

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6578 SENATE RESOURCES

982

H B

315

DATE: 4/28/90

FURTHER:

DATE TURNED INTO OFFICE: 5-6-90

Resources Committee considered CSHB 315 (Judiciary) am

"An Act relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharge, for failure to comply with an oil discharge contingency plan, for negligent performance or failure to perform a required act relating to the handling of a hazardous waste, and for failure to provide information or providing false information about oil or a hazardous substance when required by law."

and recommended:

- replace with 5 CS CS HB 315 (Res) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

- ATTACHES NEW FISCAL NOTE(S):**
- fiscal note(s) Dept/Date: _____
 - zero fiscal note(s) _____
 - appropriation-no fiscal note

- APPROVES PREVIOUS:**
- fiscal note(s) Dept/Date: _____
 - zero fiscal note(s) _____
 - Governor's bill w/fiscal note *DFM*

SIGNING DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

[Handwritten signature]
 Chair: Signature and Recommendation

go1239hM

Chenoweth
5/5/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 315 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal penalties for negligent
7 operation of a tank vessel, for negligent oil dis-
8 charge, for failure to comply with an oil discharge
9 contingency plan, for negligent performance or fail-
10 ure to perform a required act relating to the hand-
11 ling of a hazardous waste, and for failure to provide
12 information or providing false information about oil
13 or a hazardous substance when required by law."

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

15 * Section 1. AS 46.03 is amended by adding new sections to read:

16 Sec. 46.03.742. RECKLESS OPERATION OF TANK VESSEL. (a) A
17 person commits the crime of reckless operation of a tank vessel when,
18 by recklessly operating, navigating, or piloting a tank vessel, the
19 person causes a release of a hazardous substance and the release
20 causes serious physical injury to another person or damage to the
21 property of another.

22 (b) Reckless operation of a tank vessel is a class C felony.

23 (c) In this section, "reckless" has the meaning given in AS 11.-
24 81.900.

25 Sec. 46.03.743. NEGLIGENT OPERATION OF TANK VESSEL. (a) A
26 person commits the crime of negligent operation of a tank vessel when,
27 by operating, navigating, or piloting a tank vessel with criminal
28 negligence, the person creates an unjustifiable risk of a release of a
29 hazardous substance or an unjustifiable risk of harm to a person or

1 property.

2 (b) Negligent operation of a tank vessel is a class A misde-
3 meanor.

4 (c) In this section, "criminal negligence" has the meaning given
5 in AS 11.81.900.

6 Sec. 46.03.744. DEFINITIONS. In AS 46.03.742 - 46.03.744,

7 (1) "hazardous substance" has the meaning given in AS 46.-
8 03.826;

9 (2) "tank vessel" means

10 (A) a vessel that is constructed or adapted to carry,
11 or that carries, as a means of transportation by water, a hazard-
12 ous substance in bulk as cargo or cargo residue;

13 (B) the vessel that propels the tank vessel if the
14 tank vessel is a barge or other vessel that is not self-propell-
15 ed.

16 * Sec. 2. AS 46.03.790(a) is amended to read:

17 (a) Except as provided in (d) [(d) - (f)] of this section, a
18 person is guilty of a class A misdemeanor if the person with criminal
19 negligence

20 (1) [WHO NEGLIGENTLY] violates a provision of this chapter,
21 AS 46.04, or AS 46.09, [OR OF] a regulation or [, LAWFUL] order of the
22 department, or a permit, approval, or acceptance, or a term or condi-
23 tion of a permit, approval, or acceptance issued under this chapter,
24 AS 46.04, or AS 46.09;

25 (2) fails to provide information or provides false informa-
26 tion required by AS 46.03.755, AS 46.04, or AS 46.09, or by a regula-
27 tion adopted by the department under AS 46.03.755, AS 46.04, or
28 AS 46.09; or

29 (3) makes a false statement or representation in an

1 application, label, manifest, record, report, permit, or other docu-
2 ment filed, maintained, or used for purposes of compliance with
3 AS 46.03.250 - 46.03.314 applicable to hazardous wastes or a regula-
4 tion adopted by the department under AS 46.03.250 - 46.03.314 [IS
5 GUILTY OF A CLASS B MISDEMEANOR].

6 * Sec. 3. AS 46.03.790(d) is amended to read:

7 (d) Notwithstanding (a) [AND (b)] of this section, a person who
8 with criminal negligence discharges oil in violation of AS 46.03.740
9 or who, when required by an oil discharge to comply with the pro-
10 visions of an oil discharge contingency plan approved under AS 46.-
11 04.030, with criminal negligence fails to comply with the plan is
12 guilty of

13 (1) a class C felony if the oil discharge is 10,000 barrels
14 or more;

15 (2) a class A misdemeanor if the oil discharge is less than
16 10,000 barrels [FAILS TO PROVIDE OR FALSELY STATES INFORMATION RE-
17 QUIRED UNDER AS 46.03.755, AS 46.04, OR AS 46.09 IS GUILTY OF A MISDE-
18 MEANOR AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN
19 \$25,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH.
20 EACH UNLAWFUL ACT CONSTITUTES A SEPARATE OFFENSE].

21 * Sec. 4. AS 46.03.790 is amended by adding a new subsection to read:

22 (g) In this section,

23 (1) "barrel" has the meaning given in AS 46.04.900;

24 (2) "criminal negligence" has the meaning given in AS 11.-
25 81.900;

26 (3) "knowingly" has the meaning given in AS 11.81.900.

27 * Sec. 5. AS 46.03.790(b), 46.03.790(e), and 46.03.790(f) are repealed.
28
29

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: HB 315
Negligent Operation of a Tanker, etc.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Environmental Conservation
ERU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The FY 90 effect would also be a zero impact.

Prepared by: Gail Gatton
Division: Administrative Services

Phone: 465-2600
Date: 1/22/90

Approved by Commissioner: [Signature]
Agency: Department of Environmental Conservation

Date: January 22, 1990

Distribution (by preparer):

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

* SECTION 1. AS 46.03 is amended by adding new sections to read:

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. A person commits the crime of negligent operation of a tank vessel when, by operating, navigating, or piloting a tank vessel with criminal negligence, the person creates an unjustifiable risk of a release of a hazardous substance or an unjustifiable risk of harm to a person or property.

Sec. 46.03.743. RECKLESS OPERATION OF TANK VESSEL.

(a) A person commits the crime of reckless operation of a tank vessel when by recklessly operating, navigating, or piloting a tank vessel, the person causes a release of a hazardous substance and the release causes serious physical injury to another person or damage to the property of another.

(b) Reckless operation of a tank vessel is a class C felony.

Sec. 46.03.744. DEFINITIONS. In AS 46.03.742 and AS 46.03.743

(1) "criminal negligence" has the meaning given in AS 11.81.900;

(2) "hazardous substance" has the meaning given in AS 46.03.826;

(3) "recklessly" has the meaning given in AS 11.81.900;

(4) " tank vessel" means

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 315 (Judiciary) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharge, for failure to comply with an oil discharge contingency plan, for negligent performance or failure to perform a required act relating to the handling of a hazardous waste, and for failure to provide information or providing false information about oil or a hazardous substance when required by law."

7

8

9

10

11

12

13

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

15

* Section 1. AS 46.03 is amended by adding a new section to read:

16

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. (a) A

17

person commits the crime of negligent operation of a tank vessel when,

18

by operating, navigating, or piloting a tank vessel with criminal

19

negligence, the person ~~creates a risk of~~ ^{actually causes the} release of a hazardous

20

substance and the release ~~could cause~~ ^{actually causes} serious physical injury to

21

another person or damage to the property of another.

22

(b) Negligent operation of a tank vessel is a class ~~C~~ ^{A misdemeanor} felony.

23

(c) In this section,

24

(1) "criminal negligence" has the meaning given in AS 11.-

25

81.900;

26

(2) "hazardous substance" has the meaning given in AS 46.-

27

03.826;

28

(3) "tank vessel" means

29

(A) a vessel that is constructed or adapted to

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 315 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal penalties for negligent
7 operation of a tank vessel, for negligent oil dis-
8 charge, for failure to comply with an oil discharge
9 contingency plan, for negligent performance or fail-
10 ure to perform a required act relating to the hand-
11 ling of a hazardous waste, and for failure to provide
12 information or providing false information about oil
13 or a hazardous substance when required by law."

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

15 * Section 1. AS 46.03 is amended by adding ~~a~~ new section to read:

16 Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. ~~As~~ A
17 person commits the crime of negligent operation of a tank vessel when,
18 by operating, navigating, or piloting a tank vessel with criminal
19 negligence, the person ~~actually causes a release~~ ^{Creates an unjustifiable risk of a release} of a hazardous sub-
20 stance ~~and the release actually causes serious physical injury to~~ ^{or an unjustifiable risk of harm to person or property.}
21 ~~another person or damage to the property of another.~~

22 (b) Negligent operation of a tank vessel is a class A misde-
23 meanor.

24 (b) In this section,

25 (1) "criminal negligence" has the meaning given in AS 11.-
26 81.900;

27 (2) "hazardous substance" has the meaning given in AS 46.-
28 03.826;

29 (3) "tank vessel" means

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ce
2+B 315-

April 26, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharges, for failure to comply with an oil discharge contingency plan, and for failure to adequately clean up an oil spill.

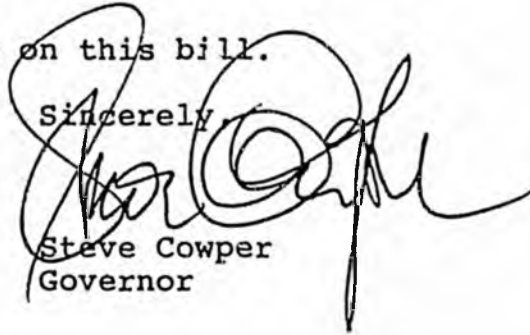
This bill increases the penalty for a negligent oil spill to a class A misdemeanor if the spill is less than 10,000 barrels, and to a class C felony if the spill is 10,000 barrels or more. In addition, the bill makes clear that criminal penalties will be imposed for failure to comply with an oil discharge contingency plan and for failure to adequately clean up an oil spill. Finally, the bill makes it a class C felony to actually endanger a person or property through negligently operating, navigating, or piloting a tank vessel. The need for this legislation arises from our review of criminal statutes in light of the Prince William Sound oil spill.

The class B misdemeanor penalty imposed under current law for negligent oil discharges, or for failure to comply with administrative regulations requiring adequate clean up of a discharge, does not accurately reflect the seriousness of the societal interests that are violated when a criminally negligent act causes extensive damage. Under the bill, felony penalties are imposed for negligent spills of 10,000 barrels or more (420,000 gallons), or for failure to respond appropriately to any spill of this magnitude.

The new crime of negligent operation of a tank vessel is similar in definition to the crime of negligent operation of a motor vehicle. However, given the extent of the possible damage from negligent operation of a tank vessel, the crime is designated a class C felony. The purpose of imposing felony penalties in this context is to provide a strong incentive for operators, navigators, and pilots of tank vessels to exercise an appropriate level of care to protect the lives and property of Alaskans.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: HB 315
Negligent Operation of a Tanker, etc.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Environmental Conservation
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The FY 90 effect would also be a zero impact.

Prepared by: Gail Gatton
Division: Administrative Services

Phone: 465-2600
Date: 1/22/90

Approved by Commissioner: *James S. Galvin*
Agency: Department of Environmental Conservation

Date: January 22, 1990

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date:	Agency Affected: <u>Alaska Court System</u>
Title: <u>An Act providing for criminal penalties for negligent operation of vessel...</u>	BRU: <u>Trial Courts</u>
Sponsor: <u>Rules Committee</u>	Components: _____
Requestor: <u>House Judiciary</u>	

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel
 Division: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/16/90
 Date: 02/16/90

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act providing criminal penalties
 for negligent operation of a tank vessel..."
 Sponsor: House Rules/Governor
 Requestor: House Judiciary

Agency Affected: Department of Law
 BRU: Prosecution
 Components: All

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						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director

Division: Administrative Services 1

Approved by Commissioner: Douglas B. Bailly, Attorney General
 Agency: Department of Law

Phone: 465-3672

Date: January 17, 1990

Date: January 17, 1990

Distribution (by preparer):

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

No. 4
CSHB 315 (JUD)
HOUSE 2/27/90

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 315

This bill amends AS 46.03 by adding a new section that provides criminal penalties for negligent operation of a tank vessel, when a person with criminal negligence actually endangers another person or property through operating, navigating or piloting a tank vessel. Tank vessel means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue. Criminal negligence has the meaning given in AS 11.81.900. The bill establishes the penalty for negligent operation of a tank vessel as class C felony. By establishing this new crime, the bill seeks to set an appropriate penalty for negligent acts that can cause major damage to other persons and the environment. The actual number of such acts is expected to be small. Because of the small number of expected offenses, fiscal note costs are not being requested.

This bill also amends AS 46.03.790 by adding a new subsection that provides criminal penalties for negligent oil discharges and for a person who negligently discharges oil in violation of AS 46.03.740, or who fails to comply with the provisions of an oil discharge contingency plan required under AS 46.04, or who fails to adequately clean up a discharge of oil as defined by regulation, is guilty of a class C felony if the discharge is 10,000 barrels or more, or guilty of a class A misdemeanor if the discharge is less than 10,000 barrels. By establishing these crimes, the bill seeks to set appropriate criminal penalties for the negligent discharge of oil, failure to comply with the provisions of an oil discharge contingency plan, and failure to adequately clean up a discharge of oil. The actual number of offenses is expected to be small and, consequently, fiscal note costs are not being requested.

WPB15

GILMORE & FELDMAN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

310 K STREET, SUITE 308

ANCHORAGE, ALASKA 99501-2095

JAMES D. GILMORE
JEFFREY M. FELDMAN
BRIAN M. DOHERTY
ERIC A. JOHNSONTELEPHONE
(907) 278-4506TELECOPIER
(907) 278-4807

May 3, 1990

Mr. Wes Coyner
311 Douglas Highway
Juneau, Alaska 99801VIA FAX 465-3922

Dear Wes:

You have provided me with a copy of House Bill 315, which provides, in pertinent part:

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. (a) A person commits the crime of negligent operation of a tank vessel when, by operating, navigating, or piloting a tank vessel with criminal negligence, the person creates a risk of a release of a hazardous substance and the release could cause serious physical injury to another person or damage to the property of another. (Emphasis added.)

"Criminal negligence" is defined in A.S. 11.39.900:

A person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in this situation.

The "result" or "circumstance" described as an offense in proposed A.S. 46.03.742 is the creation of a "risk" of a release of a hazardous substance which "could" cause serious physical injury to another person or damage to the property of another. It does not, as do almost all other felony statutes, require an actual release and actual damage, viz., "criminally negligent homicide", also a Class C felony, requires a homicide, not the "risk of a homicide".

Letter to Wes Coyner
May 3, 1990
Page 2

As drafted, 46.03.742 could be applied to almost any piloting activity. For example, pilots often select anchorage grounds, based on their study of charts and all information available there. Unfortunately, an anchorage ground may have an uncharted rock pinnacle at the precise location of the anchorage. The pilot is unaware of the risk that the uncharted rock exists. Even if the hull of his vessel is not punctured by the pinnacle, and the ship remains untouched, the pilot could be charged with a felony under 46.03.742 because, with "criminal negligence", he created a "risk" which "could" have caused serious injury to persons or property.

Tankers transiting Valdez harbor pass through speed zone limiting the speed of the vessel to 6 knots. Frequently wind and current conditions make compliance with the speed limit very difficult. Yet a departure from the precise speed limit, whether to maintain steerage or not, would arguably "create a risk" which "could" cause serious physical injury to persons or property.

Pilots must make judgment calls before performing almost any navigational maneuver. In hindsight, those judgment calls sometimes are incorrect, even when casualties do not occur. But even if a casualty did not occur, a pilot could be charged and convicted of a felony under A.S. 46.03.742 simply because his conduct created a "risk" which "could" have caused damage.

Proposed A.S. 46.03.742, places enormous discretionary powers in the hands prosecutors, who may be very young, have limited experience, and have no experience with, or knowledge of navigational matters. A.S. 46.03.742 empowers them to evaluate pilot conduct and charge felony offenses for activities about which they have little, or no, knowledge. Poor exercise of prosecutorial discretion has resulted in acquittals in several recent well-publicized cases, including the Captain Hazelwood case. Even if a person charged with a felony is acquitted, he or she has a very difficult time surviving. The costs of defending oneself against a felony are enormous and the damage to one's reputation, in most cases, is permanent.

The answer to the disappointment of the public in a failure to convict Capt. Hazelwood should not be a law that exposes pilots, who are skillful professionals in a hazardous profession, making difficult judgment calls based on a whole host of factors, including wind, currents, ice, foreign crews with foreign speaking crews, etc. to felony prosecution.

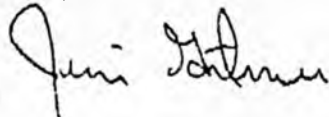
If A.S. 46.03.742 does not pass, pilots do not go unregulated. The Coast Guard has regulated pilots for years as has the State Board of Marine Pilots. The Coast Guard and the Marine Pilot Board possess navigational expertise and are the appropriate bodies to assess pilot conduct. If a pilot is negligent, he is punished.

Letter to Wes Coyner
May 3, 1990
Page 3

His license may be revoked, and he often is sued in civil court.

The Southwest Alaska Pilots Association requests that House Bill 315, or at least the proposed new section for 46.03.742, not pass. Certainly this bill, with potentially far-reaching consequences, should not be passed in the heat of moment at the end of this session. Persons with navigational knowledge and experience should have as much input as possible into any decision made by the legislature to pass an act which could result in criminal felony charges against pilots performing routine piloting functions, making the judgment calls which those functions necessarily entail.

Very truly yours,



James D. Gilmore

JDG/dm

H B

320

Native Alaskan Seafoods

"NATIVE FISHERIES DEVELOPMENT AND MARKETING"

WILLIAM WASON
19071 345-1318

P.O. Box 110373
ANCHORAGE, AK 99511

AMENDMENT _____
By Shultz
CSHB 320 (Res)

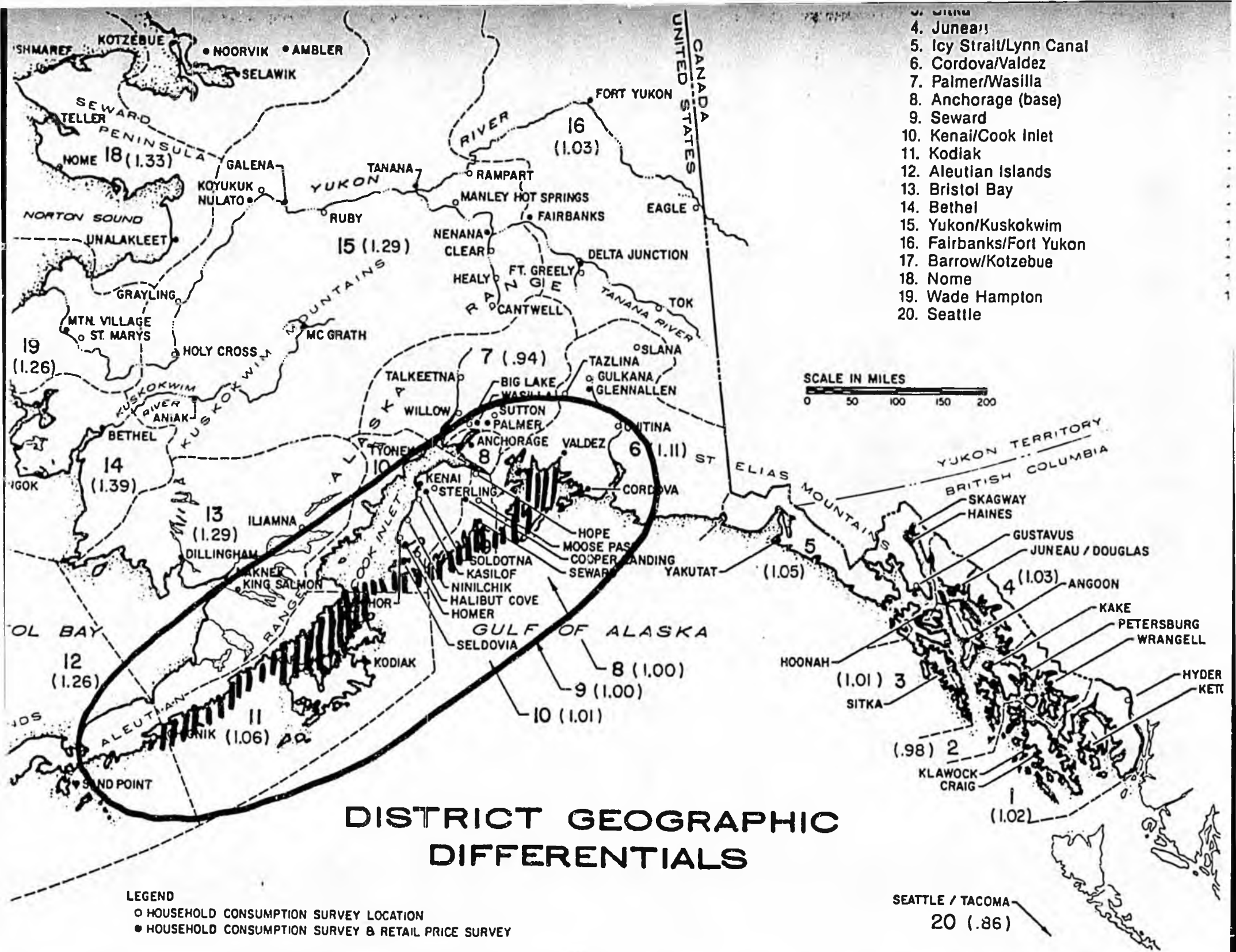
Page 1, Line 24;

Amend Section 2. as follows:

Sec. 16.20.620. ALASKA COASTAL BIOLOGICAL RECOVERY AREA.

(a) The state tide and submerged land and water in Prince William Sound and the Outer Kenai and Alaska Peninsula Coast north of a line from Chignik Bay to Cape Douglas including the northern coast of the Kodiak and Afognak Island group, then northeast to the southern most tip of the Kenai Peninsula and extending northeast to Prince William Sound are designated as the Alaska Coastal Biological Recovery Area
. . . etc.

NOTE: Change all technical references in the bill and title to coincide with this amendment .



HB

332

SENATE COMMITTEE REPORT

DATE: 4/6/90

FURTHER:

DATE TURNED INTO OFFICE: 4/10/90

Resources Committee considered CS SSHB 332 (Finance) (title am)

"An Act establishing the Goodnews Bay Critical Habitat Area and the Goodnews Bay management plan; relating to offshore prospecting permits and leases; and providing for an effective date."

and recommended:

- replace with 5 CS CS SSHB 332 (Res) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Signature]

Justin Sturgis No Rec
[Signature]
Paul T. Zhang No Rec

[Signature]
Chair: Signature and Recommendation

505 CS 55HB 332 (Res)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: ESHB 332
PUBLISH DATE: 4/6/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Goodnews Bay Critical
Habitat Area
Sponsor: Hoffman
Requestor: _____

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	13.4					
TRAVEL	2.0					
CONTRACTUAL	1.0					
SUPPLIES	0.2					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	16.6	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	16.6					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	16.6	0	0	0	0	0

POSITIONS:

FULL-TIME	1.0					
PART-TIME	0					
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Frank Rue, Director *Frank Rue* Phone: 465-4105
Division: Habitat Date: 4/9/90

Approved by Commissioner: Donald P. Kelly *Donald P. Kelly* Date: 4/9/90
Agency: Department of Fish and Game

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

FISCAL NOTE

HOUSE 2/14/90

REQUEST:

Revision Date: <u>6-Feb-90</u>	Agency Affected: <u>Natural Resources</u>
Title: <u>An Act establishing the Good vs Bay Critical Habitat Area.</u>	BRU: <u>Mining Management</u>
	<u>Land & Water Management</u>
Sponsor: <u>Hoffman and Davidson</u>	Components: <u>Mining Management</u>
Requestor: <u>House Resources</u>	<u>Land & Water Management</u>

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	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 6-Feb-90
 Approved by Commissioner: [Signature] Lennie Gorsuch Date: 6-Feb-90
 Agency: Department of Natural Resources

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

) Changes in SCS SSHB (Res) have no fiscal impact. This fiscal note is appropriate.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 332
PUBLISH DATE: 4/6/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Goodnews Bay Critical
Habitat Area _____
Sponsor: Hoffman
Requestor: _____

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	13.4					
TRAVEL	2.0					
CONTRACTUAL	1.0					
SUPPLIES	0.2					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	16.6	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	16.6					
FEDERAL FUNDS	0					
CITY	0					
TOTAL	16.6	0	0	0	0	0

POSITIONS:

FULL-TIME	3.0					
PART-TIME	0					
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Frank Rue, Director
Division: Habitat

Phone: 465-4105
Date: 4/9/90

Approved by Commissioner: _____
Agency: Department of Fish and Game

Date: 4/9/90

Distribution (by preparer):

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

Attachment to CSHB 332 Fiscal NoteANALYSIS

Requirements in the bill that call for ENR's development of a management plan for the area beyond the Critical Habitat Area and the expedited issuance of offshore prospecting permits within 90 days would require ADFAG participation to ensure the protection of fish and wildlife habitats and the human use of fish and wildlife populations that utilize these habitats. The participation is presently unscheduled and unfunded and would require an FY 1991 fiscal note of 16.6 to cover the costs of 3 months of a Range 18 Habitat Biologist (Step 2), 2.0 of travel, and 0.5 in contractual expenses.

No fiscal impact is anticipated for FY 90, assuming the bill is signed into law at the end of the fiscal year.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Goodnews Bay Critical
Habitat Area
 Sponsor: Hoffman
 Requestor: _____
 Agency Affected: Fish and Game
 BRU: Habitat
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact.

Prepared by: Frank Rue, Director Phone: 465-4105
 Division: Habitat Date: 2/6/90

Approved by Commissioner: [Signature] Date: 2/6/90
 Agency: Department of Fish and Game

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

FISCAL NOTE

HOUSE 2/14/90

REQUEST:

Revision Date: 6-Feb-90
 Title: An Act establishing the Goodnews Bay Critical Habitat Area.
 Sponsor: Hoffman and Davidson
 Requestor: House Resources

Agency Affected: Natural Resources
 BRU: Mining Management
Land & Water Management
 Components: Mining Management
Land & Water Management

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	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-7400
 Division: Commissioner's Office Date: 6-Feb-90
 Approved by Commissioner: [Signature] Lenzie Gorsuch Date: 6-Feb-90
 Agency: Department of Natural Resources

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

Organized Village of Kwethluk
Kwethluk IRA Council
P. O. Box 84
Kwethluk, Alaska 99621-0084
(907) 757-6714

FEB 16 1990

Resolution 90-02-02 - In Support of Senate Bill 318 and House Bill 332 Relating
to Goodnews Bay Critical Habitat Area

WHEREAS, The Kwethluk IRA Council has a major concern about the subsistence of
the Yup'ik People of the Yukon/Kuskokwim Delta Area, including the
Goodnews Bay Area; and

WHEREAS, The Kwethluk IRA Council has an understanding that certain bills have
been introduced to both the Senate and House of Representatives in the
Alaska State Legislature for the establishment of the Goodnews Bay Area
making it "A Critical Habitat Area"; and

WHEREAS, The Kwethluk IRA Council supports the passage of these two certain bills
addressing the immediate concerns of the Goodnews Bay and Platinum villages
including but not limited to the Yukon/Kuskokwim Delta Area; and

WHEREAS, The Kwethluk IRA Council feels the establishment to protect and maintain
fish and wildlife habitat and populations and aquatic plant resources,
especially eelgrass beds, and to ensure the continued productivity of the
area's fisheries and fish and wildlife harvests are more important than any
attempts by the state and the mining companies to come into pristine en-
vironment for purposes of offshore dredging; and

THEREFORE BE IT RESOLVED, That the Alaska State Legislature pass and approve the
passage of these two bills so the Goodnews Bay Critical Habitat Area would
be established furthering the protection of the Goodnews Bay Area.

BE IT FURTHER RESOLVED THAT, The copies of this resolution be forwarded to the
villages of Goodnews Bay and Platinum, Senator John Binkley, Representative
Lyman Hoffman, appropriate Senate and House committees, and the Governor
of the State of Alaska.

ATTEST:

Magdalena E. McDalton
Magdalena McDalton, Secretary/Treasurer

Joseph Guy
Joseph Guy, IRA Council President

Max Angellan
Max Angellan, Tribal Administrator

Moses Nicolai
Moses Nicolai, Vice-Chairman

Calista Corporation

601 West Fifth Avenue Anchorage, Alaska 99501
(907) 279-5516, FAX (907) 272-5060

Comments on SSHB 332 and SB 318

"An Act establishing the Goodnews Bay Critical Habitat Area; and
providing for an effective date"

Calista Corporation is one of the regional native corporations set up pursuant to the Alaska Native Claims Settlement Act. The Calista region includes a major portion of southwest Alaska and Calista represents roughly 13,000 shareholders, some of whom live in the villages of Platinum and Goodnews.

Calista is opposed to the Critical Habitat designation for Goodnews Bay. Following an explanation of the situation, we have offered several amendments which would go a long way toward satisfying local interests and protecting the economic future of the area.

Calista views this issue as involving four factors.

- The right of local people to control the resource they use.
- The desire to protect the fishery resource
- The sometimes legitimate threat people feel from change.
- And finally the need to preserve long term economic opportunities in a region that is one of the poorest in the State.

It is Calista's position that in the rush to exert local control and to protect the commercial and subsistence resources within Goodnews Bay that an eye be kept to the economic future of the Goodnews-Platinum area. This is a complicated issue. This bill may not provide a clear cut protection for the lifestyle and well being of the Platinum and Goodnews people. Indeed this bill as written may constitute a threat to the economic opportunities and future of the Goodnews area and to Southwest Alaska in general.

First, let me address the issues inside the Bay. Calista recognizes that Goodnews Bay is the front and back yards of the villages of Goodnews and Platinum. As you know, Goodnews Bay is host to major salmon and herring runs which, in addition to public assistance programs, are the current base for the local cash and subsistence economies. Calista supports the reasoned protection of this resource.

Changes to the Goodnews Bay Critical Habitat Bill

But let us remember that historically the local fish harvest has been the victim of competition from outside fisherman and from the reluctance of fish processors to send tenders to this remote location. It is clear that the commercial and subsistence fishery can be threatened by high seas and False Pass intercept fisheries far beyond the impact of an offshore **exploration** effort.

There are other 'inside the bay' issues which concern Calista. The critical habitat designation will add an entire new and distinct layer of regulation. Specifically, what will the impact of this designation be on future dock and harbor facilities?

-What is the impact of this bill on the barge traffic and the moorage of those barges which serve the local community?

-What impact will this designation have on the future of fish processing plants and possible mariculture ventures?

Additionally, the village of Goodnews is home to a quarry which in the past has provided jobs and local revenue. This quarry is the only source of rock in the entire region. Goodnews rock has been designated by the Corps of Engineers as the preferred material for the future Bethel sea wall. The rock has been used in Mekoryuk, Amautlauk, Kipnuk, Nunapitchuk and Bethel. Gravel has been shipped from Platinum to Bethel and Kipnuk. Will the Critical Habitat designation impinge upon the access to or the extraction of this important regional resource? If commercial hydrocarbons are located elsewhere in southwest Alaska or if large capitol projects are funded it will be these locations that supply the rock and gravel needed for those activities.

Calista asks that these questions be specifically addressed in the bill so that these possible activities are not limited by a future rigorous interpretation of the Critical Habitat designation.

We are also worried that the added level of regulation, protection and bureaucratic oversight will adversely impact the existing and future platinum placer and lode platinum exploration efforts in the Salmon River Drainage and gold exploration in the Upper Goodnews River tributaries. We have all seen how the consequences of over regulation can choke the opportunities and limit the economic choices of an area. The Calista Region and Southwest Alaska is already protected by some of the largest Wildlife Refuges in the world, the 26 million acre Yukon Delta National Wildlife Refuge and the 4.7 million acre Togiak National Wildlife Refuge.

Changes to the Goodnews Bay Critical Habitat Bill

On the technical side, the Platinum and Goodnews area is also a unique geologic environment. Due to the unique character of the ultra-mafic intrusive rocks (iron and magnesium rich) in this area there is simply no other place in North America which rivals this area for past platinum production or for the potential for additional placer and lode reserves. In addition, the offshore area west and south of Red Mountain has the potential to host significant marine placer platinum reserves.

Calista has participated in lode and placer exploration. I have personally reviewed all the data available on the nature and distribution of the offshore platinum resource. In this context, we have reviewed the results of previous exploration by Inlet Oil in Goodnews Bay. Based on review of the sampling and the spurious analytical methods used, we feel that this program was without merit and there is no creditable evidence that there is recoverable platinum resources inside Goodnews Bay.

There is, however, a considerable body of data from government and private geologic investigations which indicates that recoverable resources of platinum may exist directly west and south of Red Mountain. This area is well outside the eel grass beds of Goodnews Bay.

I would like to draw an important distinction here between exploration (drilling of shallow, widely spaced 6 inch diameter holes) and development (dredging large volumes of seabed). As the offshore operation at Nome has demonstrated, no short or long-term environmental consequences are associated with marine placer exploration. Although a dredging operation disturbs the seabed to a greater degree than simple exploration, the recently concluded studies by the Federal Mineral Management Service (MMS) and Battele Corporation indicate, the operation of the Bima dredge has had no adverse effects on the commercial or subsistence fisheries at Nome.

There will be a great deal of discussion about the blue mussel bed offshore of Flat Cape. Let's be serious here. Blue mussel beds occur with regularity along the coast; they can not be characterized as unique or threatened. The exhaustive studies from the Nome operation indicate that re-colonization can be expected within a few years of dredging. These beds would be unaffected by exploration efforts.

Other impacts of offshore exploration and development should also be considered. The Nome experience has demonstrated that year round jobs, technical training, and the diversification of the economy can have a positive effect on a community. It is Calista's view that the possible

Changes to the Goodnews Bay Critical Habitat Bill

benefits and economic opportunities such operations can create should not be dismissed lightly . We believe this is particularly true in area like Southwest Alaska where year round jobs are scarce (especially for young men); where many are not fortunate enough to hold fishing permits; and where a staggering percentage of people and families must rely on federal and state assistance to make it through the year.

Calista does not support the Critical Habitat designation because of all the uncertainties it creates and additionally because we feel that alternative options to a Critical Habitat designation have not been fully explored. If the decision is made to proceed with a Critical Habitat designation then Calista Corporation asks that the bill specifically mention future harbor improvements, large transport of gravel and rock, on shore mining, and fish processing facilities as compatible activities with the Critical Habitat designation.

We request that the Critical Habitat be limited to Goodnews Bay and the area at the mouth of the Bay. We ask that the scope of the bill be limited to areas within **Township 12s and 13s and Ranges 73, 74, 75, 76**. We strongly advise the committee that the areas west and south of Red Mountain be eliminated from this bill.

One additional clarification should be made at this time in subsections (a) (1) and (2). We feel some confusion is possible over the area covered by this bill. The beginning of each of those subsections should be changed to read: "The State tideland, submerged land, water of the State below the mean high tide line..." . This would clearly remove fresh water bodies within those sections of land identified in subsections (1) and (2) and above the mean high tide line from inclusion within the Critical Habitat area. We don't believe this was the intent of the bill and this would provide clarification to agency personnel interpreting and applying the new law. *We would have some very serious concerns if the intent of the bill was to expand well above tide water.*

We propose that the bill be amended so that State lands and waters below mean high tide and within Goodnews Bay and the areas immediately west and north of the village of Platinum be withdrawn from mineral entry [Townships 12s and 13s and Ranges 73, 74, 75, 76]. This bill would then specifically prohibit mineral exploration and mineral extraction in these State waters.

Changes to the Goodnews Bay Critical Habitat Bill

We further propose that the Critical Habitat designation be removed from the bill. A Critical Habitat designation simply has too many uncertain ramifications and possibly negative consequences to be applied to this important area.

We propose that the area south and west of the Village of Platinum and south and west of Red Mountain be removed from consideration by this bill. The Department of Natural Resources would be left to determine how best to manage these waters and resources.

We believe that this approach best suits the present and future needs of the local people. On the behalf of Calista Corporation I thank you for the opportunity to discuss this very complicated issue. Please feel free to contact us if we may be of any assistance. Thank You.



Bruce Hickok
Geologist and Subsurface Lands Manager

EMPLOYMENT

In one village I know there are 15 households and 65 people, of whom 32 are active adults.

The government is the only employer in the village, with 11 positions--three full-time teaching positions occupied by non-Natives and eight part-time positions occupied by Natives. Two individuals work on barges in the summer and two are missionaries. The 17 unemployed live off fishing and hunting, are helped by the extended kinship system, and are in addition supported directly or indirectly by government payments; a few trap, from which their income is meager. For them there is little to do in the village, and time hangs heavy.

They stay because this is where they grew up. Their skills are not sought in labor markets Outside. Some have been beyond Anchorage in the past but few go beyond the Kuskokwim Valley now. Alcohol abuse erupts sporadically in violence within and between families, and occasionally in death. Three of the young men were jailed this year for criminal offenses.

This is a small village and its characteristics are extreme. But the pattern--high unemployment, low incomes, a small or non-existent local economic multiplier, high levels of social stress, widespread dependence on support payments from government, and a basic reliance on subsistence--is common in rural Alaska. David Marshall, Anchorage Daily News, April 26, 1985

In the Calista region, employment opportunities are extremely limited and labor force participation rates are among the lowest in the state of Alaska. The region is without a strong or diversified economic base. Thus, employment opportunities in the region are few. Of those jobs that do exist, three quarters are in the government and service sectors. Currently, there are no employment opportunities in the Calista region in the areas of hardrock mining, petroleum development, logging or manufacturing. Resources development typically provides the most significant opportunity for rural employment on a wide scale. By traditional standards, the only regional economic base is commercial fishing (See Table 10). Although fishing provides a vital source of cash income, it more importantly provides a direct source of food for much of the area's population. When looking at the Calista region, near term prospects for a more diversified economy and new employment opportunities within the region are not encouraging (See Table 7).

The level of employment within the Calista region is measured by census data and labor statistics, i.e., unemployment rates, numbers of individuals filing for unemployment insurance and so forth. Unfortunately, unemployment rates for both the Wade Hampton and Bethel census districts are deceptively low because existing data is questionable and fails to measure unemployment levels for those individuals who have given up looking for work. Furthermore, the State of Alaska does not gather labor statistics by race, therefore, the unemployment rates for the Calista region are not reflective of the unemployment levels facing Natives.

Joblessness in the villages approaches 80 to 90 percent in the winter and drops to 40 percent or less in summers. The extent of village joblessness is understated in Alaska Department of Labor reports owing to uniform definitions of unemployment--definitions inappropriate to remote villages.

TABLE 7

EMPLOYMENT BY INDUSTRY - CALISTA REGION
1986 - TOTAL JOBS

Industry	Bethel	Wade Hampton	Regional Total
Mining	-	-	-
Construction	113	5	118
Manufacturing	-	-	-
Transportation, Communications, Public Utilities	209	-	209
Wholesale Trade	9	-	9
Retail Trade	390	180	570
Finance, Insurance, Real Estate	179	37	216
Services	38	710	748
Miscellaneous Nonclassified	29	-	29
Federal Government	313	30	343
State Government	268	24	292
Local Government	1,379	773	2,152
Nondisclosed	136	112	248
Total People Employed	3,953	1,199	5,152

Source: State of Alaska, Dept. of Labor

By standard definitions, unemployment in the Lower Yukon-Kuskokwim region is high, but not necessarily the highest within the state. The standard definition of unemployed counts only those persons who have actively sought work, and does not count those persons who have not sought work because they feel no jobs are available or they lack the necessary skills or abilities required by the job market (Alaska Dept. of Labor, 1981). This method of estimating unemployment is not appropriate for rural Alaska since a high percentage of people are not actively looking for work. People in this category are not considered unemployed by federal or state statistics. Thus, the actual number of people which are unemployed is grossly under-reported.

In a 1982 study, "Lower Yukon-Kuskokwim Region Labor Market Analysis," data collected through a household survey within nine Wade Hampton communities documented that much of the unemployment in the villages is "hidden"; meaning the region's high unemployment rate is not apparent because many people do not actively seek jobs because none are available. By standard definitions, these people are not considered part of the labor force. In effect, it is assumed that non-jobseekers are unavailable or unwilling to work. This study shows the opposite to be true. A large proportion of those considered out of the labor force by standard labor force definitions do want to work. If these people were included in the state's unemployment figures, the Calista region would have the highest unemployment rate in the state.

In order for an individual to be considered as officially "unemployed," he or she must contact one or more prospective employers every thirty days or one of the state's eleven employment offices, the closest of which may be 100 to 300 miles away by plane. Further skewing the state's unemployment rate is the fact that many individuals are considered self-employed because they spend fifteen hours or more a week at subsistence hunting, fishing, trapping and other activities.

In those areas where labor force participation rates are low (which is especially typical of rural Alaska) "official" unemployment rates will definitely understate the degree of economic hardship and unemployment estimates will substantially understate the number of people available for and wanting employment.

For example, traditional unemployment estimates for January 1981 yield an unemployment rate of 13.2 percent for Wade Hampton Census area. When using a broad definition, the word unemployment, meaning anyone not working or looking for work, then the Wade Hampton area had an unemployment rate of 48.4 percent in January, 1981. This proves without a doubt that a significant gap exists between "official" employment rates and the true unemployment picture in a village.

Typically, individuals working full-time in the villages are the postmaster, school maintenance man, airline station agent, and--more recently--the Head Start teacher and village health aide. Some part-time work may be available with the National Guard. For most villagers, however, there simply are no full-time or part-time jobs available. In the villages, Natives with year-round jobs usually make up less than ten percent of the village work force.

In Bethel, the number of full-time job opportunities is much higher, especially for women. The Bethel Hospital, Indian Health Services, AVCP and the Bureau of Indian Affairs are major employers of Alaska Natives, especially in lower-paying, non-professional jobs. Other federal or state agencies such as the U.S. Fish & Wildlife Service or the Federal Aviation Administration provide jobs throughout the region, however, these positions tend to be filled by non-Natives from outside the region.

Seasonal employment, usually away from a village, is very important to the regional economy. The major activity providing seasonal employment is commercial fishing. This work usually lasts for two to four months during the summer. Not only is the length of employment and amount of income highly variable from year to year and area to area, it is also highly variable from one boat to another fishing in the same area and season. Income varies with the catch of fish, price of product and costs of boats, gear and operations.

Surveys which attempt to count all unemployed people find much higher unemployment in the Calista region than the rate officially reported by the State of Alaska's Department of Labor. For example, a 1977 survey of six AVCP villages by the Office of the Governor found unemployment rates for the villages to be 61 percent. Yupiktak Bista manpower records show village unemployment at 72 percent. AVCP surveys show a 50-60 percent unemployment for the villages. The Bureau of Indian Affairs stated in 1988 there were 15,541 Native people in the Calista region. Out of this total number, the resident working age population totalled 8,004 individuals who were 16 years old or over. Yet only 51 percent of the Calista region's total Native population was employed. The BIA unemployment rate for Natives in the Calista region is more reflective of the actual unemployment level in the region because this rate includes those individuals who have abandoned their search for work.

For purposes of this report, it is useful to distinguish aggregate unemployment (i.e. too many workers for too few jobs) from structural unemployment (i.e. a mismatch between

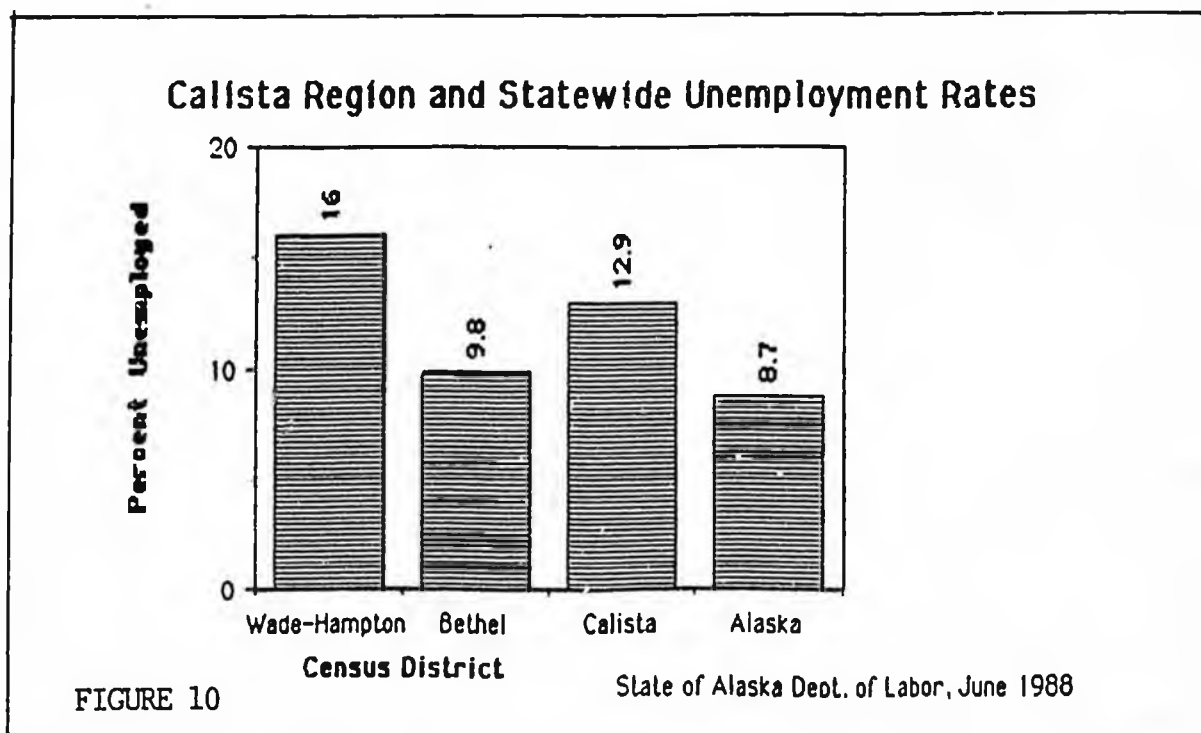
workforce skills and job skills demanded by the region's economy). The Calista region's high unemployment rate is partly aggregate and partly structural in origin. With respect to aggregate unemployment, it appears that over the next decade, the creation of new jobs in the Calista region through private resource development or increased spending for government funded capital projects will be limited. Few of the new jobs being created in the region require occupational skills and qualifications now commonly possessed by residents, especially men. With the decline in construction in the region, men trained as laborers, welders, and so forth are finding it more and more difficult to get a job in any of the region's villages.

The majority of the jobs in the Calista region are found in Bethel. What may be true for Bethel may not be true for smaller villages from an employment standpoint. For example, although Bethel accounts for only 22 percent of the Calista region's population, it contains about 25 percent of the labor force and 80 percent of total jobs available in the Calista region. The Bethel Census area unemployment rate was 9.8% in June, 1988. In contrast, the Wade Hampton census area had an unemployment rate of 16.0 percent (See Figure 10).

The lower unemployment rate for the Bethel census area reflects the lower levels of unemployment found in the City of Bethel. When the City of Bethel is excluded from the region's unemployment rate, the two region's census areas have the highest unemployment rate for any region in Alaska. The average monthly labor force participation rate for the working age population is about 55 percent, which is considerably lower than the 80 percent labor force participation rate for the state of Alaska (State of Alaska, Dept. of Labor).

Table 8 shows the labor force by race. Labor force participation and employment rates in the region are higher for non-Yupiks than Yupiks. Non-Yupik people are estimated to have an eight percent unemployment rate, while Yupik people have an estimated 30.3 percent unemployment rate (Cenaliulriit, 1985).

Males in the Calista region have a higher labor force participation rate, but once females



enter the labor force, they maintain their jobs for a longer period of time and have fewer periods of unemployment. This is due to the seasonality of many of the jobs traditionally held by men, such as commercial fishing and construction. Service, health care, and clerical positions, traditionally women's jobs, are usually filled year round so women tend to stay employed for longer periods of time (Cenaliulrut, 1985).

TABLE 8
EMPLOYMENT IN THE CALISTA REGION
BY RACE

	Yukon	Subdistricts Kuskokwim	Coastal	Total
<u>Population</u>				
Yupik	4,347	3,181	2,728	10,256
Non-Yupik	318	119	94	531
TOTAL	4,665	3,300	2,822	10,787
<u>Labor Force</u>				
Yupik	1,108	1,030	886	3,024
Non-Yupik	210	78	61	349
<u>Employed</u>				
Yupik	710	751	647	2,108
Non-Yupik	193	72	56	321
Source: U.S. Census and Policy Analysts, Limited				

From 1979 until the mid-1980's, a majority of the employed people in the Calista region were employed by state and local government. Government related employment far surpasses any other category of employment, comprising at least 50 percent of total wage and salary employment covered by unemployment insurance programs. This came about because of the explosion of public services and construction of capital improvement projects in the region.

The occupational distribution of jobs in the Calista region presents a difficult problem. The growth of government, transportation, trade and service employment has meant more openings in the white-collar occupations. Table 7 shows levels of employment by industry in the Calista region. There are few Yupiks who are trained to fill these white-collar jobs, therefore, the Yupik population has been consistently left out of the region's job market.

Local people are often hired for government and seasonal construction jobs, fishing and cannery work. However, conflicts tend to occur with the availability of jobs and the timing of subsistence harvests. Full-time employment does not permit adequate time to pursue subsistence, and most of the summer seasonal work directly conflicts with summer

subsistence hunting, fishing, and gathering. In an effort to define the subsistence seasons, the Association of Village Council Presidents' "Survey of Village Economy" asked respondents at what time during the year they participated in subsistence harvests (Table 9).

TABLE 9
SUBSISTENCE PARTICIPATION RATE

When	Yupik	Non-Yupik
Summer Only	46.8%	20.0%
Winter Only	0.4	0.0
Spare time/When available	19.3	20.0
All year/Full time	10.1	0.0
No time specified	23.5	60.0
Number of respondents	477.0	5.0

Source: Cenaliulriit, Coastal Zone Management Plan, 1985

As the table shows, summer is the busiest subsistence harvest season. It is also the time when cash employment is most available. Maximum employment in the region occurs during the months of June through August.

Those willing to move for temporary or permanent employment are handicapped by the remoteness of most villages from job opportunities. If they learn of job openings, their knowledge may come after jobs are filled by others. If ranking of applicants for a position is by years of experience, village applicants usually fall to lower positions of preference. If written applications are submitted, the lesser education of the Native applicant reveals itself on the form. If aptitude tests or other screening devices are used by an employer, the Natives may suffer the consequences of a cultural background different from that of the test writers. If accepted for work in a city, the rate of pay--given a person's lack of education and training--may condemn the person and his family to a life of deeper poverty than if the person had remained in the villages.

In 1986, the Calista region had the lowest average monthly wage of any region within the state. The average monthly wage was \$1,702 for the entire region. The Wade Hampton census area had an average monthly wage of \$1,549 compared to the average monthly wage of \$1,779 for the Bethel census area. Short term and intermittent employment is typical of the area, as it often is in areas where wage employment opportunities are limited and subsistence activities are relatively important.

IMPORTANT INDUSTRIES

Commercial Fishing

Commercial fishing provides a significant source of income in the Calista region. In 1985, there were 1,832 limited entry permits fished in the Calista region. The Alaska Department

of Labor income and employment statistics include almost no fishing activity because very few fishermen are covered by unemployment insurance.

In the lower Yukon and Kuskokwim areas, there has been an erratic increase in commercial fishing activities during the past five years. Commercial utilization is generally believed to be below maximum sustainable yield in each area. There has been a tendency for commercial fishing to concentrate closer to the sea near the mouth of the river because the quality of salmon is best when it comes from the sea, and water transport of fish is much less costly than air.

TABLE 10
FY 85 COMMERCIAL FISHERIES
GROSS INCOME

Census Area	Permits Fished	Total Employment	Gross Earning	Average Earnings Per Person Employed	Average Earnings Per Permit
Wade Hampton	649	1,356	\$ 5,663,202	4,140	\$8,726
Bethel	1,183	2,474	6,855,399	2,770	5,794
TOTAL FOR REGION	1,832	3,830	\$12,518,601	3,255	\$6,833
Source: U.S. Bureau of Economic Analysis					

In the Calista region, there is generally a lack of adequate processing and storage facilities. Efforts of Native fishermen often are inefficient due to the lack of organization and group effort and lack of technical and managerial know-how--both for catching and marketing quality fish at a premium price.

Trapping

Commercial trapping involves an estimated 800 registered trappers (including part-time participants) in the Calista region. The major types of furs which are sold are red fox, mink, land otter, beaver and muskrat. The annual harvest of furs in the region varies considerably from year to year because of several factors, including weather and snow conditions, furbearer populations, fur prices, and the availability of other income sources.

Most furs harvested in the region are sold by trappers to dealers in Bethel, who then resell the furs to Seattle buyers. Trappers in the region generally get 40-60 percent of the price

paid by furriers in Seattle. No compilation of total revenues to the region from fur sales has been done on a regular basis. Trapping income is very small in comparison to the major industries of the region. Nevertheless, this income is very important because it is available during the winter months when other income-earning opportunities are most limited.

Mining

There is very little mining activity in the Calista region compared to the extensive mining operations during the early 1900's. Most of the present mining sites are one-man operations. Although the recent increases in the prices of gold and other metals has caused renewed interest in mining in the region, no significant production is presently occurring or contemplated for the immediate future.

Construction

In 1986, the construction industry employed 118 workers in the region. Like most of Alaska, construction employment in the region is highly seasonal. Winter weather requires that most work, especially road and airport construction be completed during the short building season of June to September. Both income and employment in the construction sector increased rapidly during the 1970's.

Most of the construction employment in the region was a result of state and federal capital expenditures. It is important to note that the level of construction activity has declined substantially since 1979 because many of the major projects have been completed and each year there has been less money available for capital construction projects in the villages.

Manufacturing

Almost all employment and income in the manufacturing sector is in fish processing, primarily salmon. Salmon processing is very seasonal, as might be expected. Employment peaks concurrently with the salmon runs in July and August.

Although there are numerous fish buyers located at major fishing locations throughout the region, virtually all of the actual processing in the region takes place in Bethel. After fish is purchased from fishermen by the buyers, it is usually flown to Bethel where it is either frozen or iced. No canning of fish on a commercial scale is taking place in the Calista region. Together with commercial fishing, the processing industry is one of the few sources of regional income that is not dependent on government spending.

Transportation, Communication and Public Utilities

Major employers in this sector include air carriers (both major airlines and air charter companies), barge lines, telephone companies, and electrical utilities. Most of these jobs are in Bethel since it serves as the trading and transportation center for the region. Less than one percent of the region's residents are employed in this sector.

Wholesale and Retail Trade

Wholesale trade activity in the region is almost non-existent because of the limited economic base of the region. Retail trade includes small general merchandise stores in the villages, and a number of more specialized shops in Bethel, i.e., food, clothing, snow machines, etc. On the average, the village stores usually employ only one or two people on a part-time basis.

A substantial volume of trade bypasses Bethel in the form of mail-order purchases and the fairly common practice of purchasing major consumer goods in Anchorage. The low per capita incomes in the region and the use of local foods and materials for subsistence purposes has resulted in almost no growth of the retail sector in the villages.

The retail industry depends almost entirely on the re-spending of income earned in other industries. Because of the dominance of government expenditures in other industries, the retail sector is indirectly dependent on such expenditures. Any changes in government spending or other determinants of the regional economy strongly affects the retail sector. Retail trade employment is very small, as a consequence of the region's low per capita income; the less developed status of the region; high costs of goods sold; and the limited range of products available.

Services

The service employment sector includes business and professional services, legal services, hotels, recreation, social services, health care, and Native corporations, including the Association of Village Council Presidents and village corporations. The service industry is second only to the government sector in terms of the number of jobs and total income provided to the region. In 1986, four percent of the people employed in the Calista region worked in the service sector.

A substantial portion of employment in the services sector is funded through state and federal grants and expenditures. In recent years, decreases in employment and income in this sector have resulted from federal and state budget reductions for job training and special employment programs.

Federal, State and Local Government

The importance of government employment and expenditures to the Calista region cannot be reiterated enough. In 1986 total personal income in the government sector was 65 percent of the region's total for personal income. This sector employs 15 percent of the region's population. Employment and income for 1986 for the different types of government are shown in Table 11.

As this table shows, local government provided nearly 71 percent of the personal income in the government sector and 77 percent of the employment. It is important to consider, however, that state and federal contributions to local governments, through revenue sharing, municipal assistance, and other grants and contracts, funded a substantial portion of local government employment. State and federal expenditures, therefore, play a larger role in government employment than these statistics indicate.

Reductions in government funding for programs and services has substantially reduced local government employment in the region. State employment in the region will continue to decline for the next several years as the state revenues continue to decline. Government employment in the region is highest in the fields of education, health and social services, and public safety. However, most of the jobs are located in Bethel and are occupied by non-Natives. The government sector is, to a great extent, the basis of the region's entire economy.

TABLE 11
GOVERNMENT EMPLOYMENT AND WAGES

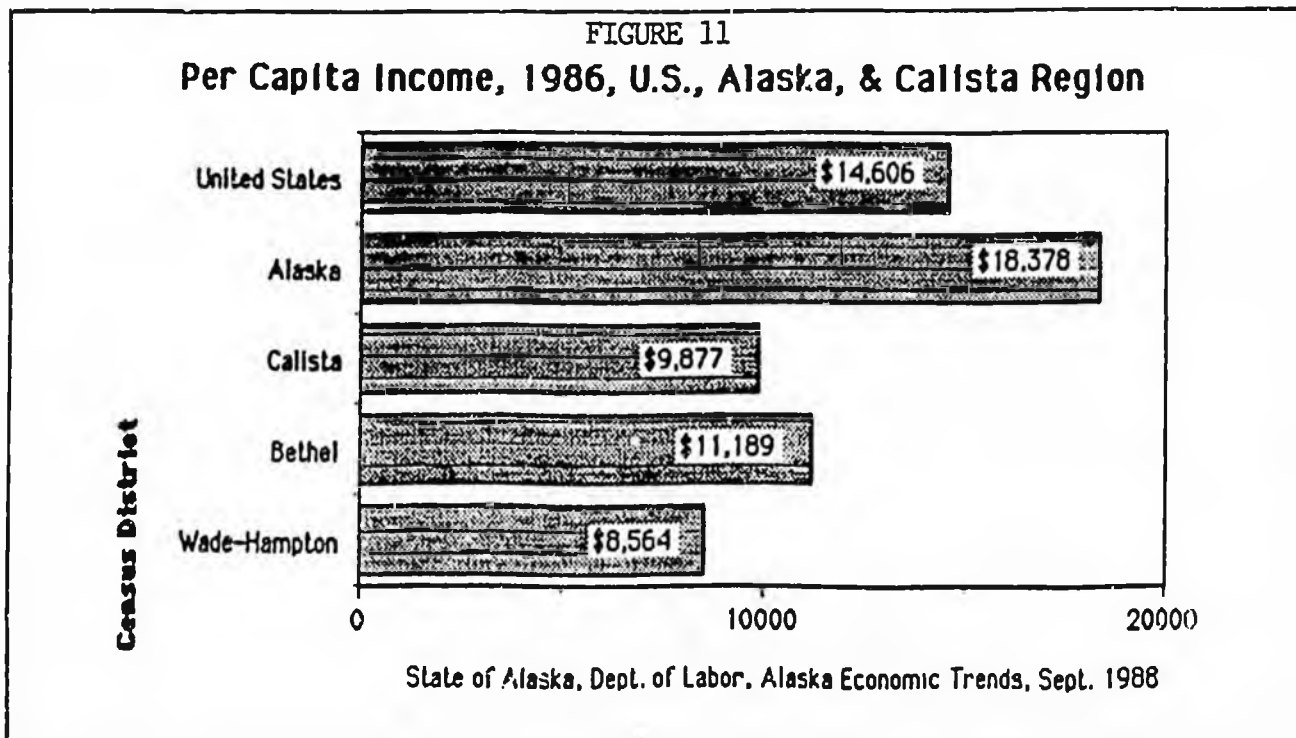
Government Level	Total Wages	Total Persons Employed
Federal	8,684,093	343
State	11,220,135	292
Local	49,367,792	2,152
TOTAL	69,272,020	2,787
Source: State of Alaska, Dept. of Labor		

PERSONAL INCOME

Chuathbaluk is a village of 109 people, but it's typical of rural Alaska in most respects: government money, underemployment and subsistence. In 1985, 90 percent of the cash flowing in was from the government. Half of that paid local wages and salaries; teachers, administrators, construction workers, health and social service workers, and others. One-quarter of it consisted of transfers direct to households; state permanent fund dividends, Aid to Families with Dependent Children, food stamps and others. The one-quarter remaining was grant and loan money that came in and left the village right away for purchases of heavy equipment, fuel and miscellaneous supplies for public use. Anchorage Daily News, May 3, 1987

When trying to accurately determine personal income levels in the Calista region, one encounters enormous difficulties. On the whole, published income information is best described as limited, outdated and imprecise. Probably the most accurate data is from the U.S. Census; however, the 1980 census figures are outdated, and it will be another two years before the income tabulations from the 1990 census will be available. The Bureau of Economic Analysis in the U.S. Department of Commerce makes annual estimates of per capita incomes by census division, based on a number of sources, but it is difficult to rely on its estimated income in the villages. Income data is often not separated by race, so the average income data for the region can be distorted by income earned by non-Natives in professional and governmental jobs such as teaching or staff positions with state and federal agencies.

The Calista region is the most impoverished region in the State of Alaska, and among the most impoverished areas in the United States, particularly in terms of income and cost of living statistics. Per capita income (See Figure 11) for the Wade Hampton census area is the lowest of the 23 census areas in Alaska and the Bethel census area is ranked 22nd or



second from the bottom; when estimates for Bethel are excluded, then the Bethel census approximates the Wade Hampton Census area. Bethel has the highest per capita income of any community in the Calista region (See Table 12).

The average household in the Calista region receives 65 percent of its income from wages, 21 percent from transfer payments, and 4 percent from dividends, interest and other sources (See Figure 12).

In the Bethel census area, 40 percent of the total population is below the poverty line. Of this total, 12 percent were non-Native and 88 percent were Native. In the Wade Hampton census area, 49 percent of the total population is below the poverty line and they are all Alaska Natives. Poverty exists in the Calista villages, not because local residents are not industrious, and prefer to be poor, but because there is no means for them to increase their cash income.

Cost of living differences are also an important consideration in comparing per capita income of different parts of the state. Economic conditions in the Calista region are further

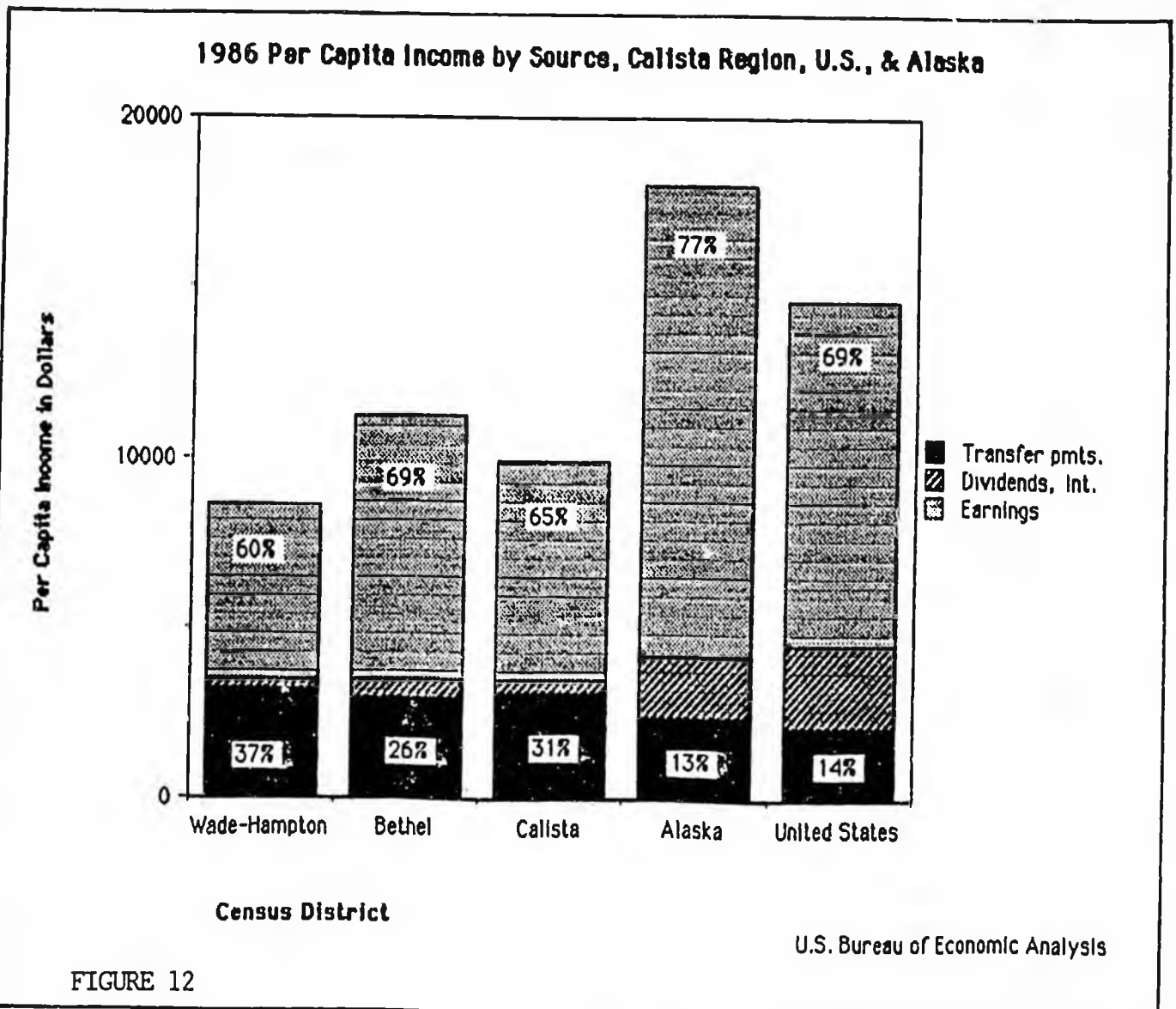
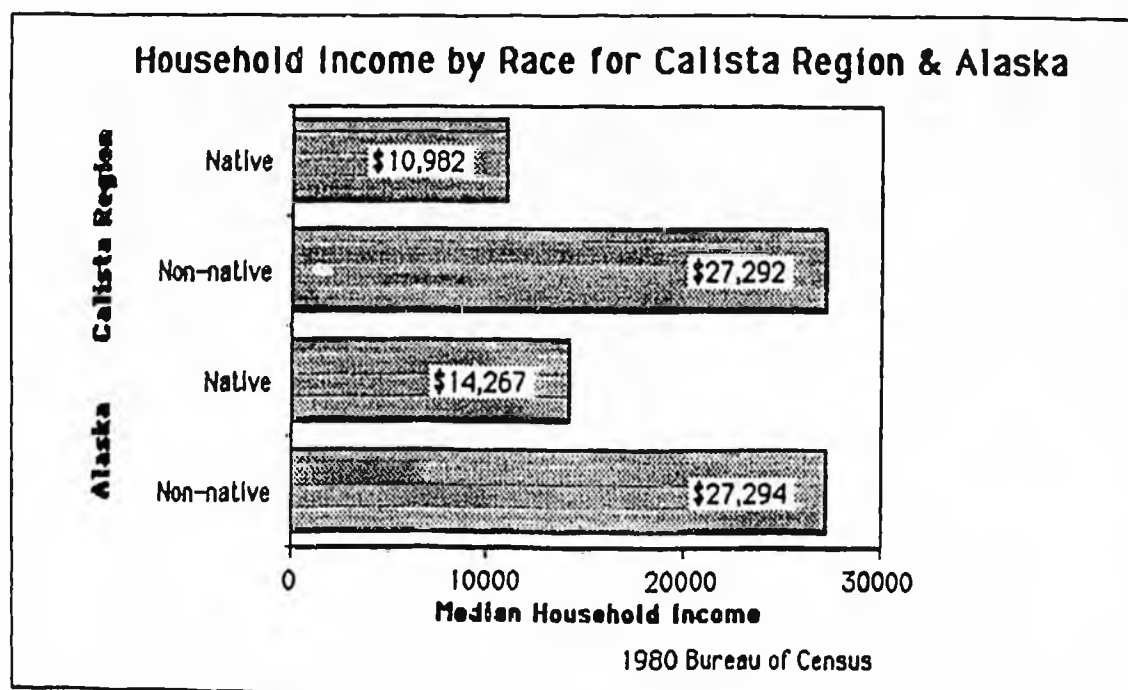


TABLE 12
1983 PER CAPITA INCOME ESTIMATES
INCORPORATED COMMUNITIES IN THE CALISTA REGION

Area	Estimated Per Capita Income (Dollars)
State of Alaska	12,900
United States	11,495
Bethel Census Area	6,609
Akiak	3,526
Aniak	9,528
Atmautluak	3,920
Bethel	10,660
Chefornak	5,036
Chuathbaluk	1,944
Eek	4,876
Goodnews Bay	4,779
Kasigluk	4,702
Kwethluk	3,615
Lower Kalskag	2,459
Mekoryuk	5,172
Napakiak	4,931
Napaskiak	5,173
Newtok	2,514
Nightmute	4,409
Nunapitchuk	3,160
Platinum	4,069
Quinhagak	4,062
Toksook Bay	4,122
Tuluksak	2,080
Tununak	4,359
Upper Kalskag	4,213
Wade Hampton Census Area	4,159
Alakanuk	3,010
Chevak	3,904
Emmonak	3,327
Hooper Bay	4,179
Kotlik	4,254
Marshall	3,939
Mountain Village	5,452
Newtok	-
Pilot Station	2,409
Russian Mission	1,862
St. Marys	6,202
Scammon Bay	4,273
Sheldons Point	2,008

Source: State of Alaska, Department of Labor -
Alaska Cost and Income Measures, 1985

exacerbated by extremely high living costs. In March, 1988 food costs were 58 percent higher in Bethel than in Anchorage with electricity being 148 percent higher. On the average, the cost of living is 39 percent higher in the Calista region than Anchorage. Explicit acknowledgement of the higher prices of goods and services in Alaska may be seen in the 25 percent cost-of-living allowance added to the basic pay of federal employees and higher minimum incomes allowed beneficiaries of federal antipoverty programs. The costs of basic goods in many villages of the region are higher than in Bethel because of the additional transportation and handling involved. Again, the Calista region comes out the worse when compared to the State in that the region has one of the highest costs of living in Alaska. Owing to the high cost of living in the region, the low median income of Alaska Natives cited understates the extent of poverty (See Figure 13).



BASELINE CONDITIONS

Construction

Construction employment in the region varies in response to state capital expenditures and other public projects.

In 1986, total personal income from construction was 4,986,321 million dollars. The average monthly wage for construction workers in the region was \$2,395. This employment, however, is seasonal with the highest employment levels during the summer months.

Transportation, Communications, Public Utilities

Employment is predominately in Bethel and provided total regional personal income of \$5,291,855 in 1986. The average monthly wage was \$2,896.

Trade - Wholesale & Retail

In 1986 trade provided \$5,540,205 in wages, and the average monthly wage was \$1,989.

Finance, Insurance, Real Estate

Total wages were \$2,718,423, and the average monthly wage was \$2,173. Again, most of these jobs are located in Bethel.

Services

This sector accounts for over 11 percent of the wage income received in the region and includes social and health services, and Native non-profit corporations, most notably AVCP. Total wages of \$12,181,841 were paid in 1986. The average monthly wage was \$1,802, indicating short term or intermittent employment at low wages. Much of this employment is federally or state funded and as a result has an uncertain future.

Federal, State and Local Government

Government employment provides the bulk of the wages and salaries in the Calista region. Education, health and social services and administrative functions are the primary activities of this sector. The government sector is, to a great extent, the basis of the entire regional economy. Government provided 65 percent of the total personal income for the region.

Total personal salaries and wages in 1986 were \$69,272,020, with an average monthly wage of \$2,565.

Commercial Fishing

Commercial fishing is comparable to the services sector in terms of earnings and is, therefore, one of the region's largest private sector industries. For the households that participate in the commercial fishing industry, income from commercial fishing represents the largest and most consistent source of money.

Trapping

Trapping provides a source of income to area residents during the winter. Gross income of the region's 400 to 450 trappers is estimated to be \$1,000 to \$1,500 per year per trapper. A significant portion of the gross income is used for trapping expenses.

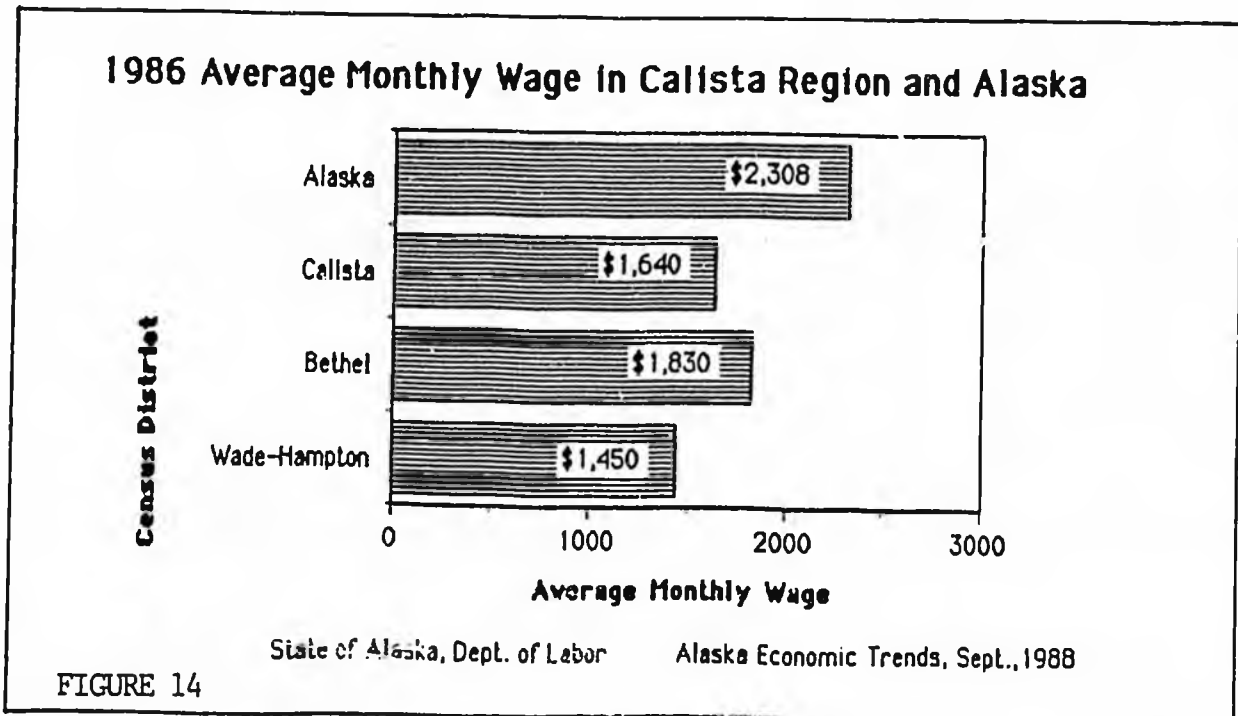


TABLE 13
 Average Monthly Wage by
 Industry, 1986 -
 Calista Region and Alaska

	Wade Hampton Census Area	Bethel Census Area	Average Calista Region	Alaska
Mining	-	-	-	4,921
Construction	1,164	3,626	2,395	3,425
Manufacturing	-	-	-	2,019
Transportation, Communications	-	1,844	1,844	2,896
Wholesale Trade	-	2,300	2,300	2,601
Retail Trade	876	1,097	987	1,376
Real Estate, Finance, Insurance	963	1,166	1,015	2,173
Service	835	1,182	1,009	1,802
Government	1,741	2,089	1,915	2,565
Federal	1,194	2,258	1,726	2,298
State	2,291	3,528	2,910	2,829
Local	1,746	1,970	1,858	2,539
Misc.	-	899	899	-
Average	1,549	1,779	1,664	2,345

Source: State of Alaska Department of Labor

TABLE 14

Total Wages by
Industry, 1986 - The Calista Region

	Wade Hampton	Bethel	Region
Federal Government	430,125	8,253,968	8,684,093
State Government	660,006	10,560,129	11,220,135
Local Government	16,194,815	33,172,977	49,367,792
TOTAL GOVERNMENT	17,284,946	51,987,074	69,272,020
Miscellaneous	-	312,982	312,982
Mining	-	-	-
Construction	69,828	4,916,493	4,986,321
Manufacturing	-	-	-
Transportation, etc.	-	5,291,855	5,291,855
Wholesale Trade	-	248,350	248,350
Retail Trade	1,892,682	5,274,812	7,167,494
Fire Insurance, Real Estate Services	427,624 380,776	2,290,799 11,801,065	2,718,423 1,218,184
TOTAL PRIVATE SECTOR	4,998,279	3,236,326	37,314,605
GRAND TOTAL	22,283,225	84,310,013	106,593,238
Private % of Total	22.4%	38%	35%
Government % of Total	77.6%	62%	65%
Source: State of Alaska, Department of Labor			

Business

G

Goodnews Bay going platinum?

Will mining pose risk to habitat?

By BECKY NORSWORTHY
Times Business Writer

Beneath the turbid waters of the Goodnews Bay area may lie mind-boggling deposits of platinum, but how much would remain a secret of the sea under pending legislation to create a Goodnews Bay critical habitat area.

Waves and glacial action pushing against a platinum-bearing peak called Red Mountain have eroded half the mountain into Kuskokwim Bay, according to mining engineers and geologists, and strong currents have carried away the platinum-bearing rock.

Where the mineral settled, though, is still an open question. Words like undefined, unknown



and hypothetical abound in descriptions of the offshore platinum.

A professional paper published by the U.S. Geological

Survey in 1973 estimated there might be 5 million ounces of platinum group minerals in offshore placer deposits at Goodnews Bay, but a USGS spokesman said that figure is just an estimate and not backed up by hard data.

Willis White, associate branch chief of the Alaska branch of the USGS, said the geological survey has no revised estimates of offshore platinum resources.

Onshore, the prospects are better known. Mining has been done onshore along creeks and the Salmon River since the 1830s, yielding 650,000 ounces of platinum. Federal and state agencies estimate 500,000 ounces remain onshore.

R.A. Hanson Co. of Spokane has held mining claims on federally owned land since 1960, but is currently in a development rather than a production stage, said Ron Downes, the company's mine manager.

The state's proposed critical habitat area would include a rocky waterbed, crucial to the subsistence and commercial fishing lifestyles of the Yupik peoples in the villages of Goodnews Bay, Platinum and other Southwest



Pat Edwards displays a platinum ingot at Alaska Precious Metals.

Jerry Gallagher, director of the state's Division of Mining, said House Bill 332 and Senate Bill 318 cover virtually the whole area the division of mining has considered for offshore mining.

About 62,500 acres of primarily tidal and submerged lands owned by the state, reaching from the mean high-tide mark to the three-mile limit, would be included in the critical habitat area proposed, he said.

Both the Senate and House bills specifically prohibit mineral entry and mineral leasing. Onshore mining would not be affected by the legislation, he said.

In the middle of the head-on clash are mining prospectors, permits for which Karen

the coast outside the bay. Sheardown and her husband, Ron Sheardown, own Greenland Exploration.

Goodnews Resources Inc. would finance and



Bay legislation pits villagers against miners

By BECKY NORSWORTHY
Times Business Writer

The question of whether Goodnews Bay and the surrounding waters will be a critical habitat area rather than one of the nation's prime platinum mining prospects has squared environmentalists and Yupik villagers against mining interests.

Legislation pending in the state House and Senate would create the critical habitat area, and would specifically prohibit mineral entry and mineral leasing.

Rep. Lyman Hoffman, D-Bethel, sponsored the bill in the House. Sen. John Binkley, R-Bethel, sponsored the Senate version.

Hoffman said he introduced the legislation because residents of the area contacted him with their concerns about offshore exploration and possible mining.

The ecosystem there is critical, Hoffman said.

He said testimony in favor of the bill has come from the entire Yukon-Kuskokwim area.

"These people represent an area approximately the size of the state of Washington, and all of them were in favor of the legislation," he said.

Steve Borell, executive director of the Alaska Miners Association, said the decision of whether to close the Goodnews Bay area to mining must be addressed as a national issue because of the nation's dependence on foreign sources for the metal.

Signals such a closure would send to the mining industry, which he said is now looking more favorably at development

Times photo by DOUGLAS VAN REETH

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

January 30, 1990

Comments on SSB 332 and SB 318
"An Act establishing the Goodnews Bay Critical Habitat Area;
and providing for an effective date."

The following comments are presented on behalf of the Alaska Miners Association. The Goodnews Bay Mining District has provided the only platinum produced in the United States, beginning in 1916 with the annual production increasing to 37,000 ounces in a six-month's operation in 1938 - from a single operator. Production continued until 1975, and all production was from uplands.

Platinum is a critical/strategic metal and 93% of the nation's requirements are imported - from South Africa, the United Kingdom, and Russia. Renewed production from Alaska would certainly reduce the present imbalance of payments in international trade. The U.S. Bureau of Mines and the U.S. Geological Survey have conducted extensive surveys in this mining district in recent years indicating potential reserves, and have published their findings. These reserves are indicated both on-shore and off-shore lands. Renewed interest has been shown by the mining industry in this mining district.

An example of present-day mining technology practiced by the industry is best described by the Bima dredging operation of Westgold off-shore of Nome. Production has been on-going for the past three seasons and has had no adverse effects on the fishery. Environmental consequences of Westgold's Nome Offshore Placer Project after four years of study include:

1. After two to three years, substrate types occur in the same proportion as surrounding areas.
2. No change in oxygen concentration in water column.
3. No change in trace metal concentrations of eight priority metals.
4. Within three years recolonization community structure is similar to control areas; community appears to be moving through successional maturation process.
5. No avoidance of mined areas by King Crab.
6. No trace metals being concentrated in king crab, fish or king crab food items.
7. Community recovery based on existing database is estimated at less than five years for sand substrate and seven years for cobble substrates.

January 30, 1990

It should be pointed out that platinum metal does not amalgamate with mercury. Its recovery is simply a gravity concentration process with the concentrates shipped to a refinery.

The Alaska Miners Association is opposed to this type of legislation which, by creating a "Critical Habitat Area" and "closed to mineral entry and mineral leasing", would prevent the production of a critical/strategic metal such as platinum. This is not in the best interest of the state and nation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Phil R. Holdsworth". The signature is written in dark ink and is positioned below the typed name.

Phil R. Holdsworth

The Aleut Corporation

April 12, 1990

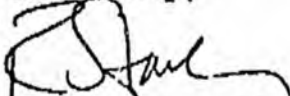
Senator Fred Zharoff
Room 121, Capitol
P.O. Box V
Juneau, Alaska 99811

Dear Senator Zharoff:

The Aleut Corporation has become aware of the situation that senate bill 318 has put Calista Corporation in with respect to one of their mining properties. We are in support of Calista Corporation's position regarding Senate Bill 318 (Goodnews Bay Critical Habitat Area). Our major concern is that 7(i) revenue will be jeopardized with the impairment of exploration and mining activities. Calista has a tremendous platinum reserve in the area which, if developed, will benefit all of the regional and village corporations through 7(i) and 7(j) distributions. If possible, we would appreciate your support of Calista Corporation on this matter.

Thank you for your consideration.

Sincerely,



Robert J. Stanton, Jr.
Director of Lands and Real Estate

cc: John E. Larsen, Jr.
Mike Neimeyer

j:\le\134

APR 11 10 17 16 CALISTA CORP MAIL (907) 272-5060 P.2

Calista Corporation

601 W. 5th Avenue, Suite 200, Anchorage, Alaska 99501-2225 • (907) 279-5516 • FACSIMILE (907) 272-5060

April 11, 1990

Senator Fred F. Zharoff
Room 121, Capitol
P.O. Box V
Juneau, Alaska 99811

Dear Senator Zharoff:

I am writing this letter to ask for your assistance on Senate Bill 318 (Goodnews Bay Critical Habitat Area). Calista Corporation is very much opposed to the passage of this bill. We have tried to work with the sponsors of the Senate and House versions to address our concerns, but to no avail. This bill is now receiving the "fast track" treatment in the Senate. Given our strong objection to this bill, we see no other alternative than to try and kill the bill. Consequently, we are asking your support by voting against passage of this bill when it reaches the Senate floor.

Ironically, Calista has no objections to the original purpose of this bill which has always been to shut down mining in Goodnews Bay. The Department of Fish and Game working with the sponsor of this bill in the House has manipulated this process to gain a stranglehold over all activities in the bay. It is this manipulation in order to control all activities in the area that we find objectionable. The damage that will occur as a result of the passage of this bill will not be limited to the people in the Calista region. Its effect will be felt statewide. The following are the main reasons for Calista's opposition to SB 318:

1. Sets precedent for state recognition of Applications for Offshore Prospecting Permits (AOPP's) as a property interest

Few in this state know about the inequalities built into the existing offshore mining program for state tide and submerged lands. The first-come-first-serve process started in the mid-1970's has resulted in a system where only a handful of families possess all of the Applications for Offshore Prospecting Permits in this state. If anyone in this state desires to do an offshore mining project, they must go through these families since the state has virtually handed them exclusive rights or license to market Alaska's offshore minerals at zero cost to them.

When the Critical Habitat bill in question was introduced which affected those AOPP's, you can imagine the shock that was felt by the owners of those AOPP's. As a result of their outrage, the House bill sponsor and the Department of Natural Resources provided a sweetheart deal for the owners of the AOPP's. They will be allowed to trade out their "interest" in the bay into more prospective areas south of the bay that are not presently opened to the rest of the public for staking. Prior to this, the state has never recognized a property interest in the AOPP's. They were merely an application for a right to explore; nothing more. They provided no guarantee that the areas within the AOPP would ever be opened for development. Now the cat is out the door. Alaska will never be able to argue again that these AOPP's are not a property interest. Mineral closures on AOPP's in the future will probably result in successful taking or inverse condemnation challenges against the state. The only winners after this precedent has been set will be the few individuals lucky enough to have been part of the monopolization of Alaska's best offshore mineral resources.

April 11, 1990

Page 2

2. Critical Habitat used as a tool to stop development

There have been many Critical Habitats established on state lands in Alaska to preserve unique areas or resources. That is not the case here. This Critical Habitat Designation is merely a tool to stop mining in the bay.

It's interesting to note that prior to the debates concerning offshore mining in this area, no one, including ADF&G staff, considered this a unique habitat. All of the sudden, it has become the jewel of the west coast.

The community of Goodnews Bay has legitimate concerns about the impacts that mining in the bay will have on their residents' lifestyles and livelihoods. ADF&G has used this fear to promote one more Critical Habitat area to give them a greater degree of control of development activities in the vicinity of Goodnews Bay. Critical habitat designations are a good program when they are being used for the purpose for which they were created. When the state agency charged with Critical Habitat oversight uses the designation merely to allow it to manipulate the regulatory processes of this state to influence developments, be they private or public projects, the credibility of the entire Critical Habitat program becomes suspect. I believe ADF&G's manipulation of this process at Goodnews Bay should raise some questions about their objectivity and credibility in this important state program. A mineral closure should be accomplished with a "mineral closure," not with a Critical Habitat designation.

3. Calista wishes to retain status quo for regulatory programs in Goodnews Bay

Calista owns the majority of subsurface acreage surrounding Goodnews Bay, approximately 300,000 acres. Most of this acreage is beneath surface selections of Arvig and Kuitsarak village corporations, although a large percentage of Calista's meager 14(h)(8) and in-lieu selections were made here due to the platinum group mineral potential of the area.

This area has been the largest producer of platinum in North America since the mid-1930's. It has produced \$325 million dollars worth of platinum group metals at today's prices. Also, at today's prices, it has over \$50 million in platinum placer reserves. Lode potential for the area is considered by the mineral industry to be good. The most prospective areas are primarily on Calista land.

Lode deposits can be difficult to discover. That is especially true with platinum lode deposits as this mineral is not well understood. While there is no guarantee that an economically recoverable reserve exists, this area has some of the best potential for the existence of a 7(i) resource in Southwest Alaska.

We do not know what the final impact will be on this property if SB 318 becomes law. We do know that our expenses will, no doubt, increase and that the regulatory atmosphere and process will change dramatically. The Dept. of Fish and Game will be the lead agency for any activity that must take place in the Critical Habitat or that ADF&G believes will have an impact on the critical habitat management area. The designation will certainly impact our future barging or shipping activities and may impact our activities in the uplands if ADF&G thinks that any indirect effects will occur. This could easily affect future road construction, water diversions, hydroelectric developments, etc., necessary for mineral development.

April 11, 1990
Page 3

Please do not misunderstand our intentions. Calista is not involved in this to avoid the regulatory process. The regulatory process as it applies to our property now provides us with certainty. We know how the process is going to work and what is expected of us. We do not know what will happen, however, when ADF&G becomes the lead agency in the permitting process for this area. If we build a road, we know that DEC will review our project for non-point source pollution, and we know what they will be looking for in their review. We don't know what ADF&G would be looking for if they were the lead agency. The greatest fear is that ADF&G will use even a minor indirect impact as an opportunity to require an ADF&G lead role in the review of the entire mining plan of operations for onshore mining.

Please consider that we have been making this argument from the beginning of this critical habitat nomination with no visible results. ADF&G continues to resist compromise language that would protect Calista's interest in the above stated areas. At their continued insistence, the House bill sponsor has refused to address these concerns. ADF&G's legislative dictates have now spilled over into the Senate as the House sponsor has continued to insist on no changes in the Senate version.

In addition to precious metals, Calista is committed to using this area for a rock and gravel source for the Kuskokwim Delta and has invested a great deal of resources opening a pit at the village of Goodnews Bay. Rock from this pit has been used in flood control projects and seawall projects in half a dozen villages. It is the Corps of Engineers' designated pit for the much needed Bethel seawall/erosion control project. It is critical that our ability to dock and barge these materials through the bay not be impaired. The Goodnews Bay has the only useable building materials along the entire coast in the Calista Region. Because of ADF&G's and the House sponsor's continued refusal to address these issues, we can only surmise that ADF&G fully intends to change the status quo with respect to all of these activities. We do not anticipate these changes as being in Calista's or its shareholders' best interests.

An example of other activities that will be impacted by this designation include:

- a) Calista tried unsuccessfully to get the House sponsor and ADF&G to address aspects of the commercial fishing industry in the bay. Construction of fish processing facilities, the use of the bay by floating processors, and the commercial fish harvesting activities will all be subject to more direct control by ADF&G. Although one of the main goals of this bill is to protect the opportunities for commercial fishermen, none of these activities is specifically identified as an activity consistent with the management of the area.
- b) All fuel delivered to these villages arrives by barge through the management area. We would like to make sure that barging is considered to be a consistent activity in order to assure a constant supply of heating, diesel fuels, and gasoline. The topic of oil spills is a major issue of debate and concern in this state. It is easy to envision a day in the not-too-distant future when ADF&G may consider the barging of fuel through a critical habitat management area in a less favorable light than they do now while they are trying to move this bill. We have not seen any indication that ADF&G anticipates this activity will continue in the bay. Quite the contrary. They have made every effort to prevent the insertion of language in the bill that would guarantee this vital transportation link.

April 11, 1990

Page 4

- c) Little thought has been given to the impact the designation may have on day-to-day life in Goodnews Bay and Platinum. This will be a living refuge. It is the backyard for these two communities. The designation must allow enough flexibility to accommodate the existing and future needs of the residents. Within the boundaries of the designated area, many activities may occur in the future. That is to say, the communities may wish for these types of activities to occur (i.e. permissible mariculture projects, marinas, tourist facilities and activities, erosion control projects, etc.).

Upland community activities outside of the designated area may also be found by ADF&G to have indirect impacts on the management area, i.e. road construction, housing projects, airport improvements, waste treatment projects, public facilities construction, etc. Can the residents be assured that these activities will pass muster when these projects are needed?

4. ANCSA §7(i) and (j) implications

We believe that our ability to encourage an exploration partner to work with Calista on this property will be greatly impaired by the uncertainty generated by the Critical Habitat Designation. Our ability to develop an economically marginal property becomes more uncertain by the designation.

The additional burden created by the Critical Habitat designation will not instill a great deal of confidence in the exploration companies or bankers to proceed with a project that may lead to production. It cannot be said too many times that this is the best onshore prospect for platinum group metals discovery in North America. The critical habitat designation on state submerged lands should not be used to encumber upland exploration and mining activities outside of the management area. By refusing to consider Calista's suggested amendments, ADF&G appears to be intentionally leaving their options open to do just that.

The Red Dog zinc mine in the NANA Region is projected to provide more revenues to the regional and village Native corporations statewide over the life of the mine, than the \$960 million Alaska Native Fund created in ANCSA. This will be paid to regional corporations via §7(i) distributions required in ANCSA; and to the village corporations via §7(j). The possibility of any distributions made by Calista from its Platinum properties may well be sealed by SB 318. The Red Dog model provides an excellent example of what a large lode mining development can do for Alaska's Native community. In addition to the large stream of royalty distributions that will be shared by all of Alaska's Native community, the Red Dog mine will be the regional center for employment for the next 50 years. The opportunity for Calista to share the potential wealth of the Goodnews Bay onshore platinum properties in a similar fashion will be impinged by SB 318. This may, for the reasons stated above, have significant impacts to Alaska's Native community statewide.

5. Continued dependence on state and federal transfer payments

The Calista Region is the most economically deprived region in the state. The economy is based on a marginal commercial fishery, government employment and state and federal transfer payments, i.e. longevity bonus, food stamps, Alaska Permanent Fund Dividends, welfare, aid to families with dependents, etc. Most of these payments, as you well know, are funded by the State of Alaska.

April 11, 1990

Page 5

The latest estimated per capita income of both Goodnews Bay and Platinum is \$6,500.00. Roughly 30% of the average household income comes from transfer payments. The average earnings per person employed in the commercial fisheries industry is roughly \$2,800 per annum. Given the high cost of living in these communities and the low median income, it is not difficult to see that we can't afford to jeopardize reasonable job opportunities for these communities.

This bill does that. One may not be able, at this time, to claim with 100% certainty that SB 318 will kill the job opportunities associated with upland mining. There are two things that we can point to, however, that suggest a certain degree of jeopardy: 1) no one throughout this process has been able or willing to tell us that upland mining projects will not come under the regulatory jurisdiction (lead agency role) of ADF&G due to their determination that indirect effects, no matter how minor, occur in the management area; and 2) Calista has made numerous attempts to include language that would identify several key activities as being consistent with the designation and, with the exception of the "docking" language, has been unsuccessful. This suggests to us that we should be prepared for the distinct possibility that ADF&G will become the lead regulatory agency even for upland mining activities on private land outside of the Critical Habitat management area boundaries. ADF&G is certainly doing everything in its power to keep that option open.

We associate this possibility with significantly increased costs of regulatory compliance for Calista. After all, ADF&G is not charged with promoting reasonable opportunities for development, nor is their agency often associated with the term multi-use. They exist to protect fish and wildlife and its habitat. I am simply saying that we can expect that an elevated position of the ADF&G in the regulation of upland mining activities will cost more and will create a level of uncertainty that will limit interest in developing this property.

With a lode development in this area, we could easily expect a work force during the mining stages to fall somewhere between 100-300 individuals. During the development stages, we could expect a larger number. Salaries for these jobs are expected to top \$40,000 per person. Like the Red Dog development, our mineral agreements are written to provide a maximum local hire preference. Consequently, any jobs that are lost because of this initiative are more than likely jobs that would have been filled by villagers close to the mine. The kind of job opportunities would be well suited to village life and would go a long way towards improving economic conditions and reducing the necessity for state funded public assistance programs in this depressed region of the state.

I would like to emphasize that we have tried to work within the legislative system to make this bill a workable bill. The irony here is that Calista would support a "mineral closure" of the bay and mouth (either administrative or legislative) or would support this bill if, at a minimum, three vital concerns of Calista were met. An attempt has been made so far to address only one of those concerns, "docking facilities."

The other two amendments that Calista would like to see in a final bill would include:

- A) The Commissioner shall permit barge and ship traffic within the Goodnews Bay Critical Habitat Area, and
- B) The Commissioner shall consider onshore mining activities to be compatible with the Goodnews Bay Critical Habitat Area.

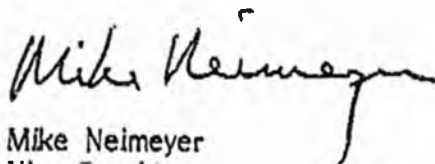
April 11, 1990
Page 6

These changes would maintain the present regulatory environment for key activities essential for mining to occur on the uplands. We need some assurances of certainty in the regulatory environment. We want to function in a regulatory environment no more or no less stringent than other miners that are not operating in the vicinity of a critical habitat environment.

Since this bill is moving quickly and there are no indications that the upland mining activities will be protected, we ask for your vote against passage of SB 318. If I can answer any of your questions regarding this issue, please call. I will be happy to discuss this issue with you or a member of your staff.

Sincerely,

CALISTA CORPORATION



Mike Neimeyer
Vice President
Land & Natural Resources

MN:sib

April 6, 1990

FISH AND GAME SUGGESTED AMENDMENTS TO CSHB 332

An Act establishing the Goodnews Bay Critical Habitat Area and the Goodnews Bay M[m]anagement Area [plan]

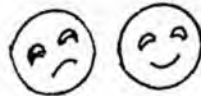
Section 1. (c) The Goodnews Bay Critical Habitat Area is closed to mineral entry and mineral leasing under AS 38.05.185 - 38.05.275.

(d) Subject to (b) of this section, [T]the commissioner shall permit the construction, maintenance, and the reasonable use of docking facilities within the Goodnews Bay Critical Habitat Area.

Sec. 2. AS 41.23 is amended by adding a new section to read:

ARTICLE 7. GOOD NEWS BAY MANAGEMENT AREA [PLAN] ESTABLISHED.

Sec. 41.23.700. GOODNEWS BAY MANAGEMENT AREA [PLAN] (a)[c] The following described areas are established as the Goodnews Bay M[m]anagement Area[plan]:[shall cover the] state tideland below the mean high tide line, the submerged land, and water of the state to a line one-half mile offshore from the mean high tide line within...



(b)[a] The commissioner of natural resources shall establish and may revise a management plan for the Goodnews Bay M[m]anagement Area [plan] to protect fish migration and spawning in the area near shore within the area described in (a) [c] of this section. the management plan shall be prepared with the concurrence of the commissioner of fish and game.

c[b] the commissioner of natural resources shall permit mining under AS 38.05.185 - 38.05.275 within the area described in (a)[c] of this section under terms established in the plan for the Goodnews Bay M[m]anagement Area[plan] that prevent the material interference from mining with fish migration and spawning within the area described in (c) of this section.

6-1396P
Bradley
4/9/90

Original sponsor(s): REP. HOFFMAN, Davidson, Wallis, Jacko

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR SPONSOR SJBSTITUTE FOR HOUSE BILL NO. 332 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Goodnews Bay Critical Habitat
7 Area and the Goodnews Bay management plan; relating
8 to offshore prospecting permits and leases; and
9 providing for an effective date."

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

11 * Section 1. LEGISLATIVE FINDINGS. This Act establishes the Goodnews
12 Bay Critical Habitat Area. In establishing this area, the legislature
13 finds that

14 (1) Goodnews Bay is an area of high biological productivity that
15 supports valuable commercial and sport fisheries and a rich and varied
16 subsistence economy;

17 (2) important platinum prospects have been identified near
18 Goodnews Bay; platinum is a strategic mineral that the United States now
19 imports from other countries; the United States Bureau of Mines has identi-
20 fied these coastal areas as having favorable potential for the development
21 of important additional platinum reserves;

22 (3) in 1982, applications for offshore prospecting permits were
23 properly filed under applicable state laws and regulations for land in the
24 Goodnews Bay area;

25 (4) the Department of Natural Resources has properly processed
26 these applications under applicable laws and has issued its Preliminary
27 Best Interest Finding, dated March 9, 1989;

28 (5) the processing of the applications has resulted in the
29 responsible agencies identifying the various opportunities, interests, and

1 risks involved in the exploration and development of the platinum prospects
2 in the Goodnews Bay area;

3 (6) in preparing the Preliminary Best Interest Finding dated
4 March 9, 1989, the commissioner of natural resources has held hearings,
5 solicited testimony, considered the applicable issues, and taken all steps
6 required by applicable law to allow the offshore prospecting permits to be
7 issued and exploration to take place;

8 (7) preservation of the fish and wildlife habitat in and around
9 Goodnews Bay is crucial to perpetuation of the existing commercial and
10 sport fisheries and the local subsistence economy; mineral exploration and
11 development can be conducted in the offshore coastal area outside the
12 Goodnews Bay Critical Habitat Area in a manner consistent with state law
13 and resource management policies and without endangering the habitat and
14 resources in and around Goodnews Bay;

15 (8) certain areas within Goodnews Bay and the territorial water
16 should be designated as critical habitat areas and other areas are more
17 appropriately administered under general law;

18 (9) responsible development of the platinum prospects in the
19 offshore area south of Township 13 South, Seward Meridian is in the state's
20 best interest under AS 38.05.035(e) and can be conducted in a manner con-
21 sistent with applicable coastal zone management programs.

22 * Sec. 2. AS 16.20 is amended by adding a new section to read:

23 Sec. 16.20.630. GOODNEWS BAY CRITICAL HABITAT AREA ESTABLISHED.

24 (a) The following described areas are established as the Goodnews Bay
25 Critical Habitat Area: the state tideland below the mean high tide
26 line, submerged land, and water of the state along Kuskokwim Bay from
27 the northwesterly point of Section 33, Township 12 South, Range 75
28 West, Seward Meridian along Kuskokwim Bay to the southeasterly point
29 of Section 32, Township 13 South, Range 75 West, Seward Meridian, and

1 within Goodnews Bay within

2 Township 12 South, Range 73 West, Seward Meridian
3 Sections 17 - 36

4 Township 12 South, Range 74 West, Seward Meridian
5 Sections 19 - 20
6 Sections 23 - 36

7 Township 12 South, Range 75 West, Seward Meridian
8 Sections 24 - 26
9 Sections 33 - 36

10 Township 13 South, Range 74 West, Seward Meridian
11 Sections 1 - 10
12 Sections 16 - 19

13 Township 13 South, Range 75 West, Seward Meridian
14 Sections 1 - 24
15 Sections 26 - 32

16 Township 13 South, Range 76 West, Seward Meridian
17 Sections 1 - 3
18 Sections 9 - 16
19 Sections 21 - 27
20 Sections 34 - 36.

maintain subsistence, traditional, + historical uses

21 (b) The Goodnews Bay Critical Habitat Area is established to
22 protect and maintain fish and wildlife habitat, populations, and
23 aquatic plant resources, especially eelgrass beds, and to ensure the
24 continued productivity of the area's fisheries and fish and wildlife
25 harvest.

26 (c) The Goodnews Bay Critical Habitat Area is closed to mineral
27 entry and mineral leasing under AS 38.05.185 - 38.05.275.

28 (d) The commissioner shall permit the construction, maintenance,
the reasonable use of docking facilities within the Goodnews Bay

1 Critical Habitat Area.

2 * Sec. 3. AS 41.23 is amended by adding a new section to read:

3 ARTICLE 3. GOODNEWS BAY MANAGEMENT PLAN.

4 Sec. 41.23.700. GOODNEWS BAY MANAGEMENT PLAN. (a) The commis-
5 sioner shall establish and may revise the Goodnews Bay management plan
6 to protect fish migration and spawning and to permit the exploration
7 and development of mineral resources within the area described in (c)
8 of this section. The management plan shall be prepared with the
9 concurrence of the commissioner of fish and game.

10 (b) The commissioner shall permit mining under AS 38.05.185 -
11 38.05.275 within the area described in (c) of this section under terms
12 established in the management plan that prevent the material interfer-
13 ence from mining with fish migration and spawning within the area
14 described in (c) of this section.

15 (c) The Goodnews Bay management plan shall cover the state
16 tideland below the mean high tide line, the submerged land, and water
17 of the state to a line one-half mile offshore from the mean high tide
18 line within

19 Township 14 South, Range 75 West, Seward Meridian

20 Sections 4 - 5

21 Section 9

22 Section 16

23 Section 21

24 Section 28

25 Section 33

26 Township 15 South, Range 75 West, Seward Meridian

27 Section 4

28 Section 9

29 Sections 15 - 16

1 Sections 21 - 22.

2 (d) The commissioner may adopt regulations to implement this
3 section.

4 * Sec. 4. GOODNEWS BAY AREA OFFSHORE PROSPECTING PERMITS. (a) The
5 commissioner of natural resources shall, within 90 days from the effective
6 date of this Act, issue offshore prospecting permits in accordance with the
7 Preliminary Best Interests Finding of the Department of Natural Resources
8 dated March 9, 1989, relating to the Goodnews Bay area, for all land lo-
9 cated outside the Goodnews Bay Critical Habitat Area as established in
10 AS 16.20.630, enacted by sec. 2 of this Act.

11 (b) A person holding a mineral lease, offshore prospecting permit, or
12 offshore prospecting permit application within the Goodnews Bay Critical
13 Habitat Area on the effective date of this Act shall be allowed, within 90
14 days after the effective date of this Act, to exchange the lease, permit,
15 or permit application for equivalent acreage outside the Goodnews Bay
16 Critical Habitat Area on acreage not already subject to a lease, permit, or
17 permit application. The land to be exchanged under this section is limited
18 to acreage that is described in the Preliminary Best Interests Finding and
19 that is not already subject to a lease, permit, or permit application.

20 (c) Before the commissioner of natural resources prepares the Good-
21 news Bay management plan under AS 41.23.700, as enacted in sec. 3 of this
22 Act, the commissioner shall

23 (1) issue offshore prospecting permits under (a) and (b) of this
24 section;

25 (2) permit exploration and development in the area so long as it
26 is conducted to mitigate the effect of the action on fish migration and
27 spawning; and

28 (3) undertake or require the lessee or permittee to undertake
29 biological and environmental studies to better understand fish migration

1 and spawning in the area.

2 (d) Notwithstanding any other provision of law, action taken under
3 this section is in the best interest of the state, is consistent with the
4 Alaska Coastal Management Act, and is in compliance with each applicable
5 statute and regulation, and further administrative action is not required.

6 * Sec. 5. Until the commissioner of natural resources adopts the man-
7 agement plan under AS 41.23.700, as enacted in sec. 3 of this Act, the
8 Preliminary Best Interest Finding of the Department of Natural Resources
9 dated March 9, 1989, constitutes the management plan for the area described
10 in AS 41.23.700(c).

11 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

H B

346

SENATE COMMITTEE REPORT

DATE: 5/1/90

FURTHER:

DATE TURNED INTO OFFICE: 5-6-90

Resources Committee considered CSHB 346 (Resources)

"An Act establishing the Yakataga State Game Refuge; relating to the management of state land within the Yakataga area; and providing for an effective date."

and recommended:

- replace with CS CS HB 346 (Res) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) INDR Dept/Date: _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

fiscal note(s) CRA Dept/Date: _____

zero fiscal note(s) H/Rec.

Governor's bill w/fiscal note

SIGNING DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

[Handwritten: No Rec]

[Handwritten: No Rec]
Chair: Signature and Recommendation

6-0920R-
Bradley
5/4/90

Original sponsor(s): Resources Committee

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 346 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Yakataga State Game Refuge;
7 relating to the management of state land within the
8 Yakataga area; and providing for an effective date."

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

10 * Section 1. AS 16.20 is amended by adding a new section to read:

11 Sec. 16.20.033. YAKATAGA STATE GAME REFUGE. (a) The following
12 state-owned land and water and all land acquired in the future by the
13 state lying within the parcels described in this subsection are estab-
14 lished as the Yakataga State Game Refuge:

15 (1) Township 20 South, Range 13 East, Copper River Meridian

16 Section 11: SE1/4

17 Section 12: S1/2

18 Section 13

19 Section 14: E1/2

20 Sections 22 - 27

21 Sections 34 - 36

22 (2) Township 20 South, Range 14 East, Copper River Meridian

23 Sections 7 - 12: S1/2

24 Sections 13 - 36

25 (3) Township 20 South, Range 15 East, Copper River Meridian

26 Sections 7 - 12: S1/2

27 Sections 13 - 36

28 (4) Township 20 South, Range 16 East, Copper River Meridian

29 Sections 7 - 9: S1/2

1 Sections 16 - 36

2 (5) Township 20 South, Range 17 East, Copper River Meridian

3 Section 19

4 Section 20: W1/2

5 Section 29: W1/2

6 Sections 30 - 31

7 Section 32: W1/2

8 (6) Township 21 South, Range 11 East, Copper River Meridian

9 Excluding that portion of Tract A-148 lying north and
10 west of Seal River:

11 Sections 1 - 2

12 Sections 3 - 4: North and east of the Seal River
13 and its associated lake system

14 Section 10: East of Seal River and one mile north
15 of mean high tide line on the Gulf of Alaska

16 Sections 11 - 12

17 Sections 13 - 14: above mean high tide line on
18 the Gulf of Alaska

19 (7) Township 21 South, Range 11 1/2 East, Copper River
20 Meridian

21 Sections 6 - 7

22 Section 18: Above mean high tide line on the Gulf
23 of Alaska

24 (8) Township 21 South, Range 12 East, Copper River Meridian

25 Sections 13 - 14: S1/2

26 Sections 23 - 26

27 Sections 35 - 36: Above mean high tide line on
28 the Gulf of Alaska

29 (9) Township 21 South, Range 13 East, Copper River Meridian

1 Sections 1 - 21

2 Section 22: W1/2, E1/2 one mile north of mean
3 high tide line on the Gulf of Alaska

4 Sections 23 - 24: One mile north of mean high
5 tide line on the Gulf of Alaska

6 (10) Township 21 South, Range 14 East, Copper River Meridian

7 Sections 1 - 12

8 Sections 13 - 15: One mile north of mean high
9 tide line on the Gulf of Alaska

10 Sections 16 - 18

11 Sections 19 - 22: One mile north of mean high
12 tide line on the Gulf of Alaska

13 (11) Township 21 South, Range 15 East, Copper River Meridian

14 Sections 1 - 7

15 Sections 8 - 12: One mile north of mean high
16 tide line on the Gulf of Alaska

17 (12) Township 21 South, Range 16 East, Copper River Meridian

18 Sections 1 - 6

19 Sections 7 - 12: One mile north of mean high tide
20 line on the Gulf of Alaska

21 (13) Township 21 South, Range 17 East, Copper River Meridian

22 Section 5: W1/2

23 Sections 6 - 7

24 Section 8: W1/2

25 (b) The Yakataga State Game Refuge is established to protect the

26 (1) fish and wildlife habitat and populations, including
27 salmon spawning and rearing habitat and critical goat and moose winter
28 habitat; and

29 (2) public uses of fish and wildlife and their habitat,

1 particularly commercial, sport, and subsistence fishing, hunting,
2 viewing, photography, and general public recreation in a high quality
3 environment.

4 (c) Entry upon the Yakataga State Game Refuge for purposes of
5 exploration and development of oil and gas resources shall be permit-
6 ted when compatible with the purposes specified in (b) of this sec-
7 tion.

8 (d) The state may not acquire by eminent domain private land
9 that is located within the state-owned land specified in (a) of this
10 section for inclusion in the Yakataga State Game Refuge. The state
11 may acquire private land that is located within the state-owned land
12 specified in (a) of this section by purchase, exchange, or otherwise
13 from willing owners for inclusion in the Yakataga State Game Refuge.

14 (e) The establishment of the Yakataga State Game Refuge under
15 this section does not impair or alter valid existing rights including
16 pending Native allotment applications, access to set net sites, and
17 access to and from private land located within the Yakataga State Game
18 Refuge.

19 (f) The department shall allow commercial, sport, and subsis-
20 tence fishing and hunting within the Yakataga State Game Refuge under
21 regulations of the Board of Fisheries and the Board of Game. The
22 department shall also permit associated support activities when neces-
23 sary and consistent with AS 16.20.010 - 16.20.080 to support fishing
24 and hunting permitted under this section, including fish buying oper-
25 ations, aircraft support including landing strips, and off-road vehi-
26 cle use.

27 (g) Egress and ingress to and from private property within the
28 parcels described in (a) of this section shall be allowed through
29 access corridors established by agreement between the department, the

1 Department of Natural Resources, and the owners of private land in-
2 volved. The establishment of the Yakataga State Game Refuge does not
3 impair or alter existing rights of access to set net lease sites.

4 (h) The department shall adopt and may revise a management plan
5 for the Yakataga State Game Refuge.

6 * Sec. 2. AS 16.20.033(a)(6) is amended to read:

7 (6) Township 21 South, Range 11 East, Copper River Meridian
8 [EXCLUDING THAT PORTION OF] Tract A-148 lying north
9 and west of Seal River [:]

10 Sections 1 - 2

11 Sections 3 - 4: North and east of the Seal River
12 and its associated lake system

13 Section 10: East of Seal River and one mile north
14 of mean high tide line on the Gulf of Alaska

15 Sections 11 - 12

16 Sections 13 - 14: Above mean high tide line on
17 the Gulf of Alaska

18 * Sec. 3. AS 16.20.033(a)(13) is amended to read:

19 (13) Township 21 South, Range 17 East, Copper River Meridian

20 Section 5: W1/2

21 Sections 6 - 7

22 Section 8: W1/2

23 Sections 12 - 13: Lying south and east of the
24 south channel of the Yakataga River

25 * Sec. 4. AS 16.20.033(a) is amended by adding new paragraphs to read:

26 (14) Township 21 South, Range 9 East, Copper River Meridian
27 Tract A-148

28 (15) Township 21 South, Range 10 East, Copper River Meridian
29 Tract A-148

1 (16) Township 21 South, Range 18 East, Copper River Meridian
2 Sections 7 - 8: Lying south of the south channel
3 of the Yakataga River

4 Section 17: N1/2

5 Section 18: N1/2, SW1/4, N1/2SE1/4

6 Section 19: NW1/4, N1/2SW1/4

7 * Sec. 5. AREA PLAN AND REPORT TO THE LEGISLATURE. (a) The commis-
8 sioner of natural resources shall undertake and complete an area plan for
9 the Yakataga area, the state land and water located between Icy Bay and
10 Cape Suckling, under AS 38.04.065 and the regulations of the Department of
11 Natural Resources. The area plan completed under this section does not
12 include the land of the Yakataga State Game Refuge.

13 (b) The commissioner of natural resources shall consider the full
14 range of management options for the timber rights in each tract of land of
15 the University of Alaska (ADL 223456) under litigation, including and
16 excluding timber harvest.

17 (c) The area plan shall be completed by June 30, 1993, and shall be
18 delivered to the chairs of the Resource Committees of the legislature. The
19 commissioner may include with the area plan recommendations for legislation
20 defining a part of the area as a state park, state forest, state game
21 refuge, state critical habitat area, or other special designation.

22 (d) Except as provided in this subsection and (e) of this section and
23 subject to valid existing rights, the commissioner of natural resources may
24 not conduct timber or timber-related construction activity, including road
25 construction, timber sales and commercial timber harvests in the Yakataga
26 area, the area between Icy Bay and Cape Suckling, until completion of the
27 area plan required by this section or June 30, 1993, whichever occurs
28 first. The commissioner may maintain existing timber harvest facilities.

29 This section does not diminish the right of a private property owner to

1 have access or develop its land or resources or the authority of an agency
2 to grant approval for access or development.

3 (e) The commissioner may permit the harvest of timber within the
4 parcel described as Tract 152 at White River under ADL 223456.

5 * Sec. 6. TIMBER TRACTS OF THE UNIVERSITY OF ALASKA. (a) The commis-
6 sioner of natural resources shall engage in every reasonable effort to
7 achieve a settlement of litigation involving the City of Yakutat v. the
8 Department of Natural Resources (Civil No. 1JU-88-271) that accommodates
9 the rights of the University of Alaska to compensation for university trust
10 land conveyed to the Municipality of Anchorage. The commissioner shall,
11 for the purposes of settlement of the litigation, consider the timber in
12 the tracts transferred as ADL 223456 as the property of the university.
13 Nothing in this subsection affects the claims or rights of a party to the
14 litigation.

15 (b) The commissioner of natural resources shall engage in every
16 reasonable effort to reach agreement on the fair market value for the
17 timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga.
18 The commissioner shall report the fair market value agreed upon by the
19 commissioner and the University of Alaska under this subsection to the
20 chairs of the resources committees of the legislature on the date the
21 commissioner and the university reach agreement on the fair market value
22 determined under this subsection.

23 (c) Regardless of the disposition of City of Yakutat v. the Depart-
24 ment of Natural Resources (Civil No. 1JU-88-271), the legislature intends
25 that the state reacquire from the University of Alaska its interest in
26 Tract A-148 at Cape Suckling and Tract 20 at Yakataga. The legislature
27 intends to compensate the University of Alaska for Tract A-148 and Tract 20
28 based on the agreement on the fair market value reached under (b) of this
29 section. If the commissioner and the University of Alaska reach agreement

1 on the fair market value determined under (b) of this section, all money
2 received in satisfaction of the court order issued in Sullivan v. State
3 after the date of agreement shall be transferred to the University of
4 Alaska trust fund as additional earnest money for the reacquisition of the
5 timber rights of the University of Alaska on Tract A-148 at Cape Suckling
6 and Tract 20 at Yakataga.

7 (d) The commissioner of revenue shall establish a trust account in
8 the general fund of the state. The commissioner of natural resources shall
9 transfer to the commissioner of revenue for deposit into the trust account
10 any amounts paid from July 1, 1990, through January 1, 1991, or through the
11 date of the agreement reached under (b) of this section, whichever occurs
12 first, with respect to rights arising under the Icy Cape II Timber Sale
13 Contract, ADL 203002. The commissioner of revenue shall, on the date of
14 the agreement reached under (b) of this section, transfer funds received
15 under this subsection to the University of Alaska if an agreement on the
16 agreed fair market value is reached under (b) of this section by
17 January 21, 1991. If an agreement is not reached under (b) of this section
18 by January 21, 1991, the funds shall be transferred to the general fund of
19 the state.

20 * Sec. 7. LEGISLATIVE INTENT. It is the intent of the legislature that
21 the establishment of the Yakataga State Game Refuge only take effect if the
22 administrative decision of the commissioner of natural resources that
23 authorizes timber harvesting in the "extension area" under the Icy Cape II
24 timber sale, ADL 203002, as amended on March 7, 1990, is not challenged in
25 the Alaska Superior Court by administrative appeal within the time permit-
26 ted by law, or, if appealed, the decision is affirmed by a final judicial
27 order not subject to further appeal.

28 * Sec. 8. Sections 2 - 4 of this Act take effect only if the legisla-
29 ture appropriates to the University of Alaska those amounts necessary to