculture Permittee:

This letter is to advise you of the termination of your permit to operate in Kachemak Bay State Park, and to establish the new procedure for applying for your continued use of the park for commercial aquatic farming. Also enclosed are the full public notice and proposed regulations which will control mariculture operations in state parks. (Please see 11 AAC 18.040 and 11 AAC 18.050) Since these regulations will not be effective until some time later this year, the existing commercial use permit regulations (11 AAC 18.030) require that you apply for a permit on the enclosed form.

The past permit issued to you for mariculture was for an experimental, non-commercial use. During the two year period of review (March, 1987, to March, 1989), you were not required to pay the full commercial use rate. To continue as a commercial operation, you are now required to pay the \$200 per calendar year and submit photocopies of the following:

- Alaska Business License
- Kenai Borough Tax Certificate
- Liability Insurance to the level required in the attached stipulations
- Alaska Driver's License or Identification Card
- "AK" US Coast Guard numbers of all motorized boats used
- Alaska Department of Fish and Game, FRED Division, Shellfish Farm Permit

This office already has a copy of your ADF&G Habitat Division Permit and of your Corps of Engineers Permit which contains an Alaska Department of Environmental Conservation Section 401 Certification.

When the new regulations are promulgated and become effective, there will be another change in your permit. Because we are limiting the number of mariculture permits in Halibut Cove Lagoon, we will have to use a competitive bidding process to ensure equal access by the public to the permits available. I anticipate that before the end of 1989 this division will revoke all existing permits and establish a public competition bidding process.

As you know, there is some controversy about allowing commercial mariculture in the park. Governor Cowper has indicated his desire to allow a small, highly restricted, cottage industry operation in the park. The Kachemak Bay State Park Citizen's Advisory Board has

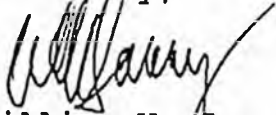
Mariculture Permits
March 1, 1989

2

advised the director they are opposed to this commercial use of the park. It is my intention to call a meeting of all existing permittees and those interested in mariculture. The meeting will be in conjunction with the Citizen's Advisory Board's April meeting. Notice of the time, date and place will be mailed to you. I would like to discuss permit stipulations and the new regulations.

Please read the enclosed regulations to assess their effect on your operations. You may call me or Sue Millington at 262-5581, or Roger MacCampbell at 235-7024 if you have any questions. I hope we can work together to resolve your problems, still the controversy, and preserve the park.

Sincerely,



William W. Garry
Superintendent

Enclosures

(5) the term of the permit is no longer than 365 consecutive days or one calendar year [two years, with a two-year renewal clause at the discretion of the director], and is revocable at any time the director determines that the criteria set by 11 AAC 18.025(c) are not being met or the public interest is not otherwise served.

(Eff. 5/11/85, Reg. 94; am 1/28/88, Reg. 105; am 2/3/88, Reg.105; am ___/___/___, Reg. ___)

Authority:	AS 41.21.020	AS 41.21.950
	AS 41.21.026	AS 41.21.955
	AS 41.21.040	

11 AAC 18.040 is added as a new section to read:

11 AAC 18.040. COMPETITIVE PARK USE PERMITS FOR COMMERCIAL ACTIVITIES. (a) The director may competitively bid a permit for a commercial activity if he or she finds that

(1) the conditions of 11 AAC 18.025 are met;

(2) there is commercial viability for the activity proposed; and

(3) there is a need to limit the number of permits to protect public use of the park or to protect park resources, or there is a need to prevent one business or person from monopolizing commercial activities within a park or portion of a park, or without limitation of the number of permits there would likely be a degradation of quality of the recreational experience of the park, or there may be an unlimited demand for space within a park.

(b) The process for competitive bidding under this section shall be determined by the director.

(c) A permit issued under this section shall

(1) declare that the state assumes no risk of financial loss whatsoever, and the state guarantees no financial gain or opportunity to profit whatsoever;

(2) prohibit any assignment of rights or responsibilities to perform the stipulations in the permit absent the written permission of the director;

(3) terminate after no more than five years with a possibility of renewal for five more years, and it shall be revocable at any time the director determines that the criteria set by 11 AAC 18.025(c) are not being met, the public interest is not otherwise served, or the terms and conditions of the permit are not followed.

(d) The minimum bid price for a permit under this section shall be \$200 per permit per calendar year, and this minimum bid may be increased by the director to give the state a fair and reasonable return in light of the cost of administering the activity permitted under this section, the impact of the proposed activity on the park, the incidental benefit that might be provided the park, goods or services provided to the state, and the gross business receipts attributable to the activity.

(e) The provisions of 11 AAC 18.030 (b) apply to a permit issued under this section.

(f) The director may limit the number of competitive commercial use permits an individual may hold.

(g) No permittee, or permittee's agent or employee, may violate the conditions of the permit. Upon any violation of a condition of the permit, the director may suspend or revoke the permit. Each day in violation of the permit conditions constitutes a separate offense under AS 41.21.950. (Eff. ___/___/___, Reg. ___)

Authority:	AS 41.21.020	AS 41.21.302
	AS 41.21.026	AS 41.21.905
	AS 41.21.040	AS 41.21.955

11 AAC 18.050 is added as a new section to read:

11 AAC 18.050. AQUATIC FARMSITE PERMITS. (a) The director may, in his or her discretion and to the extent permitted by law, open or close a state park area to aquatic farming.

(b) Before a park area has been opened to aquatic farming, the director shall meet with any local park advisory board, concerned citizens, prospective farmsite bidders, local governments, and other interested agencies to form a preliminary decision on

(1) what the terms and conditions should be for a competitive commercial use permit issued under 11 AAC 18.040; or

(2) what the terms and conditions should be for a non-competitive commercial use permit issued under 11 AAC 18.030.

(c) A preliminary decision will be reviewed by agencies and affected coastal districts in accordance with 6 AAC 50.070 for consistency with the Alaska Coastal Management Program.

(d) The director will issue a final decision containing the permit terms and conditions. The criteria used in forming the final decision may parallel those in 11 AAC 63.050 (b) and (c). (Effective ___/___/___, Reg. ___)

Authority:	AS 41.21.020	AS 41.21.302
	AS 41.21.026	AS 41.21.905
	AS 41.21.040	AS 41.21.955

CHAPTER 20. STATE PARK LAND AND WATER

Article

- 7 Chena River State Recreation Area (11 AAC 20.460 - 11 AAC 20.492)
- 9 Nancy Lake State Recreation Area (11 AAC 20.540 - 11 AAC 20.555)
- 14 Kenai River Special Management Area (11 AAC 20.850 - 11 AAC 20.885)
- 5 Special Provisions (11 AAC 20.905 - 11 AAC 20.990)

ARTICLE 7. CHENA RIVER STATE RECREATION AREA

Section

460 Use of Weapons

492 Camping

11 AAC 20.460. is amended to read:

11 AAC 20.460. USE OF WEAPONS. (a) The use and discharge of a weapon for the purpose of lawful hunting or trapping is allowed in the Chena River State Recreation Area except within one-quarter mile of a developed campground, picnic area, trailhead, and the Twin Bears Camp. [one-half miles of a developed facility.]

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman

Senator Jay Kertula, Vice Chairman
Senator Dick Ellason
Senator Steve Frank
Senator Rick Hallford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

LETTER OF INTENT FOR SCS HB8 (Resources)

It is the intent of the Senate Resources Committee that permitted commercial activities, park concessions, or commercial outfitters shall not impede traditional recreational activities, hunting, or fishing occurring in Kachemak Bay State Park.



Alaska State Legislature

Senator Mike Szymanski

White in Session:
P.O. Box V
State Capitol, Room 11
Juneau, Alaska 99811
(907) 465-4978/4979
FAX (907) 465-2652

During Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617

March 16, 1989

165 E. Parks Highway
Legislative Information Office
Wasilla, Alaska 99687
(907) 376-MIKE

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chair
Senate Resources Committee

FROM:  Senator Mike Szymanski

RE: Powder Island Land Exchange

The purpose of this memo is to request that the attached amendment be added to HB 8, a bill related to Kachemak Bay State Park. After reviewing the memo and map, I believe that you, and the other committee members, will find that Powder Island, located in Seldovia Bay, should be included in the Kachemak Bay State Park.

In reviewing the attached map, it is obvious that the only remaining public land within the Seldovia Bay is Powder Island. If this land is removed from public use, the general public will be prevented access for recreational purposes within the Bay.

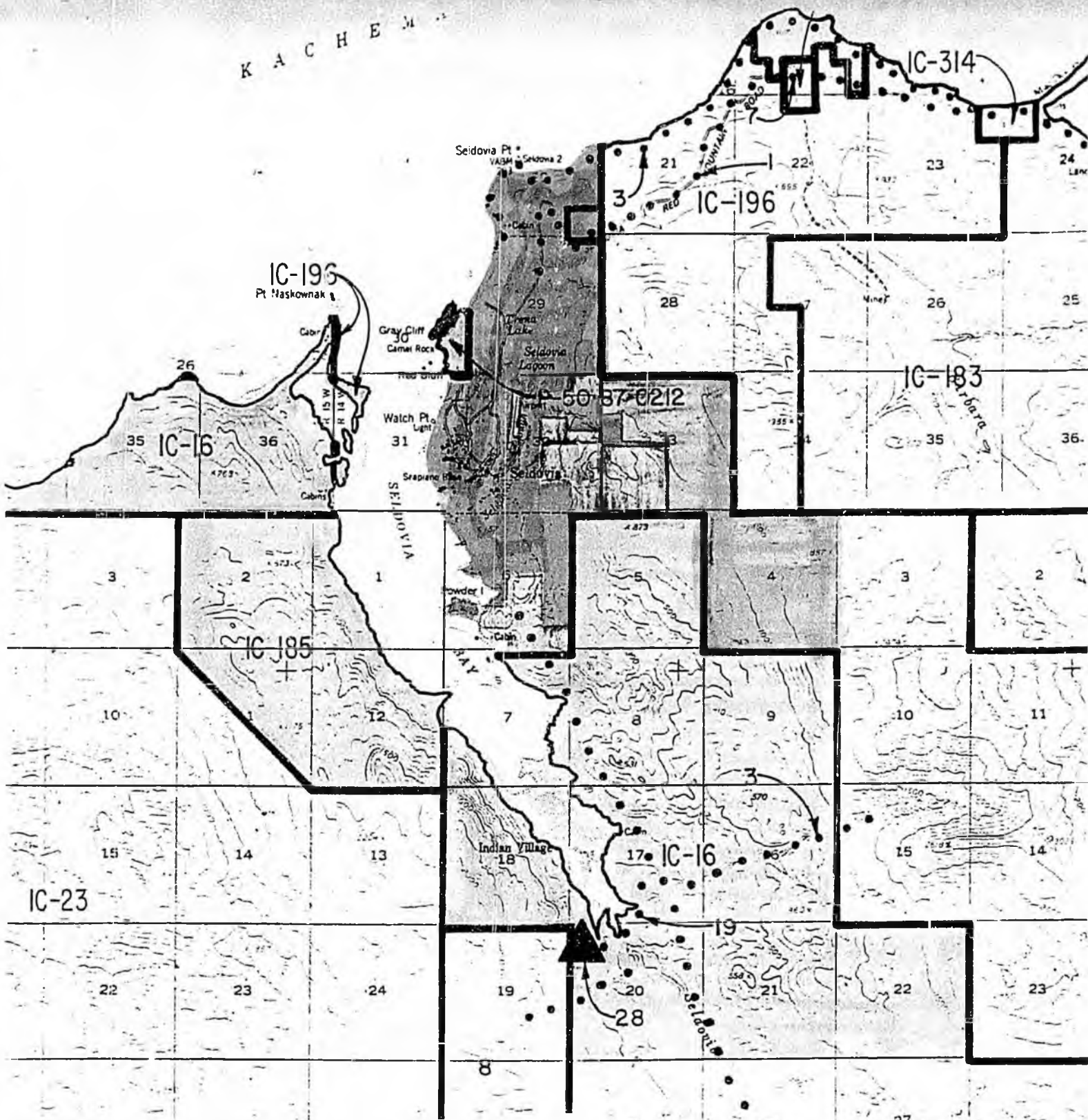
Seldovia Bay is an extremely popular and well utilized recreational boating area which provides sheltered moorage that is not available anywhere else in the surrounding area. Relinquishing this public land to the Seldovia Native Corporation, the major land owner in the Bay, will leave the decision of allowing public access and recreational usage to the discretion of the Corporation. Of course, the tidelands are available to the public, but they are not particularly appropriate or convenient for camping, picnicing or hiking.

In conclusion, it's my opinion that it is not in the public's best interest to eliminate Seldovia Bay as a public recreational use area. While we cannot reverse past land decisions, we can certainly prevent the trading of this last remaining parcel of public land to the Seldovia Native Corporation by including it in the Kachemak Bay State Park system.








Finally, once the Native Corporation subdivides the lots, I believe that the State will be in a position to purchase land from them to make it available to the public.

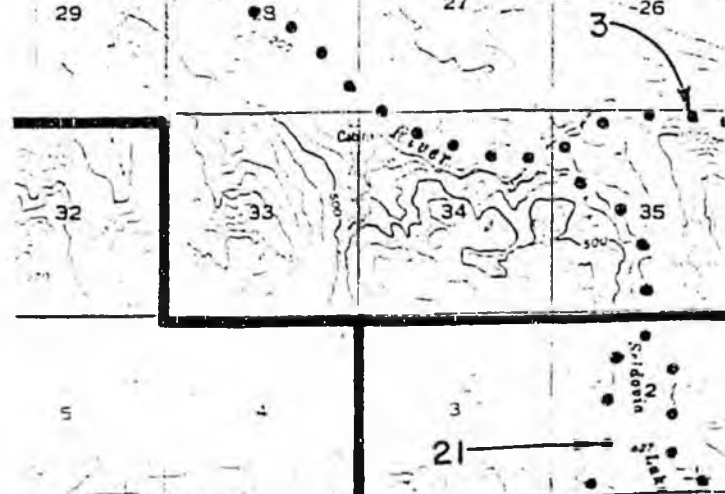
Senate District E

KACHEMAK



SELDOVIA BAY LAND STATUS - February, 1989

-  State Land
-  State Land - borough selected
-  University Land
-  Native Corp. Land (with some private inholdings)
-  Other Private Land
-  One Acre Campground Easement
-  ANCSA 17(b) Trail Easements



STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

STEVE COWPER, GOVERNOR

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

February 27 1989

The Honorable Mike Szymanski
Alaska Senate
P. O. Box V
Juneau, AK 99811

Dear Senator Szymanski:

Enclosed is the land status map of Seldovia Bay that you requested to help in your review of the Kachemak Bay State Park exchange land pool.

I want to explain why we have included Powder Island in the land pool for the exchange. I recognize that Powder Island has value as public recreation land, however, the trade-off is to get higher value public recreation land adjacent to China Poot Bay in Kachemak Bay State Park into public ownership. The public benefit of owning the land within the state park may outweigh the loss of public land at Powder Island, which has no park designation.


A second concern is that Powder Island is of great interest to the Seldovia Native Association (SNA). Because SNA is trading land with recreation development potential adjacent to China Poot Bay, SNA desires to get some land with similar development potential outside the park. If the state does not offer SNA some good parcels of land such as Powder Island, SNA would have no reason to enter into the exchange.

To help address your concern about public use, the state is required by statute to retain a public access easement along the shoreline of Powder Island if the land is conveyed to SNA.

The Honorable Mike Szymanski
February 27, 1989
Page 2

I look forward to your comments on the Kachemak Bay State Park exchange land pool. We will keep you posted on the land exchange's progress. I look forward to your support when the exchange is submitted to the legislature for approval next session.

Sincerely,



Gary Gustafson,
Director

cc: Fred Elvsaas, Seldovia Native Association
Senator Paul Fischer
Representative Mike Navarre
Representative C. E. Swackhammer
Janice Schofield, Kachemak Bay Citizens Coalition

Mike,

Let's discuss should you
have further questions.

Gos

A M E N D M E N T

OFFERED IN THE SENATE

BY SZYMANSKI

TO: CSHB 8(Finance)

Page 4, after line 14:

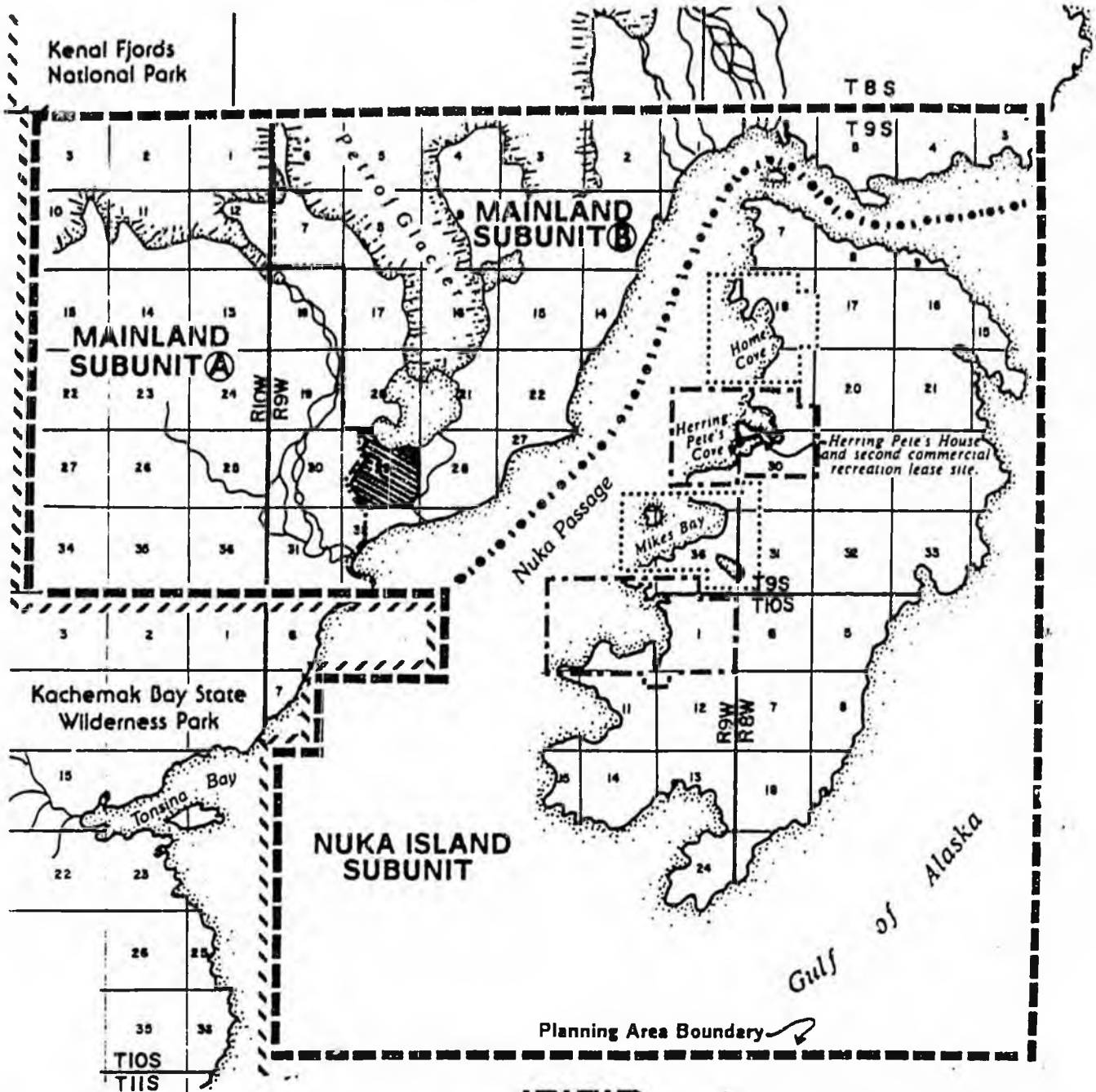
Insert a new paragraph to read:

“(14) Township 9 South, Range 14 West, Seward Meridian

Section 6: Government Lot 4”

Renumber the following paragraphs accordingly.

NUKA ISLAND AND VICINITY LAND USE MAP



----- Subunit Boundary

..... Classification Boundary

Classifications

MAINLAND SUBUNIT

(A) Public Recreation/Wildlife Habitat/Forestry

(B) Public Recreation/Wildlife Habitat

NUKA ISLAND SUBUNIT

Public Recreation/Wildlife Habitat

----- Areas Closed to Mineral Entry

..... Alternative Lodge Sites; the one selected will be closed to mineral entry.

////// Petrof View State Subdivision

SCS CS House Bill 8 (Resources)
**"An Act relating to the addition of land to Kachemak Bay State Park and
Kachemak Bay State Wilderness Park."**

This bill adds three major parcels to Kachemak Bay State Park:

• **Nuka Island and Nuka Uplands: 42,092 Acres +/-**

Located on the eastern side of the Kenai Peninsula, Nuka Island and the adjacent uplands were identified in the U.S. Congressional record for inclusion in the Kenai Fjords National Park. As state land, they cannot be national park lands, but this is a good illustration of the nationally recognized significance of these lands.

In accordance with the University Land Settlement, there are two twenty-five acre parcels identified for transfer to the University on Nuka Island. These parcels are available for commercial lodge development under the 1986 Nuka Island Management Plan, and are subject to conditions of the plan.

Nuka has been identified by the Kachemak Bay State Park Citizens' Advisory Board for inclusion into the park since 1982.

• **Cottonwood Creek and Eastland Creek: 2,310 acres +/-**

The Cottonwood/Eastland parcels have been under consideration as potential park for over a decade. Following a 1979 recreational feasibility study, the Division of Parks and Outdoor Recreation identified these parcels as desirable park land. These lands, some 12 miles northeast of Homer on the northern side of Kachemak Bay, are road accessible, and will help meet a growing need for park land in the Homer area that can be readily developed.

• **Aurora Lagoon: 2,100 acres +/-**

The addition of this parcel, located approximately 7 miles northeast of Halibut Cove, is a logical adjustment to the existing boundary of Kachemak Bay State Park. Discussions with former legislators indicate that the omission of Aurora was an oversight. Currently, the Aurora Lagoon & Aurora Spit are heavily used for recreational pursuits.

Substantive differences between the House - passed bill, CS HB 8 (Finance) and SCS CS HB 8 (Resources) :

• Originally, all the Nuka Uplands parcels were slated for inclusion in Kachemak Bay State Wilderness Park (while Nuka Island itself would be added to Kachemak Bay State Park - i.e., "scenic" park). The Senate Resources Committee modified this so that all Nuka Uplands would be "scenic" park rather than "wilderness" park, except for 3 sections (1,920 acres), which are covered mostly by Petrof Glacier.

• The tide and submerged lands within the Aurora Lagoon parcel have been removed from the bill.

SCSCS HB 8 (Resources)
**"An Act relating to the addition of land to Kachemak Bay State
Park and Kachemak Bay State Wilderness Park."**

JUSTIFICATION SUMMARY

Rep. Mike Navarre

House Bill 8 adds three major parcels to Kachemak Bay State Park and Kachemak Bay State Wilderness Park. Those additions (and one proposed in an amendment offered by the prime sponsor) are outlined in this summary.

NUKA ISLAND AND NUKA UPLANDS: 42, 092 ACRES +/-

Nuka Island and its adjacent uplands have been identified in the U.S. Congressional Record for inclusion within the boundary of the Kenai Fjords National Park. As state land, it cannot be part of Kenai Fjords, but this is a good illustration of the nationally recognized values of this island area.

(As a matter of interest, the February 1988 edition of Alaska Magazine contains an article on the Kenai Fjords National Park. The article and its accompanying illustrations still describe Nuka Island and Nuka uplands as national park lands.)

Some of the significant values are:

- * The area has some of the most varied representation of shore and tidal marine life along the Kenai Fjord area.

- * The outstanding scenic beauty complements hiking, fishing, boating and other similar recreational opportunities.

- * Management of a commercial lease for facility development on the west side of the island corresponds with the current Nuka Island Management Plan. Development of recreational and tourism use by the Division of Parks and Outdoor Recreation make Nuka Island the logical "jumping off" point for enjoyment of Kachemak Bay State Wilderness Park, Kenai Fjords National Park, and other parts of the island itself.

- * It is the only potential development link between Seward and Homer via cruise ship and state ferry system, and the only sheltered development site from Gore Point to Cape Resurrection also safe from earthquake and tsunami waves.

- * Nuka Island has been identified by the Kachemak Bay State Park Citizen's Advisory Board for inclusion into the park since 1982. The Nuka Island Management Plan, completed in December of 1986, cites the islands high recreational potential.

NUKA ISLAND (cont'd.)

NOTE: The state has reached a land settlement with the University of Alaska, and certain Nuka Island lands are part of this agreement. The University has made a tentative selection of two 25 acres sites (one at Mike's Bay, and one at Herring Pete's Cove). These sites are available for commercial lodge development under the Nuka Island Management Plan, and are subject to conditions of the plan. House Bill 8 provides for these parcels.

COTTONWOOD CREEK AND EASTLAND CREEK: 2,310 ACRES, +/-

The Cottonwood-Eastland Creek parcels have been under consideration as potential park for over a decade. In 1979, the Division of Parks and Outdoor Recreation identified these parcels as desirable park land, following a recreational development feasibility study.

Located on the northern shore of Kachemak Bay, these lands are not contiguous to the balance of Kachemak Bay State Park. However, they will meet a strong need for road accessible recreational park land near Homer that can be readily developed. The nearest developed state park facility is the Anchor River State Recreational Area (approximately 16 miles north of Homer on the Sterling Highway), which is primarily used for fishing and camping. The Homer Spit is the only other area with public recreational facilities (operated by the City of Homer), and the summer impact to the spit will be relieved somewhat by development of Cottonwood-Eastland.

The 1979 feasibility study noted archaeological sites in the area, and recommended investigation, evaluation, and excavation if necessary, to preserve and protect these sites. Transfer to park status would help assure this.

Other justification for inclusion of Cottonwood-Eastland parcels in this legislation include:

- * High scenic and wildlife values
- * Developed road to area
- * Strong likelihood of year-round public use, when facilities are developed.

AURORA LAGOON: 2,100 ACRES +/-

This is a logical adjustment to the boundary of the park. In discussions with former legislators, it seems apparent that the omission of Aurora Lagoon from the original Kachemak Bay State Park legislation was an oversight. Currently, the lagoon is heavily used for recreational pursuits.

AURORA LAGOON (cont'd.)

Aurora Lagoon itself offers high scenic and recreational values, and is one of the few locations of safe high tide moorage in this area of Kachemak Bay unaffected by inclement weather. Additionally, there are good beach landing sites for small craft.

Other justifications include:

- * Excellent camping and hiking potential.
- * Strong potential as a public use cabin site.
- * Good recreational fishing in area - salmon, crab, clams.
- * The Kachemak Bay State Park Citizen's advisory board has identified Aurora Lagoon for inclusion in the park since 1984.
- * Commercial development (a wilderness lodge) is taking place on private lands at nearby Bear Cove. State park status of these Aurora Lagoon lands would enhance and encourage recreation in the entire Aurora Lagoon/Bear Cove area, which has an excellent potential for trail development.

STATE OF ALASKA LEGISLATIVE DESIGNATIONS

April, 1987; updated January 1988

Fish and Game Designations (AS 16.20):

<u>Name</u>	<u>Statute</u>	<u>Acres</u>
Walrus Island State Game Sanctuary	(AS 16.20.090-.140)	9,700
McNeil River State Game Sanctuary	(AS 16.20.160-.170)	83,800
	Total Sanctuaries	93,500
Palmer Hay Flats State Game Refuge	(AS 16.20.032)	26,000
Mendenhall Wetlands State Game Refuge	(AS 16.20.034)	3,800
Susitna Flats State Game Refuge	(AS 16.20.036)	300,800
Trading Bay State Game Refuge	(AS 16.20.038)	160,960
Cape Newenham State Game Refuge	(AS 16.20.030)	14,000
Izembek (Lagoon) State Game Refuge	(AS 16.20.030)	181,440
Creamer's Field Migratory Waterfowl Refuge	(AS 16.20.039)	1,664
Goose Bay State Game Refuge	(AS 16.20.030)	10,830
Potter Point State Game Refuge	(AS 16.20.030)	39,360
	Total Refuges	738,904
Port Moller Critical Habitat Area	(AS 16.20.230)	127,000
Port Heiden Critical Habitat Area	(AS 16.20.230)	72,000
Cinder River Critical Habitat Area	(AS 16.20.230)	26,000
Egegik Critical Habitat Area	(AS 16.20.230)	8,000
Pilot Point Critical Habitat Area	(AS 16.20.230)	46,000
Kalgin Island Critical Habitat Area	(AS 16.20.230)	3,500
Fox River Flats Critical Habitat Area	(AS 16.20.230)	7,100
Chilkat River Critical Habitat Area	(AS 16.20.230)	4,800
Kachemak Bay Critical Habitat Area	(AS 16.20.230)	222,000

<u>Name</u>	<u>Statute</u>	<u>Acres</u>
Clam Gulch Critical Habitat Area	(AS 16.20.230)	2,500
Copper River Delta Critical Habitat Area	(AS 16.20.230)	597,000
Anchor River & Fritz Creek Crt Hab Area	(AS 16.20.230)	19,000
Total Critical Habitat Areas		1,134,900
Total Fish and Game Acres		1,967,304

Forestry Designations (AS 41.15-17):

Tanana Valley State Forest	(AS 41.17.400)	1,786,000
Haines State Forest Resource Mgmt. Area	(AS 41.15.300-330)	247,000
Total Forestry Acres		2,033,000

Park Units (AS 41.21-23):

Chilkat State Park	(AS 41.21.111-120)	6,045
Chugach State Park	(AS 41.21.121-125)	495,000
Kachemak Bay State Park	(AS 41.21.131-134)	119,970
Kachemak Bay State Wilderness Park	(AS 41.21.140-143)	208,320
Denali State Park	(AS 41.21.151-152)	421,120
Wood-Tikchik State Park	(AS 41.21.161-167)	1,428,320
Shuyak Island State Park	(AS 41.21.172-178)	11,000
Marine Parks	(AS 41.21.304)	14,440*

Bettles Bay; Oliver Inlet; Sawmill Bay; Shoup Bay; South Esther Island; Surprise Cove; Chilkat Islands; Zeigler Cove; Horseshoe Bay; Sullivan Island; Shelter Island; Saint James Bay; Taku Harbor; Funter Bay; Joe Mace Island; Thoms Place; Beecher Pass; Dall Bay; Security Bay.

*Not including 22,510 acres of water.