

ALASKA

LEGISLATURE

COMMITTEE

FILES

1991-1992

8672

7179

HOUSE

RESOURCES

HB

446

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 446(res)

Revision Date: 2/25/92

Department Affected: Fish and Game

Title: An Act relating to the wildlife conservation tag and sanctuary entry

BRU: Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Representative Ulmer

Requestor: House Resources

COMPONENT SERIAL NO.

0	4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	4.5	3.5	3.5	3.5	3.5	3.5
TRAVEL						
CONTRACTUAL	5.9	5.9	5.6	5.9	6.2	6.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.4	9.4	8.1	9.4	9.7	9.9

CAPITAL						
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REVENUE FUND SOURCE: 1004	37.0	45.0	50.0	55.0	60.0	65.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	10.4	9.4	8.1	9.4	9.7	9.9
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	10.4	9.4	8.1	9.4	9.7	9.9

POSITIONS:

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

Estimate of current year impact: No FY92 impact.

ANALYSIS: (Attach a separate page if necessary.)

See attached page.

Prepared By: Diana Ground

Phone: 465-4190

Division: Division of Wildlife Conservation

Date: 2/25/92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game

Date: 2/25/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/OBR, Gov. Legis. OSC., & Impacted Agency(ies).

FISCAL ANALYSIS of CSHB 446(res)

The bill analysis is based on the following assumptions:

1. the fee for the wildlife conservation tag is \$10.00.
2. voluntary sales will start at 500/annum; double in the second year; and increase by 20 percent annually through FY98.
3. sales of tags to visitors at Round Island (Walrus Islands State Game Sanctuary) will remain constant at 200/annum; at Pack Creek at 1000/annum; and applicants for McNeil Sanctuary viewing permits will increase from 2000 to 3500/annum through FY98.
4. half of all tags sold will be by license vendors with the other half sold by state agency offices.

No new positions will be required for this program. In the first year (FY93) approximately 2 man-months of an existing Wildlife Biologist position will be needed to establish the program; thereafter 1.5 man-months will be needed to continue the program. In addition, .5 man-months of a Data Processing Clerk I position will be necessary to handle application requests, fill orders from vendors, etc. Other operating costs will be for printing of the tags, distribution to vendors, promotional materials.

Revenue to fund this program would consist of program receipts.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 446

Revision Date: _____ Department Affected: Fish and Game
 Title: Wildlife Conservation Tag BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Representative Ulmer
 Requestor: House Resources COMPONENT SERIAL NO.

0	4	7	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	3.0	2.0	2.0	2.0	2.0	
TRAVEL						
CONTRACTUAL	4.0	3.0	3.0	3.0	3.0	
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	7.0	5.0	5.0	5.0	5.0	

CAPITAL						
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REVENUE						
FUND SOURCE: 1004	25.0	30.0	35.0	35.0	35.0	

FUNDING: (Thousands of Dollars)

GENERAL FUND	7.0	5.0	5.0	5.0	5.0	
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: No current year impact

ANALYSIS: (Attach a separate page if necessary.)
 See attached page

Prepared By: Diana B. Ground Phone: 465-4190
 Division: Wildlife Conservation Date: 12/18/91
 Approved by Commissioner: *Don Louerick for*
 Agency: Department of Fish & Game Date: 12/18/91

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 11, 1992

TO: Rep. Cliff Davidson, Chair
House Resources Committee

FROM: Rep. Fran Ulmer

RE: HB 446 - "wildlife conservation tags"

I am requesting a hearing on HB 446 at your earliest convenience.

Today Alaska is faced with a growing dilemma concerning the future management of our natural resources. Falling oil production and the anticipated drop in revenues, combined with the explosive growth in the use of our natural areas have put tremendous pressures on our present wildlife management efforts. HB 446 is an attempt to find new revenues based on a reassessment of how users of our resources can best contribute to their management.

HB 446 would allow the sale of wildlife conservation tags for visiting the state's game refuges, sanctuaries and other areas. In exchange, visitors would receive a patch, stamp, decal or other emblem to show they're supporting wildlife conservation in Alaska. The money earned from the sale of the conservation tags would be earmarked for the Fish and Game Fund, where it could then be used for wildlife conservation purposes such as interpretive programs, road side viewing areas and scientific studies to help better manage the resource.

Under the bill, three areas have been designated as places where permits would be required. The Stan Price Sanctuary, the MacNeil River Sanctuary, and the Walrus Island Sanctuary. In the future, more areas could be added by the Commissioner including state refuges, ranges and critical habitat areas. The commissioner would also be responsible for setting fees, which would conceivably vary from place to place, depending on the services provided by the state.

According to a national survey of wildlife associated recreation, wildlife watching is the fastest growing segment of wildlife recreation in the U.S.. In Alaska, it's estimated that more than 288,000 people participated in wildlife watching in 1985.

February 11, 1992
Rep. Ulmer
Page Two

Currently, over 80% of ADF&G's wildlife conservation budget comes from hunters in the form of licenses and excise taxes on firearms and ammunition. Finding alternative sources of funds based on the whole breadth of people who use our resources will help answer a growing concern that not enough is being done to preserve wildlife. It will mitigate the impacts of increased visitors to Alaska's wild places and give non-consumptive users an increased responsibility in providing for the future management of our wildlife resources.

Groups and individuals representing a wide spectrum of environmental, conservation and hunting interests have expressed support for the concept of fees for non-consumptive uses. HB 446 is the result of a cooperative effort between my office, wildlife conservation supporters, the Department of Fish and Game, and the Governor's office.

Thank you for your prompt consideration of this legislation.

HOUSE BILL NO. 446
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES ULMER, Grussendorf, Koponen

Introduced: 2/5/92

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the wildlife conservation tag and to entry onto state game and
2 wildlife sanctuaries, state game refuges, state range areas, and fish and game critical
3 habitat areas; and providing for an effective date."

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

5 * Section 1. FINDINGS. The legislature finds that

6 (1) the diversity of wildlife species in Alaska and the size of Alaska make wildlife
7 management extremely expensive;

8 (2) the growth in Alaska's human population has placed pressure upon wildlife habitat
9 and wildlife populations and has increased demand for use and appreciation of wildlife;

10 (3) the Board of Game and other resource management agencies need current, accurate
11 wildlife population and human use data for regulatory and planning purposes;

12 (4) the quality and extent of wildlife information provided by the Department of Fish and
13 Game have a direct effect on the types and levels of human use of wildlife that are allowed;

14 (5) the cause of wildlife conservation would benefit from money generated by a wildlife

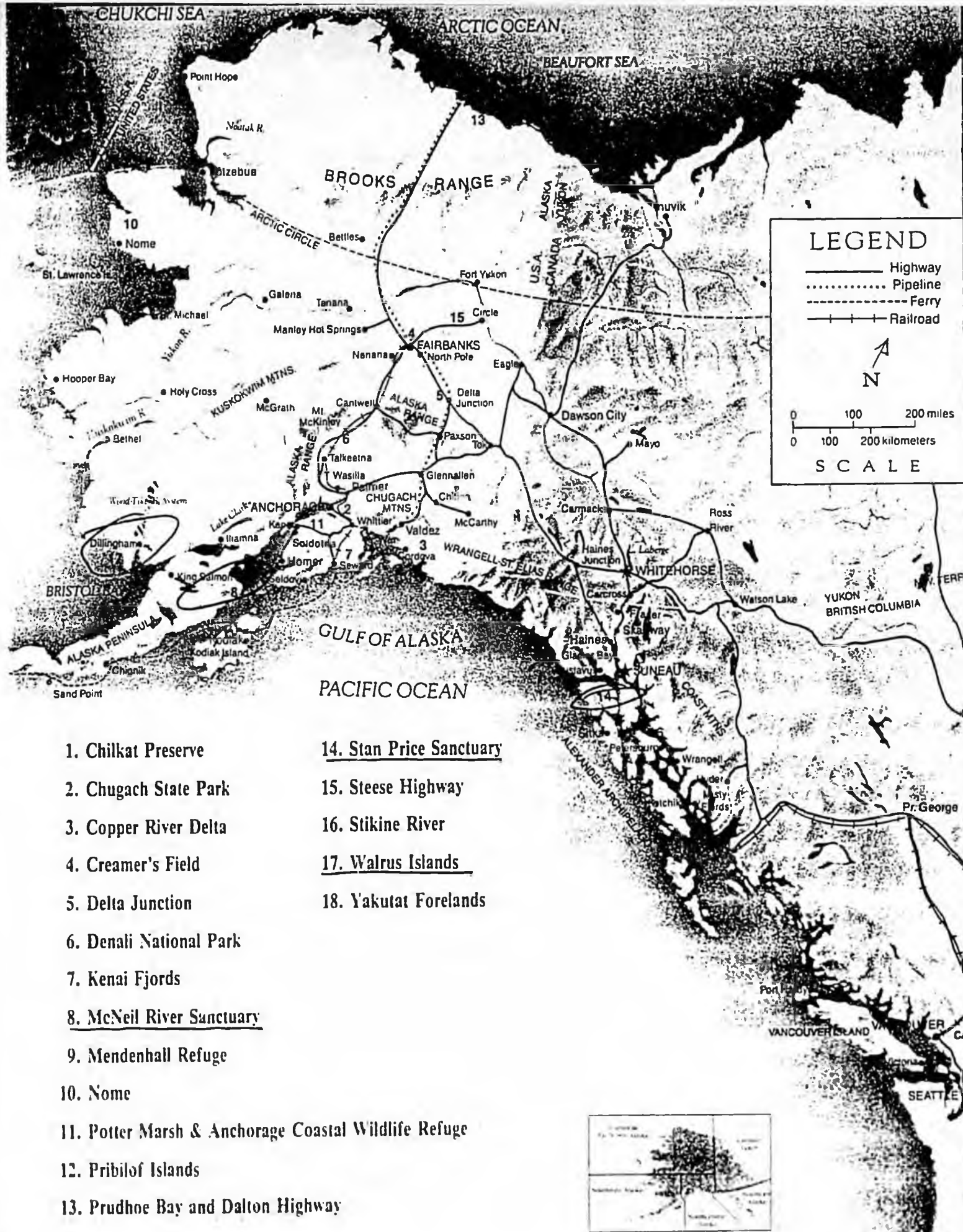
1 * Sec. 5. AS 16.20.150 is amended by adding a new subsection to read:

2 (e) A person may not enter the Stan Price State Wildlife Sanctuary without having in the
3 person's possession a proof of purchase of a wildlife conservation tag.

4 * Sec. 6. AS 16.20.170 is amended by adding a new subsection to read:

5 (b) A person may not enter the McNeil River State Game Sanctuary without having in
6 the person's possession a proof of purchase of a wildlife conservation tag.

7 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



LEGEND

- Highway
- Pipeline
- - - - - Ferry
- + + + + Railroad



0 100 200 miles
0 100 200 kilometers

SCALE

- | | |
|--|---------------------------------|
| 1. Chilkat Preserve | 14. <u>Stan Price Sanctuary</u> |
| 2. Chugach State Park | 15. Steese Highway |
| 3. Copper River Delta | 16. Stikine River |
| 4. Creamer's Field | 17. <u>Walrus Islands</u> |
| 5. Delta Junction | 18. Yakutat Forelands |
| 6. Denali National Park | |
| 7. Kenai Fjords | |
| 8. <u>McNeil River Sanctuary</u> | |
| 9. Mendenhall Refuge | |
| 10. Nome | |
| 11. Potter Marsh & Anchorage Coastal Wildlife Refuge | |
| 12. Pribilof Islands | |
| 13. Prudhoe Bay and Dalton Highway | |

A Growing Nation

Americans' love affair with the great outdoors traditionally has been expressed through sport fish and game activities. But more recently, the relationship has been marked by a growing national interest in wildlife viewing and appreciation. Wildlife viewers are becoming increasingly vocal on the need for more attention to all wildlife, including the 90 percent of all species that are neither hunted nor fished.

The 1980 U.S. Fish and Wildlife Service Survey of Fishing, Hunting, and Wildlife Associated Recreation showed that some 93 million Americans, age 16 years and older, participated in some form of wildlife viewing, feeding, or photography as a primary or secondary recreational activity. By 1985, the number had increased to nearly 135 million—a 45 percent increase. The 1986 report by the President's Commission on Americans Outdoors identified wildlife-associated recreation as one of the nation's most popular outdoor activities.

Effects on Federal Agencies

Several federal agencies have responded to this trend by integrating wildlife viewing into all resource planning efforts and developing new recreation and conservation programs. The U.S. Forest Service's (USFS) "Eyes on Wildlife" program has resulted in enhancements like viewing platforms and blinds and interpretative information for viewers. The Forest Service has also entered into an agreement with Defenders of Wildlife to coordinate the publication of a state-by-state series of wildlife viewing guide books.

The U.S. Fish and Wildlife Service (USFWS) has joined the charge by playing a prominent role in seeking funding for the federal Fish and Wildlife Conservation Act (1980). The Act (also known as the Nongame Act) was intended to provide funding

to state fish and wildlife agencies to develop and implement comprehensive wildlife conservation plans to benefit species overlooked by traditional game management programs.

The Bureau of Land Management (BLM) has also embraced this trend with enthusiasm, developing a strategic plan to implement more recreation and conservation programs to

benefit viewers. BLM also deserves much of the credit for coordinating a partnership of 14 national agencies and conservation groups in a Memorandum of Understanding (MOU) to support wildlife viewing nationwide. Implementation of this national MOU offers exciting opportunities for cooperation among a variety of groups, including the military, federal natural resource agencies, the International Association of Fish and Wildlife Agencies, Defenders of Wildlife, Izaak Walton League, and other conservation groups to develop recreation, education, and conservation programs to benefit viewers.

One product of this partnership has resulted in the Federal Highway Administration adopting a binocular symbol as the official roadside logo for wildlife viewing areas. This logo will aid travelers in finding designated viewing sites along the nation's highways and roads.



John Hyde

Effects on State Agencies

In response to public concern, many state wildlife agencies began expanded efforts towards nongame species in the late 1970s and early 1980s. Funding for many of these programs was based on or enhanced by voluntary income tax donations. Although \$11-15 million has been generated by 34 states annually, most nongame programs have been underfunded and understaffed, constituting less than 3 percent of statewide wildlife management budgets. The voluntary nature of the

Recreation

by Sara Vickerman and Wendy Hudson

donations and growing competition from other income tax check-offs have rendered them an unreliable source of revenue. In any case, estimates are that at least 30 times the annual amount is needed nationally to conduct viable nongame and watchable wildlife programs.

At the same time, hunting has shown a steady decline nationally. In California, for example, the Department of Fish and Game posted a budget deficit of nearly \$10 million in 1990 and anticipates a deficit of \$12.6 million in 1991. "With their budgets still tied to license sales," writes Tom Arrandale in *High Country News*, "most state agencies lack the funds they need to protect nongame species and counter habitat destruction." In the face of declining hunting-related and nongame checkoff revenues, state wildlife managers are beginning to court additional political and financial support from wildlife viewers, most of whom do not fish nor hunt.

Wyoming was one of the first states to recognize that visitors were spending phenomenal sums annually to visit the state to enjoy its wildlife. The Wyoming Game and Fish Department, in coordination with their state tourism agency, developed a trademarked name, "Wyoming's Wildlife - Worth the Watching," and a professional public relations campaign to increase wildlife viewing tourism. Oregon, Montana, Utah, and Idaho also are developing viewing programs, and have published statewide viewing guide books as part of the national series with Defenders of Wildlife. Along with the guide books, these states have formally designated viewing sites, installed signs with the binocular logo, and developed interpretive materials for viewers.

In many of these states, it is hoped that by obtaining the political and financial support of hunters and wildlife viewers, and by enlisting the aid of the tourism industry, state conservation efforts can be expanded.

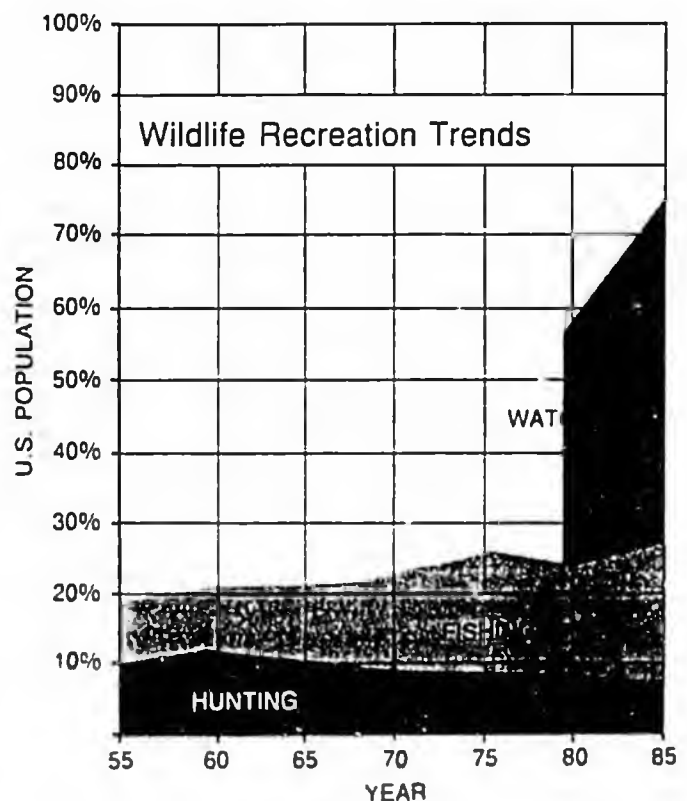
The Winning Formula

The ultimate success of these efforts, however, depends on our collective ability to maintain, and in some cases restore, habitat to support a natural diversity of wildlife. Recently, the U.S. Fish and Wildlife Service released its Strategic Planning Document that has as its centerpiece the conservation of biological diversity. The President's Commission on Americans Outdoors recommended the protection and enhancement of recreation opportunities on federal lands and waters, including long-term emphasis on conservation of natural resources. The commission also encouraged educators to integrate environmental issues into basic education, and urged federal resource agencies to help children experience the nation's diverse ecosystems.

For natural resource agencies, achieving broad conservation goals means making fundamental changes in policies, structure, funding, and constituencies. It means breaking out of the mold, taking risks, communicating with unfamiliar people, and accommodating the ecological requirements of some little known and unappreciated creatures and the vegetation upon which they depend.

Alaska has a tremendous opportunity--perhaps the last in North America--to design and implement a world-class wildlife recreation and conservation program, and to prevent the endangered species crises we have seen with alarming frequency in many other states. Defenders of Wildlife applauds the Alaska Department of Fish and Game for its interest in and dedication to the conservation of wildlife diversity, and for sharing its magnificent lands and inhabitants with those of us who are lucky enough to visit once or twice in a lifetime.

Sara Vickerman is Regional Program Director and Wendy Hudson is Communications Coordinator for the Defenders of Wildlife in Portland, Oregon.



WILDLIFE WATCHING IN ALASKA—WHAT'S IT WORTH?

by SuzAnne Miller

The image of Alaska as a wildlife haven has significant economic value which will only grow as wildlife continues to decline elsewhere. It is in Alaska's best interest to maintain and cultivate the resources upon which that image is based.

ADF&G's Division of Wildlife Conservation has initiated a research program to determine the economic value of Alaska's wildlife resources. It will allow the state to focus on wildlife as an economic resource which can be evaluated like other resources.

Research in the economic program is focusing on two areas: impact and value. A project has been started to estimate the impacts (the amount of money actually spent) of wildlife-dependent business activities on both the state and regional economies. This involves developing computer models which follow the flow of money generated by such businesses. This study will provide information on how much money comes in, where it comes from, who receives it, how much of it flows back out of the economies, and what jobs are created. This information will allow the state to examine the economic effects of different resource management decisions, to identify new business opportunities and to limit the flow of money outside the state. Alaska residents, nonresident visitors to Alaska, and Alaskan businesses will be surveyed to gather data on their respective expenditures.

Economic value data (how much a person values an experience, not how much they actually spend for it) will be collected through a series of site specific projects. For example, the Division of Wildlife Conservation cooperated with Yale University on an economic survey of wildlife watchers visiting the McNeil River State Game Sanctuary last summer. Results will be available later this year. Similarly, the division is cooperating with the University of Alaska Fairbanks to study the economic value of the Delta bison herd. Questions regarding economic value will be included on the surveys conducted for the impact study.

The difference between what a person actually spends for an experience (economic impact) and how much they would be willing to spend (economic value) is called consumer

surplus. Knowing the consumer surplus for specific wildlife dependent activities (watching, hunting, etc.) will enable the state to consider ways of capturing some of that surplus in the form of state revenues.

The trick is to devise methods of payment (hunting licenses, for example) and appropriate amounts which will not turn users away, but will bring their actual expenditures closer to their total values. The only way to achieve this is through knowledge of both their expenditures and their values.

With the help of the U.S. Fish and Wildlife Service's Federal Aid Program and with the U.S. Forest Service's Rocky Mountain Forest and Range Experiment Station, the Division gathered some of the nation's leading economists to develop a technically sound study plan. The results will be presented in a book entitled *Valuing Wildlife Resources in Alaska* to be published by Westview Press later this year. The book will establish the foundation for the division to proceed in applying economic principles to wildlife management issues.

Since wildlife and wilderness recreational opportunities are rural, they can be used to promote economic development and stability in remote areas where unemployment is high. Many wildlife-related business opportunities do not require large capital outlays, allowing entry by small operators.

By studying potential visitor's preferences, the state can stimulate appropriate tourism to capture more money from visitors. Thus the state can identify new revenue sources from visitors without burdening Alaska residents.

Too often wildlife has been seen as an obstacle to economic development, rather than as an opportunity. Knowledge of the value of Alaska's wildlife will enable decision-makers to better select among resource management and development alternatives.

SuzAnne Miller is a biometrician with the Division of Wildlife Conservation, ADF&G, Anchorage.

How Much Is Wildlife Watching Worth?

by Daniel W. McCollum

Wildlife is a valuable resource. Most Alaskans already know that, but do they know just how valuable it is? According to a U.S. Fish and Wildlife Service survey, almost \$56 billion were spent on wildlife-associated recreation in the U.S. in 1985. Over \$14 billion of that was spent by wildlife watchers. Similar data show that \$44 million of economic activity in Montana was generated by wildlife watching trips. In an example I will come back to later, the State of Wyoming recognized that wildlife-related recreational activities in their state had an annual combined net economic value of \$102.3 million to residents and nonresident visitors, and that nonresident wildlife users accounted for a \$230.6 million annual impact on the Wyoming economy. That same kind of economic information can contribute to wildlife management and economic development in Alaska.

The concept of economic value is one we deal with every day. We go into the grocery store and compare prices. Is the national brand of peanut butter really worth 60 cents more than the store brand? Do we like walnuts in our chocolate chip cookies enough to pay \$4.00 for a pound of walnuts? Some of us do and some of us don't. The thought process that we go through in making those and other decisions, however, is exactly what economists try to capture when they attempt to measure economic value.

We are most familiar with placing values on goods and services that are sold in markets—peanut butter, walnuts, hockey tickets. But, are goods and services that are not sold in markets really any different? Don't we know our preferences for hunting and fishing, or wildlife watching, or wilderness camping as well as we know our preferences for walnuts or peanut butter? Most people do, but they are not used to thinking about market goods and nonmarket goods in the same terms.

Policy makers and resource managers are faced with a similar problem. Suppose a forest can be managed for timber or wildlife habitat, but not both. It is easy for a manager to determine the value of the land for timber production. Timber and other mineral resources are traded in organized markets. The benefits

of managing the forest for wildlife habitat are not so clear or so easily determined. They would include, but not be limited to, those gained by people hunting and watching the wildlife. That difficulty in obtaining information may result in alternative land uses (like wildlife habitat) being slighted when it comes to allocating resources. When that happens, managers are not making fully informed decisions and society's resources are not being allocated efficiently.

Economic value is distinct from economic impact. Economic impact measures market transactions related to a particular resource or activity and tracks those expenditures as they move through the economy. Economic value provides information on how much value individuals or groups place on certain resources or services. Gross economic value includes the market transactions tracked by an economic impact analysis. Net economic value (above and beyond all costs or market transactions) is what is typically used in policy analyses.

Over the last forty years economists have developed methods by which net values for nonmarket goods and services can be estimated. One approach, of which the 'travel cost' method is the most common example, is to use related goods and services, which do move through markets, to infer information about the demand for and value of nonmarket goods. "Travel cost" (essentially the cost of travelling to and from a recreation site) is used as a proxy for the price of a good called "recreational visits." Numbers of visits serve as proxies for quantity demanded or consumed. To illustrate, suppose the site considered is Denali National Park. It might cost \$50 for a trip to Denali if you live in Anchorage. It might cost \$150 if you live in Juneau. It might cost \$1500 for that trip if you live in Wichita, Kansas. One can observe how many trips are made to Denali from each of those places. Putting those pieces of information together allows estimation of a demand curve that can be used to estimate how much value visitors receive from a trip to Denali.

(Continued on page 40.)

How Much is it Worth?

(Continued from page 4.)

The second approach, "contingent valuation," uses interviews and surveys to elicit information on how much benefit or value people receive from nonmarket goods or services directly. During the interview the subject is given a detailed description of the nonmarket good. He or she is then asked: "What is the most you would be willing to pay to acquire that good?" For example, a trip to Denali National Park might be described to a group of people. They would then be asked what they would be willing to pay for that trip. Their responses would be taken as direct revelations of how much they value a trip to Denali. While these descriptions of both methods are highly simplified, they should give a basic feel for how the methods work.

There have been many valuation studies done involving wildlife-related recreation. Almost all of them, however, have focused on consumptive uses of wildlife—primarily hunting and fishing. Very little work has been done on nonconsumptive uses of wildlife, like wildlife watching. Traditionally, wildlife management agencies have been funded largely from sources related to hunting and fishing—license fees, etc.; and those users have been active in their interaction with the agencies. Consequently, the values and preferences of consumptive users have been of interest to agencies and policy analysts. Along with that, consumptive users are a relatively easy population to identify and their high level of devotion to their sport typically makes them a cooperative group to study.

That pattern has been changing. The numbers of consumptive users appear to be decreasing over time, implying a shrinking of the funding base for wildlife management agencies. At the same time, wildlife watching was one of the fastest growing outdoor recreation activities of the 1980s, and that trend is expected to continue.

Nonconsumptive users of wildlife present some analytical complications, however. They are less readily identifiable and, therefore, more difficult to sample. Practically no valuation studies have been done on nonconsumptive wildlife use in Alaska (and only a few on hunting and fishing). If we move down to the lower 48 states, we can say a little more about the value of nonconsumptive wildlife activities, though still not much. A few scattered studies have been done on the economic value of wildlife watching: two on general wildlife watching (one in western national forests and one in Arizona), and one each on deer watching in California, bighorn sheep watching in Arizona, and whooping crane watching in Texas. The work being initiated by the Alaska Department of Fish and Game will be a major contribution to the state of the art in nonconsumptive wildlife valuation.

Economic information is beginning to be used by several states to develop and manage wildlife resources. One such state is Wyoming. Data from the 1985 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (NSFHWAR)

show that, in 1985, Wyoming had 2,094,000 activity days of hunting and 3,946,000 activity days of nonconsumptive wildlife recreation, mainly watching or photographing wildlife, of which 510,000 and 2,029,000 respectively were by nonresidents of the state. Combining those data with estimates of net economic value for hunting (about \$30 per activity day) and wildlife watching (about \$10 per activity day) from studies specifically in the Rocky Mountain region shows that the well-being of residents and nonresidents were enhanced by \$66.7 million and \$35.6 million, respectively, by participating in wildlife-related activities. To add some perspective to those numbers, the value of the timber harvest in Wyoming in 1986 was around \$2.3 billion.

Trip-related expenditures (excluding equipment purchases) actually made in Wyoming in 1985 averaged \$60.11 per day by nonresident hunters and \$41.72 per day by nonresident wildlife watchers and photographers. That implies a direct economic impact of \$115.3 million—wildlife-related activities brought \$115.3 million into the Wyoming economy in 1985. Multipliers for recreational activities in the contiguous U.S. typically average around 2—every recreation dollar that comes into the state generates a second dollar of economic activity within the state. That implies the total nonresident economic impact of wildlife-related activities in Wyoming was around \$230.6 million in 1985. Such impacts, fueled by nonresident expenditures, are a source of economic growth. The NSFHWAR data are only on "primary purpose" trips, i.e., they do not include people for whom wildlife was a secondary activity on their trip, so the economic impact is a conservative estimate.

Of that \$230.6 million of total nonresident economic impact, \$169.3 million (73 percent) was generated by wildlife watching. That kind of information, combined with the net economic value estimates for both residents and nonresidents, led Wyoming state officials to recognize nonconsumptive wildlife use as "one of the more feasible areas to target for expansion of Wyoming's recreation-tourism industry," according to a Wyoming Game and Fish Department report. One result was "Wyoming's Wildlife—Worth the Watching," a program to develop easily accessible opportunities for wildlife watching that will induce people driving through Wyoming to stop, view the wildlife, and spend more time (and money) in Wyoming.

All indications are that the wildlife resource in Alaska is a valuable one. Numbers can be put on that value to confirm what Alaskans already know, and to point out areas and ways that wildlife resources might be enhanced and developed to increase the well-being of Alaskans and promote economic growth.

Dr. Daniel W. McCollum is an economist with the U.S. Forest Service at the Rocky Mountain Forest and Range Experiment Station in Fort Collins, Colorado.

Alaska's Tourism Potential

by Lara Shea and Nancy Tankersley



John Hyde

Alaska has an abundance of wildlife that visitors hope to see including species that are uncommon or endangered elsewhere, such as the brown bear, wolf, caribou, moose, bald eagle, trumpeter swan, peregrine falcon, and common loon. Large concentrations of seabirds, waterfowl, shorebirds, whales, and sea lions provide unparalleled viewing spectacles. Western Alaska hosts many Asiatic birds that are found nowhere else in North America.

These wildlife resources are big visitor attractions. Images of wildlife and wildlife recreation have been used successfully by state tourism agencies to lure visitors to Alaska. Passengers in cruise ships along the Inside Passage have indicated that wilderness and wildlife were their principal interests. Bird watchers from around the world flock to western and southwestern Alaska to view Asiatic and Alaska birds. Opportunities for wildlife viewing are even being used to lure convention business.

In Alaska, visitor surveys in 1985 and 1989 showed that interest in wildlife viewing was growing. Wildlife viewing was the activity with the highest level of participation in every region (from 27 percent to 67 percent of visitors in 1989), with bird-watching second. In fact, more visitors participated in wildlife and bird watching than in sport fishing, hunting, hiking, flightseeing or city tours.

The number of visitors to Alaska in the summer of 1990 was approximately 585,000, with summer tourism growing at an

average of about 4 percent per year. U.S. Fish and Wildlife Service surveys indicate that wildlife viewing tourism more than doubled from 1980 to 1985. All indications are that participation is growing in North America, as well as overseas. This indicates that the potential markets for wildlife viewing tourism in Alaska are large.

Other states and Canadian provinces have recognized the value of wildlife-related tourism and are taking steps to capture more of this growing market. Alaska was identified as a prime competitor of British Columbia (B.C.) in capturing this market because of the similarity of wildlands, wildlife, and viewing opportunities. Although B.C. is more accessible to many U.S. states, Alaska was acknowledged as a more obvious destination. The B.C. report states, "If any region of North America captures imaginations, Alaska is it."

Although Alaska tourism is currently a billion dollar industry, relatively little attention has been paid to the potential worth of wildlife resources to Alaska's economy.

Limited information from southeast Alaska indicates that in 1989 there were more than 180,000 visitors who participated in wildlife viewing, and businesses that marketed wildlife viewing as an important component of their services had 146,000 clients. These clients spent \$43 million on charter boat, kayak, canoe, raft, hiking, and flightseeing trips and remote lodges. Another indication of the importance of wildlife viewing to

(Continued on page 41.)

Alaska's Tourism Potential (Continued from page 6.)

the southeast tourism industry is that almost half of the non-retail businesses actively market wildlife viewing, while a quarter of them believe they are dependent on wildlife viewers.

Other states and Canada already have decided to invest in promoting wildlife watching as a way to diversify their economies with a renewable resource. Wyoming's Department of Game and Fish has teamed up with the state Travel Commission to promote wildlife viewing, designate viewing sites, and develop interpretative displays. Wyoming expects to increase the economic value of wildlife viewing from \$680 million in 1986 to \$1 billion in 1991, with an investment of \$3.5 million.

British Columbia initiated a 5-year program to increase regional economic growth by dispersing visitors into the remote areas of the province and expanding the operating seasons of hotels, restaurants, and guide/outfitters. Through the development of 51 viewing sites and more aggressive marketing, B.C. expects to increase the outdoor adventure tourism sector by \$200 million over the next five years.

Alaska has a good start in providing outstanding wildlife viewing opportunities for residents and visitors. Highlights include Denali National Park, Glacier Bay National Park, McNeil River State Game Sanctuary, and Chilkat River Bald Eagle Preserve. State game refuges near Juneau, Fairbanks, and Anchorage are popular sites as well.

In a 1979 study, cruiseship passengers in southeast were disappointed in the wildlife viewing opportunities. However, expanded backcountry travel services in the 1980s greatly improved visitor satisfaction on cruises and elsewhere. In 1989, visitors to Alaska rated their satisfaction with wildlife and bird watching as good or very good.

More of these types of areas and related services and products must be developed and promoted if Alaska is to capture its share of the growing wildlife viewing market. Demand exceeds supply in many of the existing viewing areas. Less than 10 percent of applicants for McNeil River obtain a permit to visit. Denali National Park has closed most of its road system to private vehicles to reduce crowding, and the campgrounds usually are filled to capacity throughout the summer. Even in remote settings, crowding has been documented as a problem for tour operators.

Tourism opportunities can be promoted in undeveloped areas as well as designated sites. Examples of wildlife viewing services, products and facilities that would benefit state, regional and local economies are:

1. More guided wildlife viewing trips out of towns served by state ferries, cruise ships, regular air carriers, roads, or the railroad. Local economies could be boosted by direct income to tour operators, as well as additional lodging, meals and related services. Trips should be offered in a variety of lengths and styles to accommodate various visitor preferences.

2. More wildlife viewing services in remote areas. This is an opportunity for some hunting guides and outfitters during their off-season. A tourism marketing study in Alberta in 1990 noted that the markets for wildlife viewing and hunting overlap considerably, since 90 percent of hunters are also viewers and many have families that are interested in viewing as well. The study said that guides and outfitters have good potential for providing more viewing opportunities, but may need some assistance with upgrading and marketing these services. This may be pertinent to Alaska as well.

3. Development and distribution of wildlife viewing guidebooks for local areas which may encourage visitors to spend more time (or a night) in the town. These guides could encourage an independent traveler to go on a self-guided tour along the road or trail systems or from a rented kayak, raft, canoe, sailboat or motorboat.

4. Marketing wildlife viewing opportunities in the spring, fall and winter to promote off-season travel. For example, use winter wildlife viewing opportunities in ski promotions.

5. Increased information about wildlife viewing opportunities with displays and brochures on the state ferries, railroad, airports, and other public buildings.

6. Construction of highway pullouts, trails, boardwalks and other facilities with interpretative information and good vantage points for wildlife viewing.

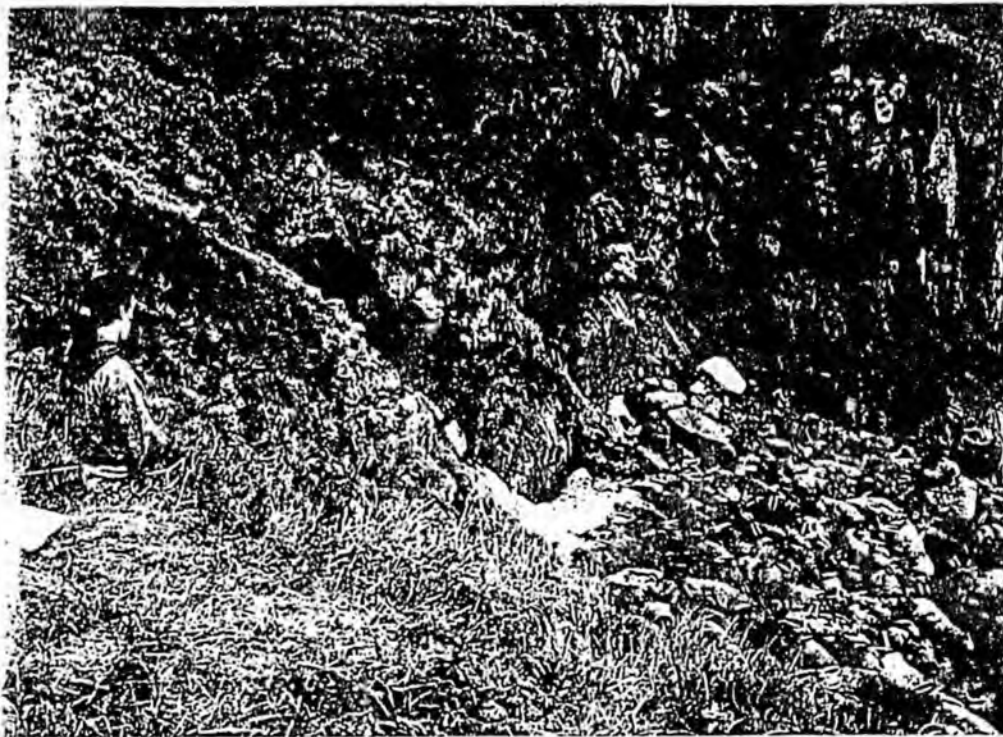
If Alaska is interested in sustaining growth of wildlife viewing tourism, cooperation among landowners, managers, and the private sector is critical. Protection and management of wildlife and the environment are the cornerstones of sustainability. Conflicting land uses also must be considered when developing viewing sites. Management of people is also important, such as adherence of tour operators and viewers to ethical and safe viewing practices.

In order to develop more sustainable and high quality wildlife viewing opportunities, and to increase visitor satisfaction, some recommendations from Canadian studies are pertinent, including increased research, marketing, and development of new services and facilities.

The growth of wildlife viewing tourism has exciting implications for Alaska. Wildlife is a resource that Alaskans can promote and develop into educational and unforgettable experiences for the growing legions of wildlife viewers. We look forward to partnerships between the public and private sectors to promote growth of Alaska's economy and wildlife conservation.

Lana Shea is a biologist with ADF&G's Division of Habitat in Juneau.

Nancy Tankersley is a biologist with ADF&G's Division of Wildlife Conservation in Anchorage.



Lancy Tankersley

Walrus Islands State Game Sanctuary (Round Island) ★

Location and Access

These islands are approximately 70 miles southwest of Dillingham in southwestern Alaska and have virtually no amenities. An access permit is required to visit Round Island, and the numbers of campers and day visitors are limited. Most visitors arrive by charter boat from Togiak when conditions permit. Seasonal sanctuary staff ferry visitors from the boat or plane to the rocky shore via a small inflatable raft.

Viewing Opportunities and Seasons

Round Island, one of the islands in this remote state sanctuary, is home to a unique concentration of male walrus each summer. As many as 14,000 male walrus rest here between periodic feeding forays for clams and other shellfish. Up to 1,000 Steller sea lions haul out here, and hundreds of thousands of seabirds (mostly murre, kittiwake, cormorant, auklet, puffin, and gull) nest here. A small resident population of "tolerant" red foxes often allows good photographic opportunities as well. From late May through August is the best time to visit.

Habitat

The island habitats include marine waters, rocky shorelines, and moist alpine tundra.

Advice and Cautions

Travel to Round Island is expensive and can be dangerous. Visitors should be in very good physical condition and have appropriate clothing and gear for wet and extremely windy weather.

Pribilof Islands, Alaska Maritime National Wildlife Refuge

Location and Access

These are remote oceanic islands off southwest Alaska, accessible by commercial air service from Anchorage during the summer. Portions of the islands are included in the 3.5 million acre Alaska Maritime National Wildlife Refuge, and other portions are occupied by year-round residents. Guided land tours and hotels are available.

Viewing Opportunities and Seasons

The Pribilof Islands have some of the largest seabird colonies in the northern hemisphere. Common nesting seabirds include fulmars, cormorants, murre, kittiwake, auklet, and puffin, which are best seen from late May to early August. Sightings of rarer Asiatic birds mostly occur during migration in spring (mid-May to early June) and fall (early August to mid-September). The world's largest rookery for northern fur seals is on St. Paul Island, and harbor seals and Steller sea lions are also commonly seen during the summer.



John Hyde

Habitat

These islands have extensive rocky cliffs where the seabirds nest, and also have areas of coastal wetlands and tundra. Tundra wildflowers can be spectacular from mid-June through July.

Advice and Cautions

Bring appropriate clothes and equipment for foggy, windy, and rainy weather. Fog frequently closes the airport, so leave some flexibility in your travel schedule. A bird checklist is available.

Above, top: Watching walrus, Round Island.

Above: Red foxes are commonly seen on Round Island.

Southcentral/Southeast



McNeil River State Game Sanctuary

Location and Access

This remote sanctuary is located approximately 100 miles southwest of Homer. Most visitors arrive by float-plane from Homer, with arrivals and departures coinciding with high tides. A permit is required to visit the falls during June, July, and August; the deadline for applications to enter the permit lottery is April 1. All visitors are accompanied to the falls by sanctuary staff.

Viewing Opportunities and Seasons

McNeil River State Game Sanctuary has Alaska's largest concentration of brown bears, gathering during the summer to feed on spawning chum salmon at the McNeil River falls. July is the peak month when up to 65 bears have been seen at one time. Red foxes, bald eagles, gulls, murrets, and cormorants are commonly seen during the summer as well.

Habitat

This area is mostly open country, featuring creeks and rivers, shrub thickets, coastal wetlands, rocky shorelines and cliffs, and marine waters.

Advice and Cautions

Sanctuary staff are committed to providing a safe environment for bears and people and sanctuary regulations are strictly enforced. Weapons are allowed but not necessary. No bears or people have been injured since the permit system was initiated in 1973. All visitors must be self-sufficient as facilities are limited to a primitive campground with a cook cabin and an outhouse. Visits to the falls require a three mile hike, round trip. High quality warm clothing, rain-gear, and hip waders are essential, as the weather is frequently cool, wet, or windy. A good camera with a telephoto lens and lots of film are strongly recommended.



John Hyde

Chilkat Bald Eagle Preserve /Haines Highway

Location and Access

The preserve, a unit of the state park system, is accessible from Mileposts 19-26, north of Haines. The only facilities available within the preserve are portable toilets, garbage containers, and highway turnouts. Visitors stay in nearby Haines, which is accessible by ferry from the south, by regularly-scheduled air taxi flights from Juneau, or by highway from the north. During fall and winter, commercial tours provide transportation and guides for view-



John Hyde

ing and photography expeditions to view the eagle concentrations, while "do-it-yourselfers" who arrive without a vehicle can combine a hotel/motel stay with car rental. During summer, natural history-oriented tours of the Chilkat Valley are provided by commercial tour operators based in Haines.

Viewing Opportunities and Season

The winter gathering of bald eagles on their "council grounds" to feed on salmon in the Chilkat River is the largest gathering of eagles in the world. Numbers of eagles begin building up in late September and peak as high as 3,500 in November. High numbers usually remain into January, unless cold weather freezes over the open channels sooner.

Habitat

A 48,000-acre preserve surrounds the unique stretch of the Chilkat River where upwellings of warm water below

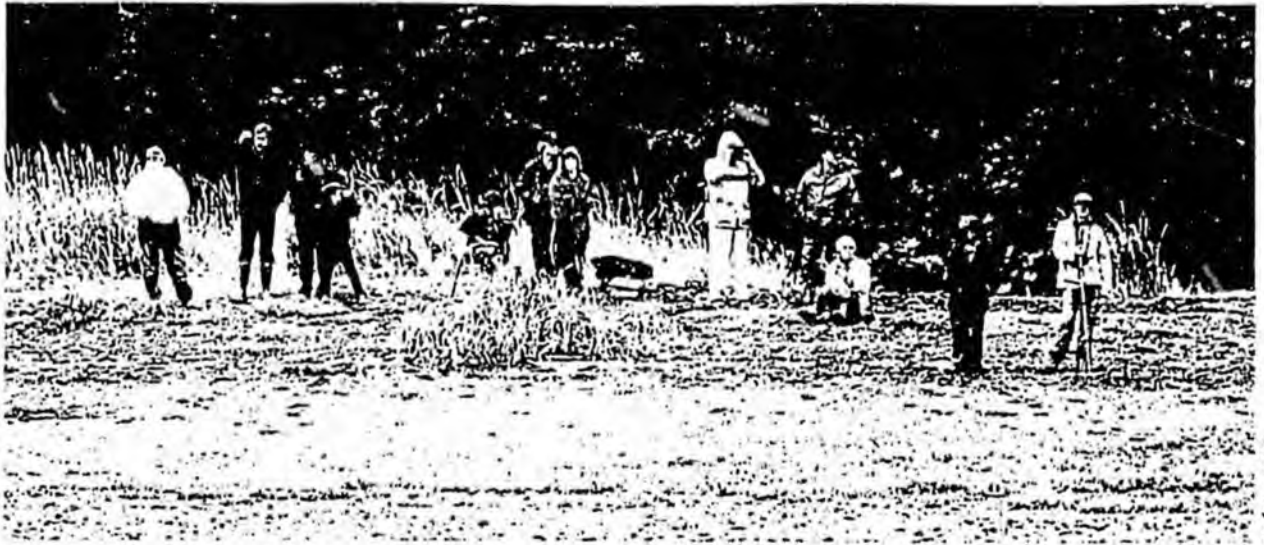


John Hyde

the massive Tsirku River alluvial fan persist late into winter. The late fall run of chum salmon attracts the large numbers of eagles because it is their sole abundant food source during late fall and early winter.

Advice and Cautions

Park only at turnouts along the Haines Highway. To reduce disturbance to the eagles, view and photograph them from a distance, using binoculars and telephoto lenses. Remember that the birds cannot afford unnecessary expenditures of energy during this stressful period.



John Hyde

Stan Price State Wildlife Sanctuary/Pack Creek

Location and Access

The refuge is located 28 miles south of Juneau on Admiralty Island. Access is by charter boat or air taxi from Juneau. Guided tours are available from commercial tour operators. Some visitors arrive by kayak, available for rental in Juneau, but the required open water crossing between Juneau and Admiralty Island can be difficult in bad weather. Primitive camping is allowed in designated areas.

Viewing Opportunities and Seasons

Located on Pack Creek, the Stan Price State Wildlife Sanctuary is becoming increasingly popular for its opportunities to view and photograph brown bears in July and August. A small portion of the famed Admiralty Island "Fortress of the Bears," the Pack Creek area has been closed to bear hunting for many years and is jointly managed by the U.S. Forest Service and the Alaska Department of Fish and Game. The bears tolerate a certain amount of human presence and visitors can view and photograph bears fishing for salmon and interacting. Sows and sow-cub groups are the primary users. The salmon runs attract bald eagles and gulls as well.

Habitat

Pack Creek is typical of many streams on the large islands of the Alexander Archipelago. It passes through the coastal spruce-hemlock forest and supports runs of pink and chum salmon which attract bears and other predators. A broad estuary and tidal flat at the stream's mouth is used frequently as a travel route and resting area by bears.

Advice and Cautions

Brown bears can be extremely dangerous and unpredictable. Visitors must obtain a permit from the U.S. Forest Service in Juneau or the Regional Division of Wildlife Conservation office in Douglas. Permits are free and currently not limited to a specific number each day. An orientation to the area and rules to increase (but not guarantee) your safety in the area are provided upon arrival.



John Hyde

Top: Viewers look for brown bears at Stan Price State Wildlife Sanctuary. Left: In her younger days, this female was a nuisance to Pack Creek visitors. With better management systems now in place, she has gotten over her bad habit of looking to people for food.

Alaska's wildlands provide a rich variety of recreational and educational experiences found nowhere else in the world. This issue of *Alaska's Wildlife* focuses on wildlife watching opportunities in Alaska and their relationship to economics and conservation.

According to the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, more than 167 million Americans (about 75 percent) participated in hunting, fishing or wildlife watching during 1985. The survey also identified wildlife watching (including viewing, photography, and feeding) as the fastest growing segment of wildlife recreation, with 135 million participants age 16 years old or older accounting for \$14 billion in annual expenditures. The same survey estimated that 288,000 Alaskans participated in wildlife watching in 1985. Clearly, wildlife watching has become a significant and growing recreational pursuit in Alaska and across the nation.

Wildlife managers throughout the United States are being challenged by diverse and increasing demands for wildlife recreation while, concurrently, wildlife habitat is shrinking and becoming fragmented. Revenues to support management and conservation programs are also declining. In recognition of this dilemma and the burgeoning public interest in wildlife, state and federal wildlife agencies are embracing the national "Watchable Wildlife" initiative. The central focus of this initiative, which is endorsed by national conservation groups (including Defenders of Wildlife, Isaac Walton League, National Audubon Society, and National Wildlife Federation), federal land management agencies, and the International Association of Fish and Wildlife Agencies, is to promote and expand wildlife recreation and education. This, in turn, is expected to broaden public support and funding for the conservation of all wildlife species and their habitats.

Like our counterparts in Colorado, Montana, Oregon, and Wyoming, the Division of Wildlife Conservation recognizes the opportunity the "Watchable

Wildlife" initiative represents for enhancing wildlife recreation and conservation in Alaska. This should not be interpreted as abandoning our traditional hunting constituency, nor decreasing our efforts to provide for sustained yield of game resources. Rather, we are acknowledging an expanding public interest in wildlife conservation and management and we will begin broadening our programs to reflect that change. All wildlife users (including hunters, wildlife watchers, and tour operators) must recognize that the conservation of wildlife habitat is the common ground they share in their pursuit of wildlife opportunities throughout this remarkable state.

We have the opportunity in Alaska for developing a wildlife recreation and conservation program that could stand as a model for the world. There are few areas on earth that capture people's enthusiasm for experiencing wildlife and wildlands more than Alaska. Tourism has become a billion dollar industry in Alaska and our spectacular wildlife resources are one of the state's primary attractions. A brief glance at Alaska travel brochures lends credence to this point. Where else can you walk on an ocean beach and watch mountain goats, brown bears, bald eagles, and humpback whales; or hike a tundra ridge and observe caribou, Dall sheep, snowy owls, muskoxen, wolves, and hundreds of thousands of migratory birds? In east Africa where wildlife viewing and photography have become a major industry, they say, "If wildlife pays, wildlife stays!"

This issue of *Alaska's Wildlife* highlights some of the world's premiere viewing areas, explains how and when to find several of the most sought-after species, and how we manage for wildlife viewing. You will also learn more about the importance of wildlife to the tourism industry and its potential economic significance to the state.

Although Alaska has outstanding potential for wildlife watching, we are at an early stage in our development of these new programs. One of our new projects, in cooperation with other resource agen-



John W. Schoen

cies, will be a revision of the department's *Guide to Wildlife Viewing in Alaska* as part of a new national series. A key to successfully broadening the division's wildlife program will be finding new alternative funding sources. ~~Currently, over 80 percent of our division budget comes from hunters through the sale of hunting licenses and excise taxes on firearms and ammunition.~~

Successful conservation of Alaska's unique wildlife heritage will require broad-based public support and interagency cooperation. We believe that expanding wildlife recreational and educational opportunities in Alaska will increase the public's enjoyment of their wildlife resources, promote long-term conservation, and benefit the Alaskan economy. We welcome your ideas and comments as we begin our new and exciting journey toward expanding wildlife management on the last frontier.

John Schoen is the senior staff biologist for Conservation and Education, Division of Wildlife Conservation, ADF&G, Fairbanks.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

Representative Fran Ulmer
P.O. Box V
Juneau, Alaska 99811

February 18, 1992

RE. H.B. 446 - WILDLIFE CONSERVATION TAGS

Dear Representative Ulmer;

Thanks for introducing H.B. 446, a concept which the Lobby has supported since our inception. We strongly support the bill with the following amendments.

Amendment 1

Sec. 1 (6)

pg. 2, line 3

(6) programs that benefit nongame species of wildlife, threatened and endangered species of wildlife. . . .

Amendment 2

Sec. 3 (c)

pg. 2, line 22

(c) The commissioner shall establish the cost of a wildlife conservation tag by regulation. The cost of the tag shall not exceed the cost of a resident sport hunting license.

Amendment 3

Sec. 3 (d)

pg. 2, line 23

(d) The proof of purchase of a wildlife conservation tag entitles the purchaser, after complying with other applicable statutes and regulations, to apply for a reserved, non-transferable permit for access by lottery in those areas where such a permit is required, and where a reserved non-transferable permit for access is not required, to enter state game and wildlife sanctuaries and, as identified by the commissioner by regulation, other state land designated as state game refuges, state range areas, and fish and game critical areas. During open hunting seasons in the areas identified by the commissioner by regulation, possession of a valid hunting license substitutes for a wildlife conservation tag.

Amendment 4

Sec. 3 (e)

pg. 2, line 27

(e) The revenue received from the sale of wildlife conservation tags may be appropriated by the legislature to the department for [WILDLIFE CONSERVATION PURPOSES] programs that benefit nongame species of wildlife, threatened and endangered species of wildlife, wildlife education, and wildlife viewing.

(f) The department may contract to others the performance of the department's responsibilities to provide a wildlife conservation tag. Contracting under this subsection is governed by AS 36.30 (State Procurement Code), except that a contract may include provisions for advance payment or reimbursement for services under the contract.

These four amendments are from the Alaska Department of Fish and Game draft position paper, and would clarify the bill's intent and increase its potential to generate funds. Of particular interest to AEL is Sec. 3 (e) which would make it more likely that the funds generated by non-game users would go into non-game programs.

Amendment 5

Sec. 3

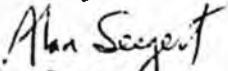
pg. 2, line 21

shall be available through all vendors of fish and game licenses as part of the Fish and Game license form and may be purchased by the public on a voluntary basis.

This is similar to the amendment offered by Alaska Discovery to ensure that the conservation tag is available to the maximum number of persons.

We look forward to working with you on HB 446 and its passage this legislative session.

Sincerely,


Alan Seegert
Volunteer Lobbyist

7-LS1864D '
Utermohle
2/20/92

CS FOR HOUSE BILL NO. 446 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Grussendorf, Koponen

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the wildlife conservation tag and to entry onto state game and
2 wildlife sanctuaries, state game refuges, state range areas, and fish and game critical
3 habitat areas; and providing for an effective date."

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

5 * Section 1. FINDINGS. The legislature finds that

6 (1) the diversity of wildlife species in Alaska and the size of Alaska make wildlife
7 management extremely expensive;

8 (2) the growth in Alaska's human population has placed pressure upon wildlife habitat
9 and wildlife populations and has increased demand for use and appreciation of wildlife;

10 (3) the Board of Game and other resource management agencies need current, accurate
11 wildlife population and human use data for regulatory and planning purposes;

12 (4) the quality and extent of wildlife information provided by the Department of Fish and
13 Game have a direct effect on the types and levels of human use of wildlife that are allowed;

14 (5) the cause of wildlife conservation would benefit from money generated by a wildlife

1 conservation tag to supplement, but not to supplant, money available for wildlife conservation purposes
2 from other sources;

3 (6) programs that benefit nongame species of wildlife, threatened and endangered species
4 of wildlife, wildlife education, and wildlife viewing would be enhanced by money generated by a
5 wildlife conservation tag.

6 * Sec. 2. AS 16.05.350 is amended to read:

7 Sec. 16.05.350. EXPIRATION OF LICENSES AND TAGS. Licenses and tags required
8 under AS 16.05.330 - 16.05.430, except biennial licenses, the nonresident special sport fishing
9 license, the resident trapping license, and the waterfowl conservation tag, expire at the close of
10 December 31 following issuance. Biennial licenses expire after December 31 of the year
11 following the year of issuance. The resident trapping license expires at the close of September
12 30 of the year following the year in which the license is issued. The waterfowl conservation tag
13 expires at the close of January 31 of the year following the year of issue of the tag. The
14 wildlife conservation tag under AS 16.05.828 expires at the close of
15 December 31 following issuance.

16 * Sec. 3. AS 16.05 is amended by adding a new section to read:

17 Sec. 16.05.828. WILDLIFE CONSERVATION TAG PROGRAM. (a) In order to
18 provide support for the wildlife conservation activities of the department, there is established the
19 wildlife conservation tag program.

20 (b) The commissioner shall provide a patch, emblem, decal, stamp, or other suitable item
21 to serve as a wildlife conservation tag. The wildlife conservation tag and proof of purchase of
22 a wildlife conservation tag shall be available through vendors of fish and game licenses.

23 (c) The commissioner shall establish the cost of a wildlife conservation tag by regulation.

24 (d) The proof of purchase of a wildlife conservation tag entitles the purchaser, after
25 complying with other applicable statutes and regulations, to

26 (1) apply, under terms established by the commissioner by regulation, for a permit
27 to enter a state game or wildlife sanctuary or other area identified by the commissioner by
28 regulation where a permit is required for entry into the area; and

29 (2) enter state game and wildlife sanctuaries and, as identified by the
30 commissioner by regulation, other land designated as state game refuges, state range areas, and
31 fish and game critical habitat areas where a permit is not required for entry into the area.

1 sanctuaries, state game refuges, state range areas, and fish and game critical habitat areas where
2 possession of a valid hunting license may substitute during open hunting seasons for a wildlife
3 conservation tag.

4 (f) The revenue received from the sale of wildlife conservation tags may be appropriated
5 by the legislature to the department for programs that benefit nongame species of wildlife,
6 threatened and endangered species of wildlife, wildlife education, and wildlife viewing. In this
7 subsection,

8 (1) "nongame species" means a species of wildlife that may not be taken under
9 a hunting or trapping license; and

10 (2) "wildlife" means a species of bird, amphibian, reptile, or mammal, including
11 a feral domestic animal, found or introduced into the state, except domestic birds and mammals.

12 (g) The department may contract with a person to perform the responsibilities of the
13 department under this section to provide a wildlife conservation tag. Contracting under this
14 subsection is governed by AS 36.30 (State Procurement Code), except that a contract may include
15 provisions for advance payment or reimbursement for services performed under the contract.

16 * Sec. 4. AS 16.20.130 is amended by adding a new subsection to read:

17 (b) A person may not enter the Walrus Islands State Game Sanctuary without having in
18 the person's possession a proof of purchase of a wildlife conservation tag.

19 * Sec. 5. AS 16.20.150 is amended by adding a new subsection to read:

20 (e) A person may not enter the Stan Price State Wildlife Sanctuary without having in the
21 person's possession a proof of purchase of a wildlife conservation tag.

22 * Sec. 6. AS 16.20.170 is amended by adding a new subsection to read:

23 (b) A person may not enter the McNeil River State Game Sanctuary without having in
24 the person's possession a proof of purchase of a wildlife conservation tag.

25 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

HB

448

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
P O BOX SA
JUNEAU, ALASKA 99811-0400

March 5, 1991

The Honorable Mike Navarre
Co-Chairman, House Finance Committee
Alaska State Legislature
Capital Room 515
P.O. Box V
Juneau, Alaska 99811

The Honorable Gail Phillips
House Finance Committee
Alaska State Legislature
Court Room 605
P.O. Box V
Juneau, Alaska 99811

Re: Fisheries Taxes

Dear Representative Navarre and Representative Phillips:

The Division of Income and Excise Audit was requested last session to audit fisheries businesses in the Cook Inlet region and to report our findings to the House Finance Committee. We have now concluded those audits and are forwarding the findings to the Committee. The audit findings are reflected in Appendix A. A number of the adjustments resulting from the audits have been protested and are pending before the Department.

The delivery fee or tendering fee issue is the most disputed audit finding. Delivery or tendering fees are customary in the industry and are paid by processors to fishermen or third parties for moving the product from the fishing vessel or beachsite to the facilities of the processor. The position of some processors is that these fees are a transportation cost rather than a part of the value of the fisheries resources. The processors argue the value of the resource is based on the ex vessel price for purposes of computing the fisheries taxes. A Department hearing officer, in one administrative decision in 1984, indirectly ruled that value is based on the ex vessel price. The Division takes the position, however, that all amounts paid to fishermen to acquire fish are includable in value, and that position is reflected in the audits.

During the course of several recent audits we discovered the tendering fee issue is not confined to the Cook Inlet area. Furthermore the tendering fee issue itself has broader implications than might be apparent at first glance.

The Honorable Mike Navarre
The Honorable Gail : lllps
House Finance Committee
March 5, 1991
Page Two

Taxpayers are utilizing a "net back" approach to valuing fisheries resources. Typically, a processor will start with the sales price of the processed resource and back out various imputed costs in addition to tendering/delivery fees, such as spotting fees, finding fees, purchase management fees, unloading fees, and other costs. These costs, in addition to a processing fee are subtracted from the sales price of finished product to arrive at a value of the resource.

We find these arrangements to be common among cooperatives, where the fishermen own the processing facility. We also found this arrangement in other cases where, apparently due to scarcity of resource, the processor shares the processing profits with a consortium of fishermen to guarantee an adequate supply of resource for processing.

Taxpayers have argued that such net backs and adjustments are proper to arrive at an "ex vessel price" which they believe is the proper tax base for fisheries business tax.

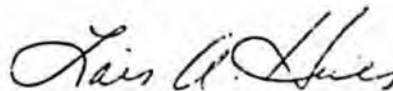
We believe the proper interpretation of the statute requires that all values and costs incurred prior to processing should be included in the taxable value. Since the fisheries business tax under AS 43.75 is placed on the processing activity, it seems logical that taxable value should include all costs incurred prior to processing. Stated another way, all costs incurred by the processor to procure resources for processing at the processor's facilities should be included in value.

This approach would also require that processors who own and operate tenders include the costs of operating the tenders in the taxable value.

Given the industry's view that the fisheries business tax is on ex vessel value, a clarifying amendment to AS 43.75 could be helpful to more clearly set out the all inclusive nature of the fisheries business tax base. The department intends to proceed to notice regulations in the near future that will reflect this interpretation.

The bonus or retro payment adjustment is based on additional payments for the resources to fishermen after the season. It appears these payments are clearly intended to be a part of the taxable value of the resources.

Sincerely,



Lois A. Hicks
Acting Director
Income and Excise Audit Division

LAH:CM

91-18

RESULTS OF AUDIT
COOK INLET FISHERIES BUSINESSES

ADJUSTMENTS

	<i>Deliver fees</i>			
<u>Total Adjustments</u>	<u>3,253.307</u>	<u>1,260.930</u>	<u>554.875</u>	<u>65.729</u>

TAX EFFECT

TOTAL TAX

ASSESSMENT

Fisheries Tax	97,599	37,828	16,646	1,972	154,045
Salmon Enhancement Tax	65,066	25,219	11,098	1,315	102,698
AK Seafood Marketing	<u>9,760</u>	<u>3,783</u>	<u>1,665</u>	<u>197</u>	<u>15,405</u>
 Total Tax Assessed	 <u>172,425</u>	 <u>66,830</u>	 <u>29,409</u>	 <u>3,484</u>	 <u>272,148</u>

More Than one years - '87 '88 '89

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEMAN

TO: HB 448

Page 1, lines 4 - 11:

Delete all material and insert:

"* Section 1. AS 43.75.290(11) is repealed and reenacted to read:

(11) "value" means

(A) the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats that are operated under lease or other arrangement;
or

(B) for fisheries resources other than those described in (A) of this paragraph, the actual price paid for the fisheries resource by the fisheries business to the fisherman, including indirect consideration and bonus amounts paid for fuel, supplies, gear, ice, handling, tender fees, or delivery, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment; in this subparagraph, "delivery" means

(i) transportation of the fishery product from the boat or vessel on which the product was taken to a tender; or

(ii) if delivery was not to a tender, transportation of the fishery product from the boat or vessel on which the product was taken to a shore-based facility in which delivery of the fishery product is normally accepted."

facility



Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE GAIL PHILLIPS

STATE CAPITOL
JUNEAU, ALASKA
99801-1182

Official Business
PHONE: (907) 465-2689
FAX: (907) 465-3472

HOUSE BILL 448

PRESENTED TO HOUSE RESOURCES COMMITTEE

MARCH 10, 1992

House Bill 448 is titled "An Act amending the definition of 'value' for purposes of administration of fisheries taxes, and providing for an effective date." I introduced this bill to clarify the amounts to be covered by fisheries taxes because, in the past, processors and fishermen have disputed the definition of value in an attempt to avoid paying the full amount of taxes due.

One argument used by those attempting to avoid paying the full tax due is that "bonuses" are not part of the actual amount paid fishermen for the fish. This interpretation leaves an opening for processors to pay lower prices for the fish, and make up for this lower amount to the fishermen by giving bonuses for services such as delivery or handling. HB 448 makes the point about whether bonuses are covered completely indisputable.

In addition, HB 448 sets out more specifically those services provided by the fishermen that are to be taxed. Previous language in the statute used the term "such as" and left the services to be covered up to differing interpretations. The amendment proposed by my bill tightens up this language, again to leave no doubt as to which services are to be covered by fisheries taxes.

If passed, HB 448 will go into effect on January 1, 1993.

In addition, I would like to mention that HB 448 is supported by several levels of government and by several aquaculture associations as well. We will be hearing from a few of these associations by teleconference today.

Thank you for the opportunity to present this bill.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 448

Revision Date: March 5, 1992
Title: Amending the definition of 'value'
.... fisheries taxes
Sponsor: G. Phillips
Requestor: HS RESOURCES

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	10.0	550.0	550.0	550.0	550.0	550.0
FUND SOURCE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS:

This bill clarifies the definition of taxable value for fisheries business tax, salmon enhancement taxes and seafood marketing assessment. This bill will not take effect until January 1, 1993. Revenues in FY93 will not be substantial because most 1993 returns are not due until FY94.

Prepared By: Paul E. Dick *PE* LET 3-5-92 Phone: _____
Division: Income and Excise Audit Dates: March 5, 1992

Approved by Commissioner: Darrel J. Rexwinkel *DJR*
Agency: Department of Revenue Date: March 5, 1992

Prince William Sound Aquaculture Corporation



P.O. Box 1110 Cordova, Alaska 99574-1110 Phone (907) 424-7511 FAX (907) 424-7514
821 N St. #101B Anchorage, Alaska 99501-3285 Phone (907) 274-6066 FAX (907) 274-1959

February 14, 1992

Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Members of the Legislature:

Prince William Sound Aquaculture Corporation (PWSAC) is pleased to support House Bill No. 448, which amends the definition of "value" in AS 43.75.290(11), for purposes of administration of fisheries taxes, and provides for an effective date.

Representative Gail Phillips has introduced HB448 to facilitate the collection of fisheries taxes in a fair and timely manner. With fisheries practices changing rapidly in all parts of the state, the language of the statute needs to be brought up to date to ensure that the original legislative intent will continue to be carried out.

We encourage your active support of Representative Phillips' House Bill No. 448.

Best regards,

John McMullen
President



FEB 10 1992

COOK INLET
AQUACULTURE ASSOCIATION

HC 2, BOX 849
SOLDOTNA, AK 99669-9707
(907) 283-5761

February 5, 1992

Rep. Gail Phillips
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Phillips and other members of the Alaska Legislature:

I have reviewed "An Act amending the definition of 'value' for purposes of administration of fisheries taxes" and support passage. The bill addresses a growing problem with revenue implications for Regional Aquaculture Associations and several levels of government.

Department of Revenue interprets the existing definition of "value" to mean any type of compensation a buyer gives to a fisherman as part of a fish sale transaction. As you know, the problem under existing law is that some processors and certain fishermen dispute this interpretation and seek to avoid proper taxation.

People seeking to avoid raw fish and salmon enhancement taxes argue that "value" is only what is paid fishermen for the fish; "bonus" amounts paid for icing, using RSW systems, delivery, prompt delivery, exclusivity (selling all fish to a single buyer), loyalty (selling to the same processor over several years) and others, do not count as "value" for tax purposes.

People seeking to avoid tax simply establish a low price for the fish and dream up a series of "bonuses" which can comprise as much as 50% of the amount paid to fishermen. This bill, by expanding the list of examples of things which are to be included as "value" makes clear that the original Department of Revenue interpretation is correct.

I am greatly interested in the progress of this bill and am available to answer questions or provide additional information.

Sincerely,

Thomas E. Mears,
Executive Director

cc: Senator Fischer
Representative Navarre

ACTION NARRATIVE

*Special Committee on Fisheries
May 1, 1986 Meeting*

TAPE #36 SIDE ONE
Recording

Number 002

Chairman Goll called the meeting to order at 8:40 a.m. He announced calendar and asked Director of Boards, Beth Stewart, to address the February 13, 1986 letter from Ron Jolin, Chairman, Alaska Board of Fisheries, to the Special Committee on Fisheries. (Letter follows:)

Dear Representative Goll:

At the 1985 Southeast finfish meeting, the Hoonah Advisory Committee's Proposal #338 requested that the Alaska Board of Fisheries ask the Legislature to identify charter vessel operations as a separate user group for which separate regulations could be written. The board agreed, and so I am writing to you as the Chairman of the House Special Committee on Fisheries and Hoonah's representative. The board also asked the Southeast Regional Council members to make their views known to their legislators.

For the past several years we have received a number of proposals which address charter boat fishing. It is apparent that most people view charter operations as a discrete classification. However, since AS 16.05.251, which outlines the board's authority, does not refer to charter operations, the Department of Law has told us that we are on very shaky legal ground when we adopt regulations like the six line limit for charter vessels in Southeast.

This regulation was strongly supported by the Southeast charter vessel operators, who continue to be concerned that this regulation could be overturned in court. As this industry grows, I believe that more and more fishermen will want the board to address it separately. In order to avoid at least some confusion, it would be helpful if the board's authority to do so were clear.

If the board can provide any further clarification, please do not hesitate to contact us.

Sincerely,

Ron Jolin, Chairman
Alaska Board of Fisheries

HB

451

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 451

Revision Date: February 12, 1992
Title: An Act relating to state and local taxation...Alaska Native Claims Settlement
Sponsor: Reps. MacLean, Lincoln
Requestor: _____

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit
COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
FUND SOURCE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0.0

ANALYSIS: Attach a separate page if necessary.

This bill brings Alaska statutes in conformity with ANCSA laws as amended by Congress in 1991, which extended the tax exemption of ANCSA property from 20 years to perpetuity.

Prepared By: Paul E. Dick *pid* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 12, 1992

Approved by Commissioner: Darrel J. Rexwinkel *Darrel Rexwinkel*
Agency: Department of Revenue Date: 2/15/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

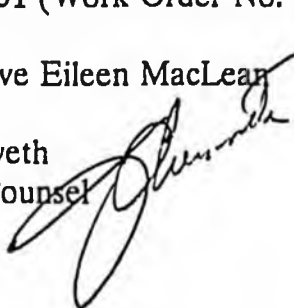
(907) 465-3867 or 465-2450
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Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 26, 1992

SUBJECT: House Bill 451 (Work Order No. 7-LS1722\G)
TO: Representative Eileen MacLean
FROM: Jack Chenoweth
Legislative Counsel



As I reviewed the bill file in preparation for this afternoon's committee meeting, I noticed that a few words had been dropped from AS 43.80.015(e). To insert the original intent and correct the omission, page 4, line 18 should be amended to read:

. . . includes the amendments and additions to any of those sections
that are made by

JBC:mi
92-029.mai

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Juneau, Alaska 99801-2101

MEMORANDUM

February 7, 1992

SUBJECT: House Bill 451, relating to state and local taxation and other state regulation under the Alaska Native Claims Settlement Act, as amended; and providing for an effective date — sectional analysis (Work Order No. 7-LS1722/G)

TO: Representative Eileen MacLean

FROM: Jack Chenoweth
Legislative Counsel

This measure amends various provisions of state law that exempt from certain forms of state and local taxation the property that is exempted from taxation by the Alaska Native Claims Settlement Act. The amendments set out in this bill generally reflect the inclusion of changes made by federal law since passage of the original Alaska Native Claims Settlement Act in December, 1971, and the adoption of the first state law exemptions shortly thereafter.

A principal change in the federal Act was the addition of 43 U.S.C. 1636(d) by the Alaska National Interest Lands Conservation Act of 1980. Sec. 1636(d) broadened the various protections for lands conveyed under the 1971 Act, but did not necessarily replace the federal tax exemption provided in the original Act. Since 43 U.S.C. 1636(d) did not supersede the exemptions and protections provided by the earlier-enacted 43 U.S.C. 1620, I have recommended that, where reference appears in state law only to sec. 1620 that it be followed by a second reference to sec. 1636(d) as well.

Throughout the measure, the words "as amended" are added. The intent is to conform the state tax exemptions to any further changes to the federal Act in the event the federal Act undergoes further revision in this subject matter area.

Bill section 1, an amendment to AS 29.45.030(a), a provision setting out mandatory municipal property tax exemptions, incorporates a reference to 43 U.S.C. 1636(d), as amended, behind the existing reference 43 U.S.C. 1620(d) for the reasons noted two paragraphs above.

Bill section 2, also an amendment to the law applicable to municipalities, makes technical corrections. In context, the terms that are being defined appear in 43 U.S.C. 1636(d), not in 43 U.S.C. 1620. The terms defined are revised to reflect the language actually used in the federal provision expressed in a manner that is consistent with Alaska's drafting style.

Bill section 3 revises AS 43.80.015, the principal provision of state law extending an exemption from state taxes to certain property. Specifically:

- the caption change at page 3, lines 11 and 12, substitutes the full proper name of the federal Act for the Public Law reference;

- deletion of reference to "the original issue" of shares in line 12 is a substantive change; all share transactions--not just the original issues--are made non-taxable events;

- in lines 13 and 14, "state" substitutes for "Alaska" and the exact cite for the federal Act is inserted for the older reference; these are technical changes to conform to the state's drafting style;

- substitution of "person" for "Native" in line 15 is a substantive change; shares, as I understand, may now be transferred to a person other than an Alaska Native; these transfers would be non-taxable transactions;

- the changes made at lines 17 and 19 replace existing references with the exact federal Act cites;

- the change made by substitution of the phrase on line 22 conforms state law to the requirement of the federal Act as to how the basis of land received for purposes of equalization (in the event of land trades) is to be computed; it will be computed as the federal Act directs;

- the changes made on lines 24 - 28 are in the nature of substitutions of accurate cites and references;

- the long addition on lines 29 - 31 and the deletion of the December, 1991, date reflect substantive changes made by 43 U.S.C. 1636(d), a provision that expands and extends the protection from taxation given Native land under the amended federal Act; and

- the changes made to the balance of bill section 3 on page 4 of the bill either substitute accurate federal law cites or make minor stylistic changes.

Representative Eileen MacLean

February 7, 1992

Page 3

Bill section 4, adding a new subsection (e) to AS 43.80.015, enumerates the specific federal legislation that have modified the original Alaska Native Claims Settlement Act, and further allows for changes affecting the tax treatment of property that may be made future federal amendments.

The bill is given an immediate effective date by bill section 6. Out of an abundance of caution, bill section 5 makes these changes retroactive to December 18, 1991, the 20-year anniversary date of the Alaska Native Claims Settlement Act's taking effect. In the original Act, on that date a number of safeguards initially enacted would have expired. All the safeguards that are of concern for purposes of this legislation have been expanded and extended in the two later federal Acts, especially the addition made by 43 U.S.C. 1636(d).

JC:gc

92-114.glc

Enclosure

✓
DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

COPY

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Juneau, Alaska 99801-2101

MEMORANDUM

January 27, 1992

SUBJECT: Taxation of interests under Alaska Native Claims Settlement Act, as amended (Work Order No. 7-LS1722G)

TO: Representative Eileen MacLean

FROM: Jack Chenoweth
Legislative Counsel

I have read Larry Kimball's critique of the earlier draft and have redrafted based on points made in that letter. Since Larry clearly preferred dealing with only the longer of the two earlier drafts, I have reworked only it.

You will note that I have, in several places, combined references to "43 U.S.C. 1620(d), as amended, and 43 U.S.C. 1636(d), as amended." These two code provisions were added to the United States Code in two different pieces of federal legislation. The later-enacted 43 U.S.C. 1636(d) appears by my reading to cover at least all the situations set out in the earlier-enacted 43 U.S.C. 1620(d). Despite the apparent overlap, I'm not certain that all the circumstances identified in sec. 1620(d) fit within those enumerated in sec. 1636(d). Out of an abundance of caution, I have included both references.

There are some local taxation references to these provisions that appear in AS 29.45 that I have added to this bill. In the amendment to AS 29.45.030(m), the proper reference to the federal legislation should be only to 43 U.S.C. 1636(d), for that is, in fact, where the terms are used. In addition, I modified the definitions in state law to more nearly comport with those now actually set out in the existing federal statute, replacing "property" with "land or an interest in land" and replacing "lease" with "leased."

I'd encourage further Alaska Federation of Natives review of this draft.

JBC:lmb
92-011.lmb

Enclosure

Alaska Federation of Natives, Inc.

January 23, 1991

Representative Eileen MacLean
Alaska State Legislature
Capitol Office Building
Juneau, AK 99811

RE: AMENDMENTS TO AS 43.80.015

Dear Representative MacLean:

The following comments will provide you with the Alaska Federation of Natives suggested amendments to AS 43.80.015. Included within these comments is the Federation's reasoning for said amendments.

The prime reason amendments to AS 43.90.015 are being requested is to prevent an inconsistency with AS 29.45.030(m) and bring AS 43.80.015 into conformity with the Alaska Native Claims Settlement Act (ANCSA), as amended.

Initially the effort only focused on omitting the language "until December 18, 1991" from 43.80.015. Replacement language could be as simple as "to the extent provided in 43 USC 1620(d), as amended". To lessen confusion that may occur in tracking the proper reference it would be appropriate to refer to 43 USC 1636(d), as amended rather than 43 USC 1620(d). 43 USC 1636(d) is in reference to the latest amendment of 43 USC 1620(d) per the 1987 ANCSA amendments (PL 100-241).

ANCSA provisions are controlling and thus amending AS 43.80.015 would simply limit the potential for conflict and litigation expenses in the future. The problem is not one of the viability of the ANCSA provisions, but rather one of avoiding the necessity to litigate the issue due to the State's provision failing to parallel federal law.

REQUESTED AMENDMENTS TO AS 43.80.015:

AS43.80.015(a)

Subsection (a), as it presently exists, limits the state exemption to the "receipt of the original issue of shares of stock " (emphasis added). Section 21(b) of ANCSA, which is the controlling federal law, provides:

"The receipt of shares of stock in the regional or village corporations by or on behalf of any Native shall not be subject to any form of federal, state or local taxation."

ANCSA does not restrict the tax exempt status only to "original issue". In keeping with the 1987 amendments to ANCSA, almost every corporation is reissuing its stock. Thus the issue of whether such an issue of stock was or was not an "original issue" may be raised if clarification is not forthcoming.

Also, the Chenoweth draft of subsection (a) creates another problem by limiting the exemption to stock issued to persons enrolled as a Native, a provision not found in ANCSA.

It is requested that the words "of the original issue" be deleted and Mr. Chenoweth's reference to "persons enrolled as a Native" not be included.

AS 43.80.015(b)

Subs ction (b), as it currently exists, fails to track the amendment to ANCSA adopted by Subsection 1408 of the Alaska National Interests Lands Conservation Act (ANILCA), which expands upon the manner in which an ANCSA corporation's basis in the land is determined.

To conform with ANCSA/ANILCA, the last sentence of 43.80.015(b) should be reworded as follows:

The basis for computing gain or loss on subsequent sale or other disposition of this land or interest in land for purposes of a state or local tax imposed on or measured by income shall be determined in accordance under 43 USC 1601-1642, as amended.

AS 43.08.015(c)

Omit "until December 18, 1991" replacing it with "to the extent provided in 43 USC 1620(d), as amended".

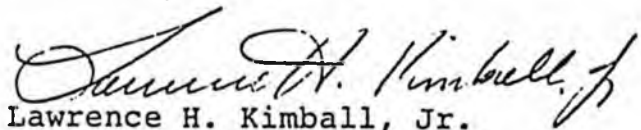
With regard to Mr. Chenoweth's comments, the draft including changes to subsections (a), (b) and (c) appears the most appropriate subject to the changes as requested by this letter.

I agree with Mr. Chenoweth's assessment that there is the potential for ensuing problems when versions drafted refer only to the two federal acts that are specifically identified. I trust language can be applied that reference these acts, as amended. Not being an attorney I suggest we leave the drafting of language that would accomplish that goal to Legislative Council.

Please contact me if you have questions or concern on this matter.

The Federation appreciates your interest and efforts in sponsoring this legislation.

Sincerely,



Lawrence H. Kimball, Jr.
Staff to AFN Legislative Committee

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section, so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) Developed means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemp-

tions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purposes of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

Land Protections

The land protections described in this section are probably the most significant gains for Alaska Natives contained in the "1991" law.

The "1991" law provides that all "undeveloped" land owned by village, urban and regional corporations automatically have the following protections:

1. The land cannot be taxed.
2. The land cannot be taken by trespassers who otherwise might acquire rights to the land through adverse possession (also known as trespassers or squatters' rights).
3. The land cannot be taken by creditors to pay a debt owed by the corporation.
4. The land cannot be lost if the corporation files bankruptcy.
5. The land cannot be lost even if the corporation is involuntarily dissolved.

Because these land protections are so important, they are now automatic. The corporation's board of directors does not need to take action, unless an activity creating "development" has already occurred. Shareholders do not need to vote in order to protect the corporation's undeveloped land.

LAND AUTOMATICALLY PROTECTED FROM...



Taxes on undeveloped land



Bad debts



Adverse possession

Loss of Land Protections

Members of a Native corporation board of directors must understand that actions they take could result in the loss of these land protections. Land protections can be lost in three ways:

1. Leased: If the board of directors leases the land, the protections are lost. Even though the leased land is not "developed," it can be taxed, taken by adverse possession or sold by creditors or a bankruptcy judge to pay the corporation's debts.

Exception: If the purpose of the lease is to allow oil, gas or mineral exploration, then the land protections continue to apply.

2. Pledged: Protections can be lost if the board of directors mortgages or pledges the land as security in a commercial transaction, such as a bank loan. If the land is

pledged, it can be taxed and it can be sold by creditors or a bankruptcy judge to pay the corporation's debts.

3. Developed: If the board of directors develops the land, it loses the automatic protections. The land can be taxed, taken by adverse possession, or, if the corporation gets into trouble, the land can be seized and sold by creditors or a bankruptcy judge to pay the corporation's debts.

WAYS TO LOSE LAND PROTECTIONS



Leased



Pledged



Developed

Native corporations should be very cautious about pledging their undeveloped land to a bank or anyone else.

Definition of "Developed" Land

The "1991" law defines "developed" as *"a purposeful modification of land from its original state that effectuates a condition of gainful and productive present use without further substantial modification."*

Because this definition is complicated, it is important that a board of directors be very cautious when it makes decisions about using the corporation's land. If there is any question that a board action or decision might result in losing land protections, the board should seek advice from an attorney before a final decision is made.

Some things can be done on the land without losing the protections. In some circumstances, land can be surveyed, and roads, electricity lines and sewers can be built. Whether such actions are "safe" can only be determined on a case by case basis.

Finally, land is automatically considered to be "developed" if it is subdivided, even if no changes are made to the land. For that reason, the corporation should never subdivide any of its land without careful study of the impacts on the status of its land.

To protect important subsistence uses, the law says that hunting and fishing on village and regional corporation land do not make the land "developed." For that reason, fish camps, trapping cabins and other structures may be built and used on the land if they are needed for subsistence hunting, fishing or gathering. The corporation may also charge a fee to hunters, fishermen and guides without losing the protections of "undeveloped" land.

Regaining Land Protections

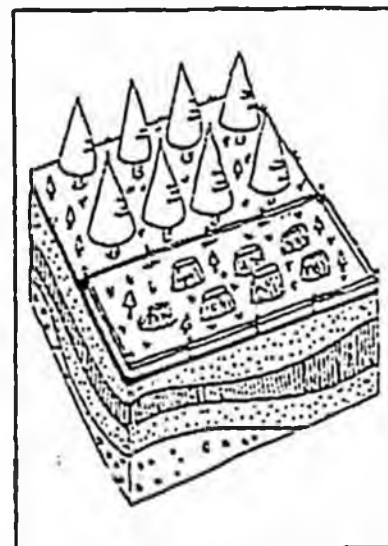
Even if land is mortgaged, leased or "developed," the protections automatically resume when the mortgage or lease expires or the development ends. For example, if a village corporation leases some of its land for five years, during the years it is leased, the land can be taxed or sold to pay the corporation's debts. However, when the five years are over and the lease expires, the land is again automatically protected from taxation and creditors.

Example: A corporation runs a gold-mining operation on otherwise-undeveloped land. During the years that the mining takes place, the land can be taxed or taken to pay a debt. But if the corporation closes down the mining operation, and restores the land to its original condition, the land then qualifies as "undeveloped" and gains back the protection lost when the venture began.

If a corporation has already subdivided land, it can be returned to "undeveloped" status if the land is resubdivided back to its original state. The resubdivision must be approved by whichever platting authority has jurisdiction. In these cases, the protections do apply to land that was previously subdivided.

Timber Development

The "1991" law makes an important change on how protections apply to timber development. For example, if a village corporation cuts timber on its land, only the approximate area where timber is actually cut can be taxed. Under the old law, a larger area of land would lose the protections and thus become vulnerable to taxes and loss by other means. Now, protections are lost only on the parcel of land where timber cutting and development are actually occurring and only during the period of harvest.



Only area where
timber is cut
loses protection

Timber lands can also regain land protection. During the years a village corporation cuts timber for commercial sale, the land is considered "developed," and thus can be taxed, if the corporation is in a taxing jurisdiction, or taken to pay creditors. When the commercial harvest ends, though, the land is no longer considered to be "developed" and the land is automatically protected.

Tax Recapture on Subdivided Land

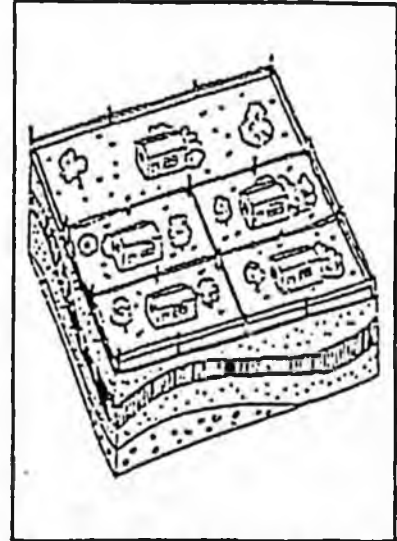
If a Native corporation is in a taxing jurisdiction and its land is subdivided, the corporation must pay the amount of taxes that would have been

levied during the 30 months before the subdivision plat is recorded. The back taxes must be paid in semi-annual installments. The entire amount must be paid off within 30 months of the date the plat is recorded.

Before the final plat is approved, the government with tax jurisdiction must notify the corporation of the taxes it will owe.

Example: Corporation Z decides to subdivide 50 acres on a scenic river site. Until now, the land has been "undeveloped" and exempt from property taxes. On September 1, 1990, the subdivision plat is recorded. The corporation must pay an amount equal to property taxes it would have paid on that 50 acres from March 1, 1988 to September 1, 1990. The total tax bill on the 50 acres is \$10,000. Corporation Z must make its first \$2,000 payment March 1, 1991. The total bill must be paid off by March 1, 1993.

TAX RECAPTURE



Subdivided land

Tax recapture applies only if the land being subdivided is within the boundaries of a taxing jurisdiction, such as a borough or municipality with the power to tax.

Summary

One of the most important changes made by the "1991" law is that Land Bank protections are now automatic. No board action is required because the land protections automatically apply to all undeveloped ANCSA lands. Native land, so long as it remains undeveloped, is protected from property taxes, from squatters, from being taken to pay a bad debt and from bankruptcy.

Before, corporations had to apply to the federal government to get these protections. Now, they're automatic; nothing else is required. A corporation loses these protections if its land is pledged, leased, developed or subdivided. Native corporation board members must recognize the types of actions that may result in losing land protections.

Board members may want to review the status of their lands in light of the definition of "developed," to determine whether any of the corporation's land does not qualify for automatic protections.

Even if the land protections are lost, they can be regained if the lease ends or development activity stops.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 451(CRA)

Page 3, lines 15 - 16:

Delete "person [NATIVE (AS DEFINED IN THE FEDERAL ACT)]"

Insert "Native, as defined in 43 U.S.C. 1602(b), or by or on behalf of a descendant of a Native, as defined in AS 43 U.S.C. 1602(r), [(AS DEFINED IN THE FEDERAL ACT)]"

Page 3, line 27:

Delete "individual"

Insert ", as defined in 43 U.S.C. 1602(b), [INDIVIDUAL]"

Page 3, line 27, after "to a":

Insert "Native"

MAR 04 1992

Alaska Federation of Natives, Inc.

March 2, 1992

Representative Eileen MacLean
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative *Eileen* MacLean:

On Wednesday, February 26, I had the opportunity to testify on HB451 before the House Community and Regional Affairs Committee. Testimony was presented via tele conference from Anchorage. Mr. Robert Price, Legal Counsel for the Bristol Bay Native Corporation also participated

During the testimony there were receiving and transmitting problems with the tele conferencing equipment, thus I was not able to fully hear Committee comments nor respond adequately to questions being asked by Committee members.

Due to the communication problem, I feel that an issue raised by Representative Cheri Davis warrants further clarification.

Representative Davis questioned the reference to "person" on page 3, line 15 of HB 451. Specifically, Representative Davis questioned the application of the tax exemption to persons other than Alaska Natives.

The 1987 amendments (Public law 100-241) to the Alaska Native Claims Settlement Act (ANCSA) provide the authority whereby an ANCSA corporation may issue stock to identifiable groups of descendants of Natives. Beneficiaries of such an issue may not necessarily be Native as defined by ANCSA.

The Arctic Slope Regional Corporation has, in fact, generated such benefits on behalf of descendants of Natives irrespective of the ANCSA definition of Native. Congressional intent is clearly that of providing equity to descendants of Native people.

To clarify Congressional intent, the Federation has included a proposed amendment in HR 3157 (ANCSA Technical Amendments bill) which adds the language "and, at its further option, descendants of Natives born after December 18, 1971" to ANCSA, Section 7(g)(1)(B)(i)(I). A copy of the proposed amendment and Section 4. Subsection (g) of Section 7 (43 U.S.C. 1606(g)) is enclosed.

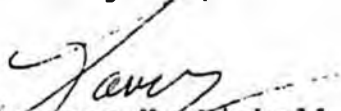
The authority provided in the 1987 amendments focuses on direct descendants of Natives thus omitting the opportunity for abuse by other non-natives.

Representative Cheri Davis is correct in her assessment that the term "persons" may not be appropriate in this situation.

To best conform the language in HB 451 with current federal law and pending language in HB 3157, the AFN respectfully requests that the term "person" on page 3, line 15 be omitted and replaced with the language "Native or a descendent of a Native".

Thank you for your continued interest and effort in this matter.

Best regards,



Lawrence H. Kimball, Jr., Staff
AFN Legislation Committee

cc: Representative Jerry Mackie
Representative Cheri Davis
Representative Cliff Davidson
Representative Georgianna Lincoln
Senator Al Adams
Jack Chenoweth, Legislative Counsel

102D CONGRESS
1ST SESSION

H. R. 3157

I

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1991

Mr. YOUNG of Alaska (for himself and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Alaska Land Status
5 Technical Corrections Act of 1991".

6 SEC. 2. FORT DAVIS NATIVE ALLOTMENT.

7 (a) APPROVAL.—Section 905(a)(1) of the Alaska Na-
8 tional Interest Lands Conservation Act (43 U.S.C.
9 1634(a)(1)) is amended—

1 acres, to the Rabbit Creek Lions Club. The fair market
 2 value appraisal shall be conducted in accordance with the
 3 Uniform Appraisal Standards for Federal Land Acquisi-
 4 tions and shall not include any improvements currently on
 5 the lot. The conveyance shall—

6 (1) preserve valid existing rights-of-way and
 7 easements;

8 (2) reserve all minerals to the United States;
 9 and

10 (3) require that title to the lot revert to the
 11 United States if, within 25 years from the date of
 12 enactment of this Act, the lot ceases to be used for
 13 charitable or civic purposes:

14 **SEC. 8. ISSUANCE OF NEW STOCK TO AFTER BORN.**

15 Section 7(g)(1)(B)(i)(I) of the Alaska Native Claims
 16 Settlement Act (43 U.S.C. 1606(g)(1)(B)(i)(I)) is amend-
 17 ed by adding at the end thereof the following: “and, at
 18 its further option, descendants of Natives born after De-
 19 cember 18, 1971.”

20 **SEC. 9. SITKALIDAK ISLAND.**

21 (a) **AMENDMENT.**—Section 303(5)(A) of the Alaska
 22 National Interest Lands Conservation Act (94 Stat. 2391)
 23 is amended by striking “1978.” and inserting “1978, and
 24 all public lands on Sitkalidak Island, and on associated
 25 islands, islets, rocks, reefs, and spires immediately adja-

“(s) ‘Alienability restrictions’ means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

“(t) ‘Settlement Trust’ means a trust—

“(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

“(2) operated for the sole benefit of the holders of the corporation’s Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.”.

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

“(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

“(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

“(I) Natives born after December 18, 1971,

“(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

“(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

“(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

“(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed canceled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

“(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

“(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

“(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other

distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the laws of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alienability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the

issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least sixty days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than thirty days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 per centum of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) SAVINGS.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act."

SETTLEMENT COMMON STOCK

SEC. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 27, 1992

SUBJECT: Amendment of "Native" to "person" in the exemption from taxation of certain stock transactions under proposed revision of AS 43.80.015 made by sec. 3, House Bill 451 (Work Order No. 7-LS1722\G)

TO: Representative Cheri Davis

FROM: Jack Chenoweth
Legislative Counsel

I don't think I responded to your question at Wednesday's House Community & Regional Affairs Committee meeting to consider House Bill 451 as fully as I should have. Let me try again.

Your question concerned the change proposed at page 3, line 15 of the measure under which the exemption from taxation for certain stock issues would be expanded from transactions in which the recipient is a "Native" to transactions involving any "person."

Leaving in place the current language in AS 43.80.015(a) would limit the state tax exemption to "the original issue of shares of stock . . . by or on behalf of a Native . . ." The sponsor asked that this provision be modified, relying in part on 43 U.S.C. 1620(b) (sec. 21(b) of the original Alaska Native Claims Settlement Act), which reads:

(b) The receipt of shares of stock in the regional or village corporations by or on behalf of any Native shall not be subject to any form of federal, state or local taxation.

The proponents of the amendment represent that the Alaska Native Claims Settlement Act "does not restrict the tax exempt status only to 'original issue'." They note that the 1987 amendments of the original Act have prompted a number of corporations to re-issue or to consider the re-issue of corporation stock, and asked

Representative Cheri Davis
February 27, 1992
Page 2

that state law be clarified to avoid debate as to whether a re-issuance of the stock would be treated as a taxable or tax exempt transaction. Hence, reference to "the original issue of" shares of stock now appearing in AS 43.80.015(a) is to be deleted.

The proposed substitution of "person" for "Native" addresses a concern arising out of this first change. AS 43.80.015(a) currently parallels the language of 43 U.S.C. 1620(b) by referring to "Native."

However, 43 U.S.C. 1606(g), newly-added by the 1987 Act amending the original Alaska Native Claims Settlement Act, authorizes the regional corporations to issue a new class of stock--settlement common stock--to Natives not enrolled under the original Act, and further authorizes the regional corporations, at their discretion, to make that stock available to, among others, "Natives or descendants of Natives." See 43 U.S.C. 1606(g)(2)(B)(iii)(II) and 43 U.S.C. 1606(g)(2)(B)(iii)(IV). The intent of this change in federal law was, as I understand, to authorize a regional corporation's conveyance of some portion of the benefits of the Alaska Native Claims Settlement Act to the lineal descendants of Natives originally qualifying even though the descendant's blood quantum did not permit the descendant to qualify as an Alaska Native.

Similarly, 43 U.S.C. 1606(h)(3), an amendment also added by the same 1987 Act, authorizes issuance of "replacement common stock" under certain conditions generally relating to the termination of alienability restrictions set out in the original 1971 Act. As with the change discussed in the previous paragraph, 43 U.S.C. 1606(h)(3)(D) also contemplates that some recipients of replacement common stock may be persons who are descendants of a Native but who are not themselves Natives who would be eligible under the original Act. See 43 U.S.C. 1606(h)(3)(D)(i).

Accordingly, the authorization in the 1987 federal amendments contemplates issuance of "settlement common stock" or of "replacement common stock" by a recipient who may not qualify as a Native under the definition of that word as set out in the original federal Act. Thus, replacement of reference to "Native" with "person" would allow non-Native recipients of the settlement common stock and the replacement common stock to receive that stock on the same terms--that is, as a non-taxable (under state law) transfer--as was the receipt of the original shares by Native recipients from

Representative Cheri Davis

February 27, 1992

Page 3

whom the non-Native's right to receive derives. Given the parameters of 43 U.S.C. 1606(g)(2) and 43 U.S.C. 1606(h)(3) and the circumstances under which settlement common stock and replacement common stock would issue, this change in state law would almost certainly affect only a relatively small group of people.

I trust this is responsive on the point.

JBC:mi:gc
92-030.mai

cc: Representative Eileen MacLean

HB

465

Memorandum

To: Rep. Davidson, Chair, House Resources Comm. March 5, 1992

From: Rep. Fran Ulmer

Re: CS for HB 465

=====
The following changes have been made in HB 465 to address the concerns discussed in the comm. hearing of 3-3-92.

- * The substitute eliminates reference to hazardous waste. This will help reduce costs to DEC while conforming to EPA requirements.
- * The substitute clarifies the wording to limit the plans and goals to only state agencies.
- * The procurement goals for recycled paper products has been made consistent with current procurement standards under existing statute.
- * The Dept. of Admin. shall be responsible for defining the standards for "recycled product" as applied to paper products.
- * The effective dates for the reports has been moved back to July 1, 1993, to accommodate agency concerns the previous time line was too onerous.
- * The DOTPF has been included in Sec. 5, directing them to develop their own purchasing goals.

March 5, 1992

SECTIONAL ANALYSIS - CSHB 465 - PROCUREMENT OF RECYCLABLES

* Section 1. Legislative Findings and Purposes.

Subsection (a) That unrelated countries around the world are forging cooperative agreements to increase the economic competitiveness of their economies, and that five Northwest states and two Canadian provinces, the Pacific Northwest Economic Region (PNWER), can adopt purchasing standards for recyclable products which will increase the marketability of these products.

Subsection (b) To substantially increase the purchase of recycled products which will increase the market potential for those products and substantially affect the states waste management problems, and develop standards that are compatible with the other members of PNWER.

* Section 2. Amends AS 36.30 to add a new section (36.30.075)

Subsection (a) requires the Department of Transportation and Public Facilities to develop for itself, and the Department of Administration for all state agencies except for DOTPF, a plan to increase the purchase of certain recycled products.

Subsection (b) requires the plan to have minimum purchase goals, expressed as a percentage of the total dollar amount of purchases by state agencies.

Subsection (c) requires that the plan for purchasing recycled paper products be consistent with AS 36.30.095

Subsection (d) defines the standards for the purchase of motor oil products.

Subsection (e) defines the standards for the purchase of retread tires, and provides for the exception of certain emergency vehicles.

Subsection (f) requires that the plan include efforts to eliminate the purchase of paper products that cannot be recycled.

Subsection (g) defines the terms "plan", "recycled product", and "retread tire."

* Section 3. Amends AS 46.06 to add a new section (AS 46.06.025)

Subsection (a) requires the Dept. of Environmental Conservation to develop a statewide plan to manage solid waste generated by state agencies, and to consult with the affected state agencies. The plan must be consistent with AS 46.06.021.

Subsection (b) requires the plan to identify the characteristics of recyclable materials in the waste stream and their present destination.

Subsection (c) requires the plan to include an evaluation of those recyclable materials that can be used for trade in the state and in the PNWER.

Subsection (d) requires the plan to be updated every two years.

Subsection (e) requires the director of the court system to adopt a solid waste management plan, consistent with (a) - (d) of this section.

Subsection (f) requires the legislative council to adopt a solid waste management plan, consistent with (a) - (d) of this section.

Subsection (g) defines "plan" and "state agency."

* Section 4. Market Development Report.

Subsection (a) directs the Department of Commerce and Economic Development to submit a report to the legislature by January 1, 1993 on ways the state can encourage development of markets for recycled products.

Subsection (b) requires the report to have an analysis on the role procurement preferences can play in the development of recycled markets.

Subsection (c) requires the Commissioner of C&ED to consult with the Dept. of Admin. and Dept. of Environmental Conservation when preparing this report.

* Section 5. requires the Department of Administration and the Department of Transportation and Public Facilities to adopt minimum purchasing requirements required by AS 36.30.075(b), section 2 of this Act, by January 1, 1993.

CANADIAN ENVIRONMENTAL CHOICE GUIDELINES

In 1988, Environment Canada, the national environmental agency, developed the Environmental Choice Program. This program is completely voluntary and is targeted to manufacturers and consumers. Products that meet the guidelines of the program are identified by the manufacturer through the use of an "ecologo symbol," and consumers may choose to buy products marked by this logo. Products must meet or exceed all Canadian governmental and industrial safety and performance standards, and all steps in the transport, manufacture and waste disposal during production of the product must meet the requirements of the Canadian Environmental Protection Act as well as the requirements of all other applicable regulations and policies.

Guidelines for at least 15 product categories have been finalized. Those guidelines relevant to recycled product procurement include:

1. Re-refined lubricating oil: 50 percent by volume re-refined oil in the base stock and less than 5ppm of chlorinated compounds and less than 25ppm metals.
2. Construction materials made from wood-based cellulose fiber: 100 percent of the fiber content of thermal insulation material must be post-consumer fiber.
3. Recycled plastic products: Construction materials must be 60 percent post-consumer plastic by weight. All other categories must be comprised of at least 90 percent post-consumer plastic by weight.
4. Fine paper made with recycled fiber: At least 50 percent by weight of recycled paper, of which at least five percent must be post-consumer fiber.
5. Miscellaneous products made from recycled paper: At least 50 percent by weight of recycled paper, of which at least five percent must be post-consumer fiber. This category currently includes only hobby and craft forms (e.g. components in handicraft work), but other sub-categories are expected to be added in the future.
6. Newsprint from recycled paper: Over 40 percent by weight of recycled paper, a minimum 25 percent of which must be old newspaper.

The Guidelines also cover cloth diapers, heat recovery ventilators, water based paints, solvent based paint, zinc air batteries, ethanol-blended gasoline, composting containers, diaper services, and reusable shopping bags.

Under review or awaiting final approval are energy efficient major appliances and lamps, sanitary paper made from recycled paper, detergents, non-rechargeable batteries, water-conserving products, and compost.

Copies of the guidelines can be obtained from:

Jack Poon or Ahmad Hussein
Canadian Standards Association
178 Rexdale Blvd.
Rexdale, Ontario, M9W 1R3
416-747-4000

FEDERAL PROCUREMENT POLICIES FOR THE UNITED STATES

U.S. Environmental Protection Agency *Procurement Guidelines for Government Agencies* (EPA/530-SW-011, December 1990).

The following five guidelines apply to all federal, state, and local procuring agencies using appropriated federal funds, as well as to the contractors of these agencies. The guidelines apply only if the agency or contractor purchases more than \$10,000 worth of the specified item.

1. Paper and Paper Products (40 CFR part 250, 53 FR 23546 June 22, 1988):

<u>Product Type</u>	<u>Minimum Content Standard</u>
Newsprint	40% Post-consumer (pcn) recovered materials
Most types of high grade bleached printing & writing paper*	50% waste paper
Toilet tissue	20% pcn recovered materials
Paper Towels	40% pcn recovered materials
Paper napkins	30% pcn recovered materials
Facial tissue	5% pcn recovered materials
Doilies	40% pcn recovered materials
Corrugated boxes	35% pcn recovered materials
Fiber boxes	35% pcn recovered materials
Brown papers (e.g. bags)	5% pcn recovered materials
Recycled paperboard products	80% pcn recovered materials
Pad backing	90% pcn recovered materials

*Does not include paper for high speed copiers, form bond, or cotton fiber papers.

2. Lubricating Oils Containing Refined Oil (40 CFR Part 252, 53 FR 24699, June 30, 1988): Procuring agencies must "require the use of re-refined oils to the maximum extent possible without jeopardizing the intended end use of these items." Specific types of lubricating oils, hydraulic fluids, and gear oils are recommended.

3. Retread Tires (40 CFR Part 253, 53 FR 46558): Requires that agencies use retread tires to the maximum extent possible, and that agencies eliminate requirements that tires be manufactured from virgin materials.

4. Building Insulation Products Containing Recovered Materials (40 CFR Part 248, 54 FR 7328, February 17, 1989): Paper fibers can be used in cellulose loose-fill and spray-on insulation, as well as in perlite composite board. Mixed color waste-glass can be used in producing fiberglass insulation. Plastic rigid foams can reuse glass cullet as well as post-consumer PET. Some rock wool manufacturers use aluminum potliners as a fuel substitute and fluoride source.

<u>Material Type</u>	<u>Percent by Weight</u>
Cellulose loose fill & spray on	75% pcn recovered paper
Perlite composite board	23% pcn recovered paper
Plastic ridge foams:	
Polysocyanurate/polyurethane:	
Rigid foam	9% recovered material
Foam-in-place	6% recovered material
Glass fiber reinforced	6% recovered material
Phenolic rigid foam	5% recovered material
Rock wool	50% recovered material

5. Cement and Concrete Containing Fly Ash (40 CFR Part 249, 48 FR 4230, January 28, 1983): Allows agencies flexibility in developing their own policies, but encourages fly ash to be used as an ingredient in concrete and cement.

SHB 1671 (Waste Not Washington), April 18, 1989

Section 53. Encourages city, county, local and other government offices to purchase recycled products. Requires state agencies to set an example by increasing purchase of recycled paper products by 50% by July 1993. (This simply means that if a department were purchasing recycled paper as 10 percent of its total paper purchases, by 1993 recycled paper would have to comprise 15 percent of the department's total paper purchases)

This same act allows state agencies to pay more for recycled products, at a limit specified by the Director of General Administration.

Contact: Lee Mitchell
Washington State Department of Ecology,
Division of Waste Reduction, Recycling, and Litter Control
206-438-7773

Administrative Rule: Price Preference: In December of 1990, the Department of General Administration ruled that state agencies and institutions could give up to a 10% price preference to products with recycled content. The amount of preference varies according to how the product contents meet EPA guidelines. If no guidelines exist for a specific product, then the state agency sets a percentage of recycled content when asking for bids, and that percentage can be no less than 15 percent.

Contact: Don Johnsen
Procurement Officer, Department of General Administration
206-753-6473

Other Regional Efforts

FOURTEEN STATE PAPER-BUYING COALITION

In an effort funded by the EPA, the purchasing divisions from 14 Western states, including Alaska, Idaho, Montana, Oregon, and Washington, plan to combine purchasing of recycled paper products to help stimulate demand for the products. The second meeting of the coalition will be in late January, to discuss specifications and further details.

Contact: Kay Hawley
Washington Office of State Procurement
206-753-0540

ORS 279.735. Department of General Services rules for recycling: The Department of General Services shall adopt rules that establish procedures for the separation of solid waste generated by state agencies that can be recycled or reused, and establish a system for the collection of that waste. All state agencies shall comply with these procedures and systems.

ORS 297.737. Encouragement of paper conservation: The Department of General Services shall encourage paper conservation by providing guidelines to state agencies and state contractors on the availability of recycled paper and paper products, including the sources of supply and the potential uses of various grades of recycled paper.

ORS 279.739. Preference for Purchase of Recycled Materials: Any public agency charged with the purchase of materials and supplies may, in its discretion, give a price preference of up to five percent to the purchase of materials and supplies manufactured from recycled materials. For these purposes, recycled material means any material that would otherwise be a useless, unwanted or discarded material except that it still has useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled.

ORS 468.967-969. Restrictions on non-recyclable, non-biodegradable food service products: State agencies and their subcontractors may not use food service products made out of plastic, polystyrene or other materials if those materials are non-biodegradable or non-recyclable. Exceptions are permitted only if the state's Department of Environmental Quality certifies that a viable recycling program exists or that there is no recyclable substitute available.

In addition, Administrative Order 125-30-030 requires agencies to purchase recycled paper if it falls within the five percent recycled product preference.

Contact: Byron Thompson
Purchasing Analyst
503-373-1467

WASHINGTON

Washington law contains the following provisions dealing with recycling and procurement of recycled materials:

RCW 43.19.538. Agency Procurement of Recycled Products: The Director of General Administration is required to develop specifications and adopt rules for buying recycled products based on recycled content information. Bidders must certify a range of recycled material content, which may be stated in 15% increments.

Directory of Recycled Product Vendors: A directory shall be developed by the Director of General Administration.

Preferential Purchases of Recycled Products: Nothing in state law shall preclude other levels of government (e.g. cities, counties) from allowing the preferential purchase of recycled or reused products.

RCW 43.19.1911. Life Cycle Costing: The "lowest responsible bidder" can be qualified by using "life cycle costing" if it results in the lowest total cost to the state and complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including operation, maintenance, and disposal, as far as these costs can be reasonably determined.

MONTANA

In early 1990, the Governor of Montana designated June 1990 as Montana Recycling Month and launched a one-year recycling pilot program for used paper. Under the direction of the Montana Department of Natural Resources and Conservation (DNRC), the program will collect used computer paper, photocopy paper, and white bond throughout the state capitol complex. The pilot program will build on successful recycling efforts already in place within individual agencies.

The DNRC will develop, implement and evaluate the pilot program using existing staff and financial resources. At the conclusion of the test period, DNRC will recommend whether to continue paper recycling on a permanent basis, and will consider other recycling possibilities within state government operations.

Contact: Peggy Nelson (paper recycling project only)
Energy Education Specialist, DNRC
406-444-6697

OREGON

Oregon law contains the following provisions dealing with recycling and procurement of recycled products:

ORS 279.729. Standards for paper used by state agencies: The Department of General Services shall establish specifications for paper used by state agencies requiring the highest percentage possible of the total paper purchased by the department in any fiscal year to be recycled paper or paper in the same grade most nearly meeting the definition of recycled paper. The department shall also make available, through its purchasing procedure, in all grades where it can be obtained, recycled paper or paper in the same grade most nearly meeting the definition of recycled paper.

ORS 279.731. Definition of recycled paper: As used in related Oregon laws, recycled paper means a paper product with not less than 1) 50 percent of its total weight consisting of secondary waste materials; or 2) 25 percent of its total weight consisting of post-consumer waste.

ORS 279.733. State agencies' duties regarding purchase and use of recycled material: All state agencies purchasing supplies, materials, equipment or personal services shall, wherever economically feasible:

1. review their procurement specifications to eliminate discrimination against the procurement of recycled materials.
2. provide incentives in all procurement specifications for the maximum possible use of recycled materials.
3. develop purchasing practices which assure purchase of materials which are recycled or may be recycled when discarded.
4. establish management practices which minimize the volume of solid waste generated by limiting the amount of materials consumed and discarded.
5. use, and require persons with whom they contract to use, recycled paper.

have direct access to the manufacturer without going through the usual requisition channels. This makes it easier for ministries to acquire the approved recycled products at previously negotiated prices.

The Purchasing Commission has set a target that 60 percent of the paper used in B.C. government will be comprised of 40 percent post-consumer waste by 1998. 20 percent of the Province's 1,000 car vehicle fleet uses re-refined oil. Additionally, in accordance with Canada's National Packaging Protocol, British Columbia informs bidders that "The Province of British Columbia is anxious to identify opportunities to utilize recyclable or reusable packaging as a means to reduce the impact upon the environment, and will consider this aspect in its bid evaluations."

Contact: Noel Reeves
Purchasing Commission, British Columbia
604-389-3384

IDAHO

In March of 1990, the Idaho Legislature adopted House Concurrent Resolution No. 36, encouraging the initiation of a solid waste reduction program within state government and throughout the state. The goal of the program is to reduce the amount of solid waste consigned to landfills by 25 percent within five years. The resolution recommends the following steps:

1. The State Board of Health and Welfare is encouraged to develop an educational program for the public schools to show the need for reductions in solid waste generation.
2. The Idaho Water Resources Board is encouraged to develop programs to utilize solid waste in energy production.
3. The Department of Administration is encouraged to develop programs for implementation through all of the state agencies to recycle as much solid waste generated by those agencies as is economically feasible.
4. Political subdivisions of Idaho are encouraged to implement local solid waste management programs, including solid waste recycling.
5. The State of Idaho, its agencies and its political subdivisions are encouraged to use recycled products and materials in the delivery of state and local government services to the greatest extent possible.
6. State agencies shall report their progress in reducing solid waste to the Governor and Legislature for three years.

Contact: Coleen Grant
Administrator, Division of Purchasing
208-327-7465

5. require agency staff to become familiar with pertinent waste reduction and recycling practices and to identify opportunities to implement them at their job locations.

Contact: Bob Link
Director, Division of General Services
907-465-2253

ALBERTA

The Province's purchasing standards and specifications are currently being revised to reflect the interest in stimulating recycled products markets. As of yet, however, Alberta has no formal procurement policy concerning recycled goods. The province recently established an Environmentally Responsible Products and Practices Committee, and is expecting to do more "green product" procurement under a proposed waste-minimization and recycling program. Details of the program are not yet available.

The Public Works, Supply and Services Department and Alberta Environment buy only recycled paper products, while the other provincial agencies are encouraged to choose recycled product alternatives. Recycled paper, as outlined in Canada's "Environmental Choice Guidelines," is constituted by a minimum of 50 percent post-consumer and post-commercial waste, at least five percent of which must be post-consumer waste paper. The following products are, or will soon be, purchased for government departments as alternatives to non-recycled products:

- o general purpose paper for bond and photocopy purposes.
- o business cards, envelopes (16 types), letterhead paper, file folders, paper pads, single-part forms, paper towels.
- o retreaded and recapped tires for trucks and equipment.
- o re-refined oil for automobile fleets.
- o recharged toner printer changes for desktop laser printers.

In addition, departments are encouraged to purchase reusable coffee cups, organic industrial oil absorbent, plain paper fax machines, and double-sided photocopiers.

Contact: Ray Keroack
Alberta Public Works, Supply, and Services Department
403-427-0681

BRITISH COLUMBIA

British Columbia's Purchasing Commission Act was amended in June of 1990 and now commits the commission to increasing the supply of and demand for recycled products and encouraging economic growth and development in recycling and related industries. The B.C. Purchasing Commission chairs Canada's National Ministers of Procurement Committee on Environmentally Sound Purchasing. This committee has drafted a set of common principles of environmentally sound procurement, but has not specified procurement guidelines.

The province's purchasing commission is currently developing Master Standing Offers (MSO's) for products containing recycled material. Once a specific product has been added to the MSO, ministries

**PACIFIC NORTHWEST STATE AND PROVINCIAL
RECYCLING AND PROCUREMENT POLICIES**

ALASKA

Alaska law contains the following provisions dealing with recycling and procurement of recycled materials:

AS 36.30 (as amended June 21, 1990). Agency Procurement of Paper: When a state agency purchases paper, at least 15 percent of the quantity purchased must be recycled paper. As of July 1, 1994, the percentage will increase to 25 percent. Exceptions are permitted when recycled paper is not available for the purchase or, after application of a five percent recycling preference, the recycled paper is more expensive than non-recycled paper.

Procurement Preference for Recycled Products: In the evaluation of a bid or proposal for an agency procurement of products, the agency shall decrease the bid or proposal by five percent if the products to be purchased are recycled products. (For procurement of recycled paper products under this section, minimum content standards are those recommended by the EPA).

AS 44.68 (as amended June 21, 1990). Disposition of Obsolete or Surplus State Property: The State Department of Administration shall take possession of obsolete or surplus state property that is recyclable, and shall also take possession of recyclable property remaining in control of a commission or board of the state government after the commission or board stops functioning. The Department of Administration shall sell, lease, license, or dispose of the property on the terms it considers in the best interests of the state. Recyclable property means property that cannot be used for its intended purpose in its present form, but that can be used to create new property.

AS 44.99 (as amended June 21, 1990). Use of Paper: State agencies shall use both sides of paper when feasible.

Waste Reduction and Recycling Task Force: A Waste Reduction and Recycling Task Force is created within the Office of the Governor to 1) identify opportunities in state government to reduce waste, increase the reuse or recycling of materials, and promote the purchase of materials that are made of materials that have been recycled, and 2) design plans to implement those opportunities. The task force shall report those opportunities and plans to the state legislature in April 1991 and April 1992, at which point the task force is terminated.

In addition, Administrative Order #119, issued by the Governor of Alaska in early 1990, directs state agencies to explore opportunities and implement plans to reduce, recycle, and reuse their wastes, and purchase materials made from recycled products. Specifically, departments and agencies were directed to:

1. appoint an individual to serve as the department's waste reduction and recycling liaison.
2. encourage and authorize the purchase and substitution of products or processes that reduce the amount of toxicity or waste produced.
3. encourage and authorize the purchase of equipment to recycle or beneficially use wastes.
4. encourage and authorize the purchase of products made from recycled materials, particularly paper products.

ANALYSIS - HB 465

The funds requested will be used to create a new full time Environmental Specialist III position in the Solid and Hazardous Waste Management Section. The new employee will work with all State agencies to plan for solid and hazardous waste management and implement the plans. Additional funding for contractual services is also requested. The selected contractors will collect technical information about the waste generation rates and composition of solid and hazardous waste generated by State agencies. Contractual services funds requested for future fiscal years are to provide plan updates as required by the bill.

Comments on the bill:

1. Our comments and fiscal note reflect only Section 46.06.025. The Procurement Recycling Plan would appear to be the responsibility of the Department of Administration.
2. Page 4, lines 10 and 16 imply that the plan applies to all wastes, not just those that are generated by State agencies. Our fiscal note assumes that we are preparing a management plan just for State agency generated wastes.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 465

Revision Date: 2/12/92 Department Affected: Environmental
 Title: Relating to Recycling and the Conservation
Management of solid waste BRU: Environmental Quality
 Sponsor: Ulmer, Davis Component: Solid and Hazardous Waste section
 Requestor: _____

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	60.00	63.00	66.00	69.00	72.00	75.00
TRAVEL	5.00	5.00	5.00	5.00	5.00	5.00
CONTRACTUAL	208.00	8.00	58.00	8.00	58.00	8.00
SUPPLIES	1.00	1.00	1.00	1.00	1.00	1.00
EQUIPMENT	5.00	5.00	5.00	5.00	5.00	5.00
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	279.00	82.00	135.00	88.00	141.00	94.00

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	279.00	82.00	135.00	88.00	141.00	94.00
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	279.00	82.00	135.00	88.00	141.00	94.00

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.) <p style="text-align: center;">See Attached</p>

Prepared by: Glenn Miller
 Division: Solid and Hazardous Waste

Phone: 465-5150
 Date: 2/28/92

Approved by Commissioner: *James B. Fairley*
 Agency: Environmental Conservation

Date: 2/28/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

7-LS1566G ✓
Bannister
3/4/92

CS FOR HOUSE BILL NO. 465 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ULMER, B.Davis, Brown, Koponen, Finkelstein

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to recycling and the management of solid waste by state agencies."

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

3 * Section 1. LEGISLATIVE FINDINGS AND PURPOSES. (a) The legislature finds that

4 (1) a global economy is emerging in which otherwise unrelated countries and other
5 governmental entities that are located in the same geographic region are forging cooperative
6 arrangements that benefit their individual and common well-being;

7 (2) these cooperative arrangements are increasing the economic competitiveness of the
8 participants, which increases the economic benefits and the overall quality of life for the citizens of the
9 individual participants;

10 (3) the states of Alaska, Idaho, Montana, Oregon, and Washington, and the Canadian
11 provinces of Alberta and British Columbia are in a strategic position to cooperate in adopting standards
12 for the procurement of recycled products, and this cooperation would increase the overall market effect
13 of the standards each state or province adopts.

14 (b) The purposes of this Act are to

1 (1) substantially increase the procurement of recycled products by state governmental
2 agencies and to provide a model to encourage a comparable commitment by individual citizens and
3 businesses of the state;

4 (2) direct government procurement policies and goals toward the procurement of those
5 recycled products for which markets can be developed or that substantially affect the state's waste
6 management problems; and

7 (3) establish recycled product procurement standards that can be used in procurement
8 programs by all state government agencies and that are consistent with those of other states and
9 provinces in the Pacific Northwest economic region of the United States and Canada.

10 * Sec. 2. AS 36.30 is amended by adding a new section to read:

11 Sec. 36.30.075. PROCUREMENT RECYCLING PLANS. (a) The Department of
12 Transportation and Public Facilities shall establish for itself, and the department shall establish
13 for all state agencies other than the Department of Transportation and Public Facilities, a plan
14 to increase the procurement of recycled products when an agency procures plastic products, motor
15 vehicle lubricants, tires, latex paints, paper products, and compost products.

16 (b) The plans must include minimum procurement goals for procuring recycled products
17 when procuring plastic products, motor vehicle lubricants, and latex paints. The goals must be
18 expressed as a percentage of the annual total dollar amount expended by an agency to procure
19 the particular product.

20 (c) The goals of the plans for the procurement of recycled products for paper products
21 must be consistent with AS 36.30.095.

22 (d) The plans may not require the use of a recycled product for a motor vehicle lubricant
23 if the recycled product

24 (1) is not available within a reasonable period of time or in quantities necessary
25 to meet the needs of the procuring agency;

26 (2) does not meet the performance standards recommended by the manufacturer
27 of the equipment or vehicle for which it will be used or the warranty requirements for the motor
28 vehicle;

29 (3) is only available at a cost that is more than five percent greater than the cost
30 of a comparable lubricant that is not a recycled product.

31 (e) When feasible, the plans must include a requirement that an agency shall use retread

1 tires for the nonsteering wheels of agency vehicles, except for emergency vehicles, including fire
2 suppression and emergency assistance vehicles.

3 (f) The plans must include a requirement that agencies use reasonable efforts to eliminate
4 the purchase of paper products that cannot be recycled.

5 (g) In this section,

6 (1) "plan" means a recycling plan established under (a) of this section;

7 (2) "recycled product," except for paper and tires, means a product in which at
8 least 50 percent of the total weight consists of secondary waste materials and post-consumer
9 waste materials and at least 10 percent of the total weight consists of post-consumer waste
10 materials; "recycled product" as applied to paper has the meaning established by the Department
11 of Administration; "recycled product" as applied to tires means retread tires; "recycled product,"
12 except for paper and tires, includes a product that has completed its life cycle as a consumer
13 item, but otherwise is refurbished for reuse without substantial alteration of the product's form;
14 in this paragraph,

15 (A) "post-consumer waste materials" means finished materials that would
16 normally be disposed of as solid waste, having completed their life cycles as consumer
17 items;

18 (B) "secondary waste materials" means product fragments and finished
19 products that have completed their life cycle as a consumer item and that are normally
20 disposed of as solid waste; "secondary waste material" does not include excess virgin
21 resources remaining after a manufacturing process;

22 (3) "retread tire" means a tire that uses an existing casing for the purpose of
23 vulcanizing new tread to the casing, that meets the testing program of the United States General
24 Services Administration, and that is listed on the Qualified Products List issued by the General
25 Services Administration.

26 * Sec. 3. AS 46.06 is amended by adding a new section to read:

27 Sec. 46.06.025. SOLID WASTE MANAGEMENT PLAN. (a) The department shall
28 develop a statewide plan to manage the solid waste generated by state agencies. The plan must
29 be consistent with AS 46.06.021. The initial plan must cover at least a 10-year period. When
30 preparing the plan, the department shall consult with affected state agencies, local governments,
31 and other appropriate entities.

1 (b) The plan must include an identification of the characteristics of the waste stream of
2 recyclable materials generated by state agencies, including the nature, type, amount, use, and
3 present destination of the recyclable materials. In this subsection, "recyclable materials" means
4 materials that would otherwise be useless, unwanted, or discarded materials, except that the
5 materials still have useful physical or chemical properties after serving a specific purpose and can
6 be reused or recycled.

7 (c) The plan must include an evaluation of the nature, type, quality, and quantity of
8 secondary waste materials generated by state agencies that can be used for trade in the state, in
9 the northwestern states of the United States, and in the western provinces of Canada. In this
10 subsection, "secondary waste materials" means product fragments and finished products that have
11 completed their life cycle as a consumer item and that are normally disposed of as solid waste;
12 "secondary waste material" does not include excess virgin resources remaining after a
13 manufacturing process.

14 (d) The department shall update the plan every two years.

15 (e) The administrative director of the court system shall adopt a statewide solid waste
16 management plan to be used by the court system. The plan must be consistent with (a) - (d) of
17 this section.

18 (f) The legislative council shall adopt a statewide solid waste management plan to be
19 used by the legislative branch. The plan must be consistent with (a) - (d) of this section.

20 (g) In this section,

21 (1) "plan" means a statewide solid waste management plan;

22 (2) "state agency" means a department, institution, board, commission, division,
23 authority, public corporation, or other administrative unit of the executive branch of state
24 government, but does not include the University of Alaska, the Alaska State Housing Authority,
25 the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, or the Alaska
26 Aerospace Development Corporation.

27 * Sec. 4. MARKET DEVELOPMENT REPORT. (a) On or before January 1, 1993, the
28 commissioner of commerce and economic development shall submit a report to the legislature addressing
29 what the state can do to encourage the development of in-state and out-of-state markets for recycled
30 products.

31 (b) The report must include an analysis of the role procurement preferences can play in

1 encouraging recycling and expanding in-state and out-of-state markets for recycled products.

2 (c) The commissioner of commerce and economic development shall consult with the
3 Department of Administration and the Department of Environmental Conservation when preparing the
4 report.

5 * Sec. 5. The Department of Administration and the Department of Transportation and Public
6 Facilities shall adopt the initial minimum purchasing goals required by AS 36.30.075(b), enacted by sec.
7 2 of this Act, on or before July 1, 1993.

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: MICHAEL PALANVK
TITLE: UAA STUDENT/WRITER
ADDRESS: BOX 190971
CITY: ANC

ZIP: 99519

PHONE: 345-1968
BILL NO: HB 465

SUBJECT: RECYCLING/SOLID WASTE MANAGEMENT PLANS
MESSAGE: PLEASE SUPPORT THIS BILL PARTICULARLY THE SECTION IN SUPPORT OF MARKET
RESEARCH. RECYCLING IN ALASKA IS MARGINALLY EFFICIENT BECAUSE OF OUR DISTANCE
FROM RECYCLING PLANTS. WE NEED TO CONCENTRATE ON USING RECYCLED PRODUCTS AND
FINDING NEW MARKETS FOR THE REUSEABLE RESOURCES CONSUMED BY STATE AGENCIES.

POMID: 03144550
DATE: 92/02/28
TIME: 14:45:50
LOCATION: ANCHORAGE LIO

COPIES: REPRESENTATIVES

CARNEY
FINKELSTEIN
HUDSON
IVAN
LEMAN
LINCOLN
MOYER
ZAWACKI



All Dressed Up And Nowhere to Go

The collection programs are in place, the recyclables have been separated. Now what?

By Nicole Achs, Assistant Editor

They sat amidst discarded styrofoam containers, old mattresses and yesterday's lunch, monuments to the great gods of supply and demand. Row upon row of neatly bagged glass containers, separated, washed and sorted for recycling, had been relegated to Tucson's municipal landfill, dashing the hopes of citizens who had responded to a city-wide recycling drive and collected glass from schools and residences.

The recyclers had been so zealous that they collected too much glass for the plant to process. "We had a really heartening response, but we couldn't absorb it," says Karen Heidel, Tucson's director of energy and environment.

Unfortunately, Tucson is not alone. Collected recyclables across the country have met similar fates as processors reject material because it fails to meet specifications, does not generate adequate revenue or is just too abundant in the marketplace.

Successful recycling requires a complex equation involving collection, processing and end-use, and many localities are finding that these factors are not balancing out. Strategies to address this imbalance have run the gamut from enhanced education campaigns and "buy recycled" programs to more heavy-handed approaches like bottle bills and mandates requiring materials

such as paper, glass and plastic to contain a certain percentage of recycled material.

Actions which deliberately force a balance between supply and demand could have untold costs.

Now the big question is, will these measures work?

As with any equation, when something is added to one part, something has to be taken away. Tinker with the laws of supply and demand, some say, and there will be a price to pay down the line.

Any kind of action which tries deliberately to force a balance between supply and demand, "will have untold costs," says Charlotte Frota, a solid waste management consultant. "If you tweak one part of the system, you'll have large reverberations somewhere else."

On the other hand, landfills are filling up, and nobody is particularly anxious to open a new one in the neighborhood. Raw materials such as timber are being consumed more quickly than they can be replaced. Consequently, it would seem recycling has to be made to work, even if it means imposing regulations to force the issue.

When the idea of recycling first took off, it was envisioned as a revenue-generating system. While the long-term economic and environmental costs of recycling may indeed be less than landfilling, localities have found it is more expensive than expected to make one man's treasure from another man's trash.

"It is easier to go out and collect a bunch of newspapers than it is to build a plant to process it that costs \$1 to \$3 million and can take three years to build," says Michael Kehs of the Aseptic Packaging Council. Paper processing plants "are the size of several football fields," he says. "You can't build them overnight."

"No one is going to build the equipment to process (recyclable material) if they are not sure where to sell it," says Harvey Gershman, president of GBB Consultants, Falls Church, Va., and a member of the Solid Waste Association of North America (SWANA).

Some industries, like steel and aluminum, greatly favor recycled over virgin