

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7202 HOUSE RESOURCES

SB 191 Analysis

Section 1: Allows a permit to be transferred as part of the dissolution of a marriage; also allows a permit to be inherited.

Section 2: Allows a person to hold a permit to more than one homesite because of an inheritance, or because of a disabling injury to the original permit holder.

Section 3: New language needed to implement Sections 1 and 2.

Section 4: Amends the existing building requirement to ensure that dwellings are permanently attached to a permanent foundation. Mobile homes have, in the past, been placed on foundations to meet building requirements, and then removed once the department completed its inspection. Under this new language, mobile homes would still be allowed, but they would need to be permanently attached to a permanent foundation.

Section 5: Allows permit holders who marry after receiving their permits to both obtain title to homesteads. Currently, only one patent per household is allowed.

Section 6: Allows an applicant to obtain title to a homesite if the building requirements, as clarified by this bill, are met.

Section 7: Allows the applicant to obtain title to more than one homesite by inheritance and use the efforts of the deceased applicant to qualify for the homesite, or receive title if the permit was obtained from a disabled permit holder. (This is similar to Sections 1 and 2, but relates to obtaining title to the land. Sections 1 and 2 relate to holding the permit.)

Section 8: Amends the current law to allow an applicant an additional year to complete a dwelling if the director finds that a dwelling has been substantially completed within 5 years, but is not yet habitable. This would make the homesite program consistent with the homestead program (AS 38.09.040(a)(3)).

Section 9: Provides the same building requirement opportunities to applicants who received their entry permits prior to July 1, 1983 as is currently provided to applicants.

Section 10: Makes the provisions of this bill apply to anyone who currently holds a homesite entry permit.

Section 11: Adds an effective date of July 1, 1991 for the bill.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 191 Jud

Revision Date: 19-Mar-91 Department Affected: Natural Resources
 Title: Homestead Entry Program BRU: Land & Water
 Components: Land & Water
 Sponsor: Senator Eliason
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

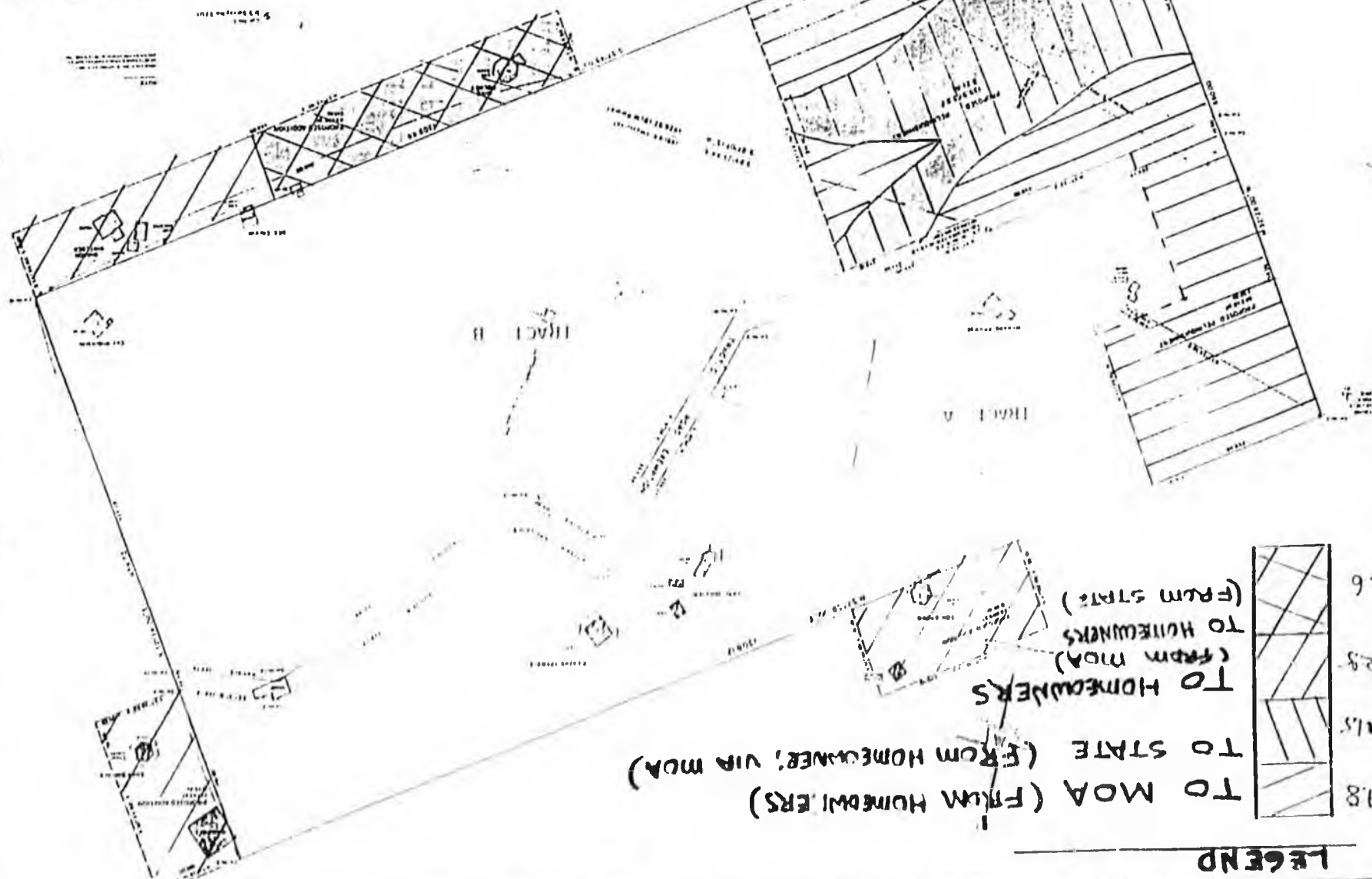
Prepared by: Gary Gustafson Phone: 762-2672
 Division: Land & Water Date: 19-Mar-91
 Approved by Commissioner: Harold Heinze Date: 19-Mar-91
 Agency: Department of Natural Resources

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

S B

2 3 1

AS-BUILT SURVEY



PROPOSED BIRD CREEK LAND EXCHANGE

LEGEND

- TO MOA (FROM HOMEOWNERS)
- TO STATE (FROM HOMEOWNERS, VIA MOA)
- TO HOMEOWNERS (FROM MOA)
- TO HOMEOWNERS (FROM STATE)



9.8
4.5
2.8
6



Alaska State Legislature

Senator Curt Menard



*While in
Session:*
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

*Senate
District
E*

SPONSOR STATEMENT

SB 231 will resolve the longstanding property title problem of a number of private landowners who inadvertently built homes outside of their property lines on state and Municipality of Anchorage land in the vicinity of Bird Creek.

The three way land exchange described in SB 231 will result in the homeowners receiving approximately .6 acres of state land and approximately 1.5 acres of municipal land on which their homes were mistakenly built. In return the Municipality of Anchorage will receive approximately 4.8 acres of valuable public fishing and recreational access along Bird Creek.

Additionally, an amendment was adopted in the Community and Regional Affairs Committee which will remedy a surveying error which occurred when the land was originally conveyed from the Federal Government. Tidelands, normally reserved to the state in the original conveyances, were not identified along Bird Creek, and consequently were not identified in the State's later conveyance of the Bird Creek Regional Park land to the MOA. The C&RA committee substitute provides for the conveyance of approximately 1.0 - 2.5 acres of tidelands to the state.

Thank you for your consideration of SB 231. I would appreciate your support.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SR 231

Bill (S) Publish Date: 2-5-92

Revision Date: 27-Jan-92 Department Affected: Natural Resources
 Title: Conveyance of Land BRU: Land Management
Chugach State Park Components: Land Management
 Sponsor: Senator Menard
 Requestor: Senate Finance COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding 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: None

ANALYSIS: (Attach a separate page if necessary)

Changes in CSSR 231 (CBA) have no fiscal impact. This fiscal note is appropriate.

2-5-92 date [Signature] Comte Aide (initial)

Prepared by: Ron Swanson Phone: 762-2692
 Division: Land Management Date: 27-Jan-92

Approved by Commissioner: MB Harold C. Heinze [Signature] Date: 27-Jan-92
 Agency: Department of Natural Resources

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




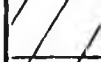
SR 231

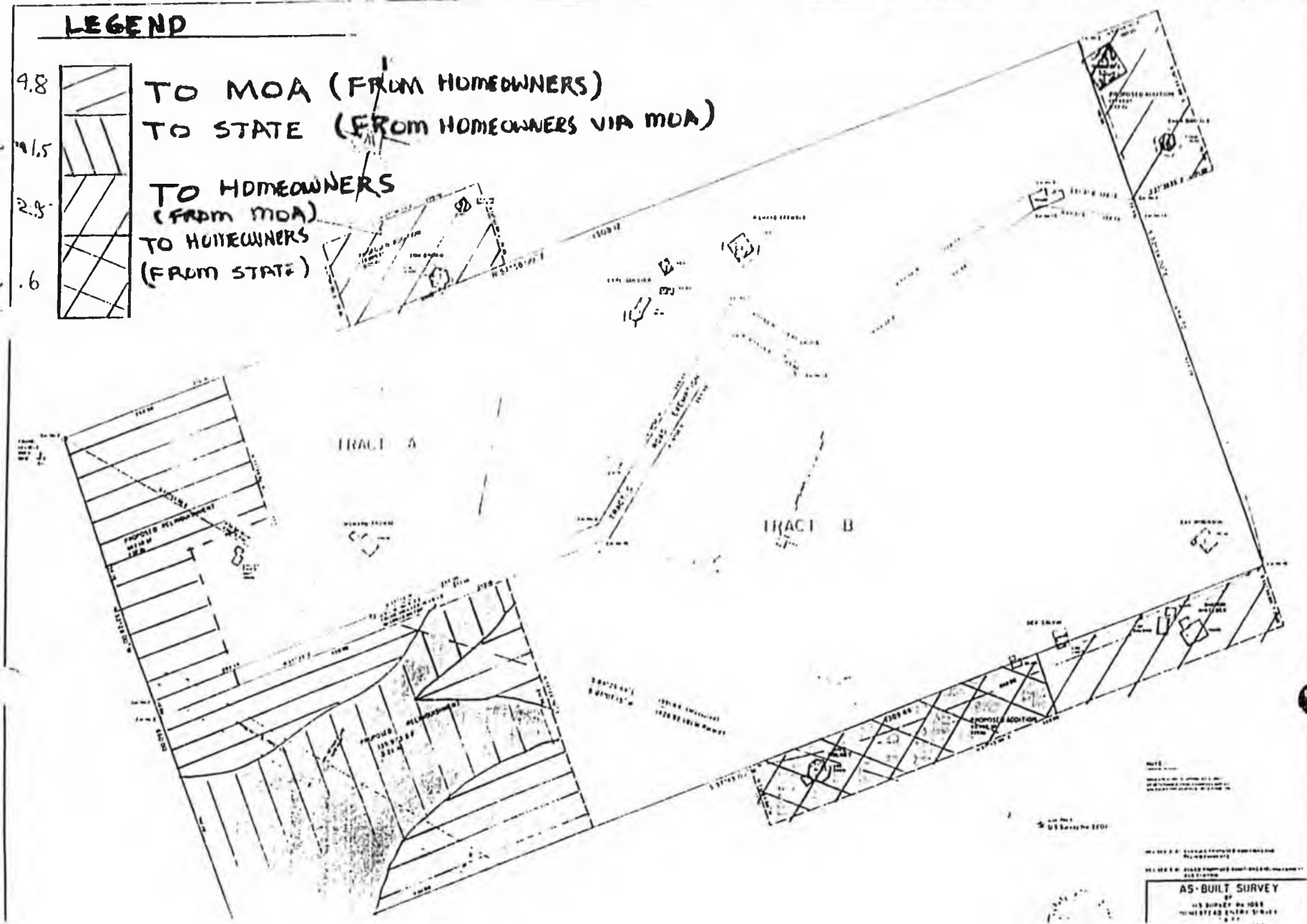
CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

PROPOSED BIRD CREEK LAND EXCHANGE

LEGEND

9.8		TO MOA (FROM HOMEOWNERS)
4.5		TO STATE (FROM HOMEOWNERS VIA MOA)
2.8		TO HOMEOWNERS (FROM MOA)
.6		TO HOMEOWNERS (FROM STATE)



AS-BUILT SURVEY
 BY
 U.S. SURVEY No. 1088
 UNITED STATES GEOLOGICAL SURVEY

PROPOSED BIRD CREEK LAND EXCHANGE SB 231

The Municipality of Anchorage (MOA), the Alaska Department of Natural Resources (DNR) and a group of homeowners who own land along Bird Creek are proposing a land exchange. Bird Creek is located in Bird Creek Valley which is along Turnagain Arm southwest of Anchorage. The lands involved in the proposed land exchange are owned by the homeowners, the Municipality of Anchorage and the State.

The land exchange, as shown on the attached map, would give the public an additional 4.8 acres of land along Bird Creek. This land is heavily used by persons sport fishing for salmon in mid to late summer. This land also possess important fish and wildlife habitat values as a portion of it is a saltwater influenced wetland. This land along Bird Creek is proposed to be conveyed to the MOA and will be added to the Bird Creek Regional Park under municipal ordinance. Tidelands within this parcel, to be conveyed to the MOA will be reconveyed by the MOA to the state. The nearby municipal Bird Creek Regional Park is managed through a cooperative agreement with DNR as part of Chugach State Park. In exchange for this land, the homeowners will receive three pieces of public land totalling 2.05 acres which adjoin the parcel they presently own. The homeowners are interested in these tracts because they mistakenly placed some of their homes just off of the property that they own and on public land owned by the state and municipality.

Until recently, the homeowners thought that they only had to trade land with the MOA. In 1987, voters in the Municipality of Anchorage approved the land exchange in a municipal election. However, a closer review of the land ownership in the area revealed that a portion of one of the three tracts to be conveyed to the homeowners, by the MOA, included an Alaska Department of Transportation and Public Facilities's (DOTPF) material site that is within Chugach State Park. This portion of land is estimated to be 0.6 acres in size. The actual size of the tracts will not be confirmed until the land is surveyed. The material site was established before the land became part of Chugach State Park. DOTPF has agreed to give up their interest in the tract to be conveyed to the homeowners if it is surveyed before it is conveyed. However, because the land is part of Chugach State Park the Alaska State Legislature must authorize the removal of this land from the park.

SB 231, if enacted into law, will authorize the Commissioner of DNR to remove the land from the park and convey it to the MOA if: 1) it is determined that it will not interfere with DOTPF's use of the material site, and 2) MOA will only use the land for the purposes of the proposed land exchange. The land conveyed to the MOA, estimated to be 0.6 acres, will be in addition to the lands it has received from the State under its municipal land entitlement. The acreage of the tidelands that the MOA will reconvey to the State is not know, but is estimated at 1.0 to 2.5 acres.

by DNR/Parks 4/24/91 (revised 5/9/91, 4/7/92)



Alaska State Legislature

Senator Curt Menard



*While in
Session:*
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

*Senate
District
E*

SPONSOR STATEMENT

SB 231 will resolve the longstanding property title problem of a number of private landowners who inadvertently built homes outside of their property lines on state and Municipality of Anchorage land in the vicinity of Bird Creek.

The three way land exchange described in SB 231 will result in the homeowners receiving approximately .6 acres of state land and approximately 1.5 acres of municipal land on which their homes were mistakenly built. In return the Municipality of Anchorage will receive approximately 4.8 acres of valuable public fishing and recreational access along Bird Creek.

Additionally, an amendment was adopted in the Community and Regional Affairs Committee which will remedy a surveying error which occurred when the land was originally conveyed from the Federal Government. Tidelands, normally reserved to the state in the original conveyances, were not identified along Bird Creek, and consequently were not identified in the State's later conveyance of the Bird Creek Regional Park land to the MOA. The C&RA committee substitute provides for the conveyance of approximately 1.0 - 2.5 acres of tidelands to the state.

Thank you for your consideration of SB 231. I would appreciate your support.

WE SUPPORT



STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 27-Jan-92 Department Affected: Natural Resources
 Title: Conveyance of Land BRU: Land Management
Chugach State Park Components: Land Management
 Sponsor: Senator Menard
 Requestor: Senate Finance COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding 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: None

ANALYSIS: (Attach a separate page if necessary)

Changes in CSSB 231 (CBA) have no fiscal impact. This fiscal note is appropriate.

2-5-92 date [Signature] Comte Aide (initial)

Prepared by: Ron Swanson Phone: 762-2692
 Division: Land Management Date: 27-Jan-92

Approved by Commissioner: MB Harold C. Heinze Date: 27-Jan-92
 Agency: Department of Natural Resources

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

SB 231

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

February 27, 1992

The Honorable Jerry Mackie, Chair
House Community and Regional Affairs Committee
State Capitol
Juneau, AK 99811-1182

Dear Representative Mackie:

Subject: CSSB 231 (CRA), which authorizes the conveyance of up to two acres of state land within Chugach State Park to the Municipality of Anchorage.

Position: The Department of Natural Resources supports this bill because it will correct the problems of private land holders who inadvertently built homes outside of their property lines, on state and municipal land, and will allow the Municipality of Anchorage to acquire valuable public fishing and recreational access along Bird Creek.

Background: The Municipality of Anchorage, the Department of Natural Resources and a group of Bird Creek area homeowners would like to complete a three way land exchange that has been discussed for many years. As a result of the exchange, the homeowners would receive approximately .6 acres of state land and approximately 1.5 acres of municipal land on which their homes were mistakenly built. In return, the public would receive approximately 4.8 acres of sport fishing land along Bird Creek. The exact amount of acreage to be exchanged will not be known until a survey is completed.

This bill authorizes the Department of Natural Resources to convey up to two acres of public land to the Municipality of Anchorage. The area to be conveyed contains a gravel pit managed by the Department of Transportation and Public Facilities and will only be transferred if it does not interfere with DOT/PF use of the site. After receiving the land from the state, the municipality will convey it to the Bird Creek homeowners. In return, the homeowners will convey about 4.8 acres of land along Bird Creek to the municipality to include in the nearby municipal park. The park is managed under a cooperative agreement with the state as part of Chugach State Park. Municipality of Anchorage voters approved the exchange in a 1987 municipal election.

Sincerely,

Harold C. Heinze
Harold C. Heinze
Commissioner

cc: Senator Menard
Paul Fuhs, Legislative Liaison, Office of the Governor
Frank Turpin, Commissioner, Department of Transportation and
Public Facilities
Neil Johannsen, Director, Division of Parks and Outdoor
Recreation



Alaska State Legislature

SENATE


Official Business

SENATOR CURT MENARD

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

MEMORANDUM

TO: Representative Jerry Mackie, Chairman
Community and Regional Affairs Committee

FROM: Senator Curt Menard 

DATE: February 26, 1992

RE: Request for hearing on CS SB 231 (CRA)

I would like to request a hearing before the House Community and Regional Affairs Committee on CS SB 231 (CRA) at your earliest convenience.

SB 231 will resolve the longstanding property title problem of a number of private landowners who inadvertently built homes outside of their property lines on state and Municipality of Anchorage land in the vicinity of Bird Creek.

The bill is supported by the Municipality of Anchorage, the Department of Natural Resources and all the impacted landowners.

Please find attached a sponsor statement and a fiscal note and a description of the proposed land exchange from the Department of Natural Resources. It is my understanding that the Alaska Municipal League and the Department of Natural Resources will be forwarding supportive position papers to your Committee.

Thank you for your consideration and attention to this request. If you have any questions or need additional information, please contact Johanna Munson on my staff.

PROPOSED BIRD CREEK LAND EXCHANGE CSSB 231 (C&RA)

The Municipality of Anchorage (MOA), the Alaska Department of Natural Resources (DNR) and a group of homeowners who own land along Bird Creek are proposing a land exchange. Bird Creek is located in Bird Creek Valley which is along Turnagain Arm southwest of Anchorage. The lands involved in the proposed land exchange are owned by the homeowners, the Municipality of Anchorage and the State.

The land exchange, as shown on the attached map, would give the public an additional 4.8 acres of land along Bird Creek. This land is heavily used by persons sport fishing for salmon in mid to late summer. This land also possess important fish and wildlife habitat values as a portion of it is a saltwater influenced wetland. This land along Bird Creek is proposed to be conveyed to the MOA and will be added to the Bird Creek Regional Park under municipal ordinance. Tidelands within this parcel, to be conveyed to the MOA will be reconveyed by the MOA to the state. The nearby municipal Bird Creek Regional Park is managed through a cooperative agreement with DNR as part of Chugach State Park. In exchange for this land, the homeowners will receive three pieces of public land totalling 2.05 acres which adjoin the parcel they presently own. The homeowners are interested in these tracts because they mistakenly placed some of their homes just off of the property that they own and on public land owned by the state and municipality.

Until recently, the homeowners thought that they only had to trade land with the MOA. In 1987, voters in the Municipality of Anchorage approved the land exchange in a municipal election. However, a closer review of the land ownership in the area revealed that a portion of one of the three tracts to be conveyed to the homeowners, by the MOA, included an Alaska Department of Transportation and Public Facilities's (DOTPF) material site that is within Chugach State Park. This portion of land is estimated to be 0.6 acres in size. The actual size of the tracts will not be confirmed until the land is surveyed. The material site was established before the land became part of Chugach State Park. DOTPF has agreed to give up their interest in the tract to be conveyed to the homeowners if it is surveyed before it is conveyed. However, because the land is part of Chugach State Park the Alaska State Legislature must authorize the removal of this land from the park.

SB 01, if enacted into law, will authorize the Commissioner of DNR to remove the land from the park and convey it to the MOA if: 1) it is determined that it will not interfere with DOTPF's use of the material site, and 2) MOA will only use the land for the purposes of the proposed land exchange. The land conveyed to the MOA, estimated to be 0.6 acres, will be in addition to the lands it has received from the State under its municipal land entitlement. The acreage of the tidelands that the MOA will reconvey to the State is not know, but is estimated at 1.0 to 2.5 acres.

(A)

**MUNICIPALITY OF ANCHORAGE
1992 LEGISLATIVE PROGRAM
POSITION PAPER**

Bill: CS for SB 231

Title: An Act authorizing the commissioner of natural resources to convey land within the Chugach State Park to the Municipality of Anchorage.

Analysis: This act provides for a three-way land exchange, with the homeowners receiving approximately .6 acres of state land and approximately 1.5 acres of Municipal land on which their homes were mistakenly built in the Bird Creek area. In return, the Municipality of Anchorage will receive approximately 4.8 acres of valuable public fishing and recreational access along Bird Creek. This exchange was approved by the voters of the Municipality of Anchorage in 1987.

The Department of Cultural and Recreational Services recommends support for the legislation which adds acreage to Bird Creek Park. We have a management agreement with the State of Alaska providing for their management of this park for the Municipality.

Contact: Connie Jones, Director, Cultural and Recreational Services, Municipality of Anchorage.

Phone: 343-4365

STEWART TITLE
COMPANY OF ALASKA

3201 C Street
Suite 101
Anchorage, Alaska 99503
(907) 561-5122
FAX: (907) 563-3073

Al Meiners
Alaska State Parks
3601 "C" Street
Anchorage, Alaska 99510-7001

Dear Al: *AK*

Pursuant to your request we are providing this letter to confirm when and what title insurance companies have insured the following described property:

Tracts A, B and C of U. S. SURVEY 1069, located within the Anchorage Recording District, Third Judicial District, State of Alaska.

The following list describes the date of recording, parties involved, title company and its policy/order number:

<u>DATE</u>	<u>PARTIES</u>	<u>TITLE COMPANY</u>	<u>POLICY/ORDER NO.</u>
10-27-78	Prowse/Dolny	Safeco	9168
09-11-79	Prouse/Watt	Safeco	10649
12-21-81	Collier/ Buchanan & Taylor	Transamerica	600883
08-02-82	Dolny/Austin	Transamerica	311073
12-23-82	Taylor/Watson	Transamerica	8200206
10-05-83	Brown/Forte	ATG Agency	A-76580
12-09-85	Austin/Wheeler	Transamerica	319528
04-06-90	Watt/Hayes	Pacific Rim Title	21253
08-01-90	Kurtz & McPadden/ Mitchell	Stewart Title	11652

I am enclosing copies of the Deeds of Trust that disclosed the above information. As you can see all the Deeds of Trust involved seller/carry back financing, which would indicate that the policies issued by the above title companies were probably owner's standard policies insuring the purchasers and did not involve extended coverage/structural encroachment coverage. There currently exists

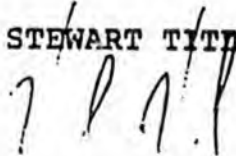
Page 2
Al Meiners
Alaska State Parks

no institutional financing (of record) which would normally require extended coverage and structural encroachment coverage.

I hope this information proves to be useful to you. Please do not hesitate to call if you have any further questions or need additional information.

Sincerely,

STEWART TITTE COMPANY OF ALASKA, INC.


Howard Hancock
Assistant Vice President and
Title Operations Manager

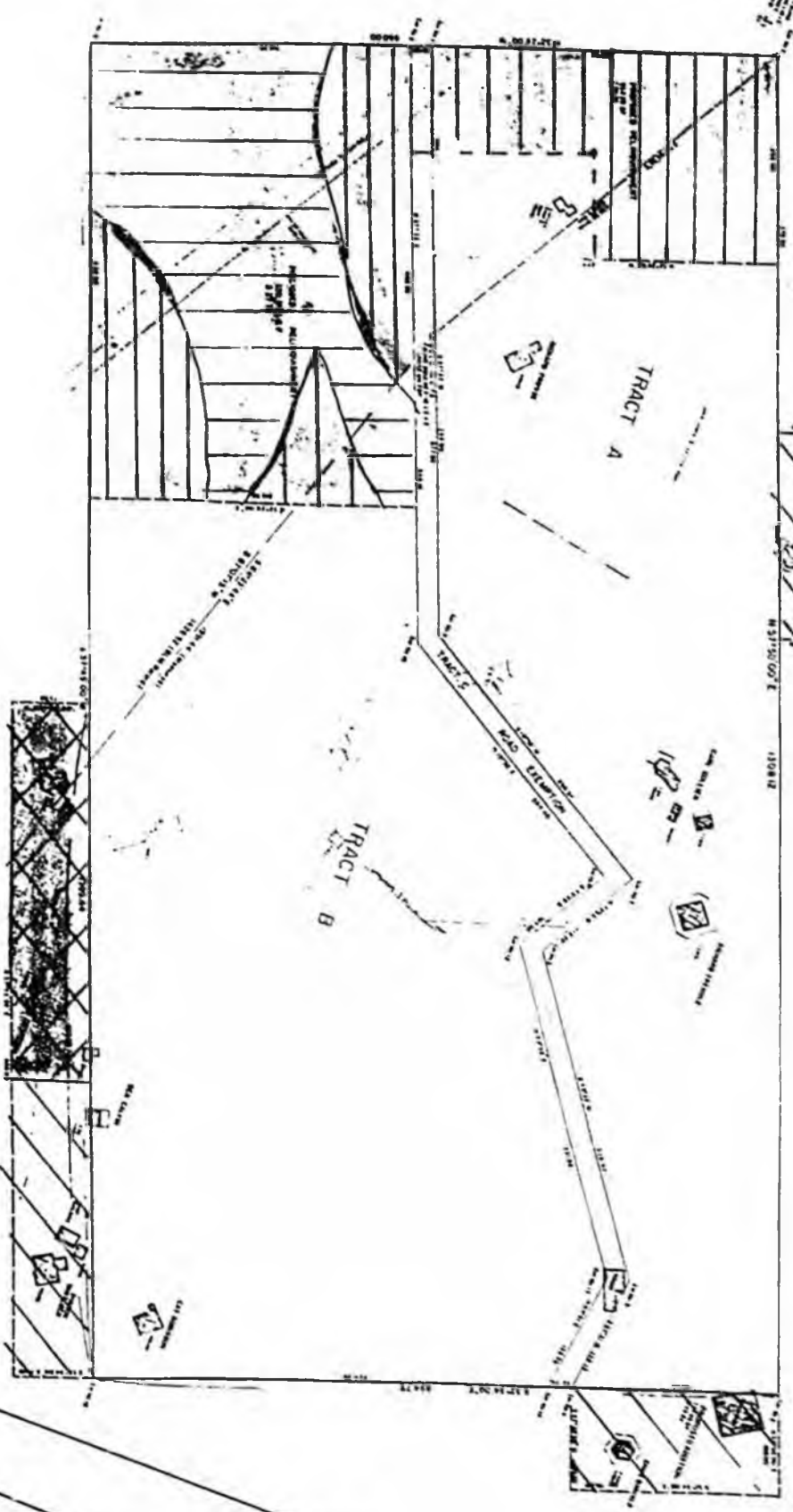
HH:bt
Enclosures

CHARGE: \$50.00

PROPOSED BIRD CREEK LAND EXCHANGE

LEGEND

-  TO MOA (FROM HOMEOWNERS)
-  TO STATE (FROM HOMEOWNERS)
-  TO HOMEOWNERS (FROM STATE)
-  TO HOMEOWNERS (FROM MOA)
-  TO HOMEOWNERS (FROM STATE)



AS-BUILT SURVEY
 ATTACHED TO THE ORIGINAL SURVEY
 DATE OF SURVEY: 11/11/11
 SURVEYOR: [Name]
 [Additional survey details and notes]

S B

2 6 3



Official Business

Alaska State Legislature

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

MEMORANDUM

TO: Members, House Resources Committee

FROM: Senator Lyman F. Hoffman *Lyman*

DATE: May 14, 1991

RE: SB 263

SB 263 was introduced at the request of electric utilities, barge lines and fuel distributors serving rural Alaska. They are faced on June 1, 1991 with meeting new oil spill prevention and cleanup standards that were included in last year's HB 567. Unfortunately, these small companies are having serious problems with meeting those new standards by this deadline. In fact, there is a strong possibility that many noncrude transporters and facility operators will find it necessary to either operate illegally or cease operations in the state after June 1, 1991, which in turn would pose serious problems for residents of bush communities that depend on the delivery and storage of noncrude oil for fuel and electrical generation. A year's delay would give these companies time to meet the new insurance requirements, as well as benefit from the results of two noncrude studies that were mandated in last year's legislation.

Crude oil companies on the other hand, have indicated their intention and ability to be in compliance with the June 1, 1991 effective date. These companies expressed concern about the uncertainty created by meeting those requirements by June 1, but not yet having final approval by the Department of Environmental Conservation of their amended contingency plans. DEC does not expect that review period to be lengthy for the major crude oil companies, but there is apparently the

possibility that these contingency plans will be required to go through the consistency review process under the Coastal Zone Management Act. A final decision by the Attorney General is currently pending. However, the need for some form of "interim approval" status has been addressed in this legislation.

The Judiciary CS for SB 263 does the following:

Section 1: legislative findings which explain the problems faced by noncrude operators.

Section 2: maintains the current June 1, 1991 effective date for crude oil.

Section 3: delays the effective for noncrude oil operations until June 1, 1992.

Section 4: gives crude oil companies the authority to operate with "interim approval" if determined to be substantially in compliance with the terms of ch. 191, SLA 1990 (HB 567), and even if it is determined that c-plans must go through the Coastal Zone Management review.

This bill has received a tremendous amount of support from throughout the state, especially from southeast and from Kodiak on north up the coast. It went through extensive review in the Senate Oil and Gas Committee. A companion bill (HB 312) has already been heard by the House Oil and Gas Committee and is now in House Resources Committee.

I would appreciate your support for this bill.

SB 263 BACKGROUND PAPER

History: On March 24, 1989 the Exxon Valdez ran aground on Bligh Reef in Prince William Sound, causing the largest crude oil spill in United States history. As a result, the Alaska Legislature and the United States Congress significantly strengthened oil spill prevention and cleanup standards. One bill - HB 567 - passed late last session made three major changes in state oil spill protection: It established new response planning standards; imposed new financial responsibility requirements for contingency plan holders; and required prevention measures to be incorporated into contingency plans. The new law required that existing contingency plan holders comply with these major changes on and after June 1, 1991.

Problem: Although HB 567 was passed as a result of the Exxon Valdez Oil Spill and was aimed at the crude oil industry, non-crude carriers and facilities are also subject to the changes. The Department of Environmental Conservation was charged with implementing this law. DEC failed to complete the implementing regulations in a timely manner however, and now does not expect them to be in place until December 1991, at the earliest. The larger oil companies have been working to meet these new requirements for this last year, and will be prepared to do so by HB 567's June 1, 1991, effective date. Their contingency plans will also receive the highest priority by DEC for review.

The smaller fuel distributors, barge lines, and electric utilities serving rural Alaska are not as prepared. They are finding it impossible to meet the new financial responsibility requirements. Insurance companies have so far not been willing to provide insurance and for most companies, self-insurance is not a feasible option. Additionally, a study mandated by last year's bill and designed to identify appropriate spill response times, specify personnel levels and equipment requirements, and identify specific locations for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed until at least one month after the June 1, 1991 effective date. This study's findings could have a significant effect on emergency spill response planning by

both transporters and the state. One final uncertainty is that the implementing regulations for contingency planning will not be finalized by DEC until December at the earliest.

Solution: SB 263 would delay the effective date until June 1, 1992, of HB 567 for noncrude operators. This will allow thorough consideration of the results of all of the studies and permit noncrude transporters and operators to explore other options to meet the new financial responsibility requirements. The original bill expanded the scope of the studies already required by HB 567 to include an assessment of the economic costs of the new requirements on noncrude operators, but funding for these studies is now being pursued in the supplemental bill. SB 263 as amended in the Senate Oil and Gas Committee also gives DEC clear authority to grant crude operators interim approval if they find them to be substantially in compliance with the new requirements by the June 1, 1991, date. An Amendment added by the Senate Judiciary Committee clarifies that crude operators will be allowed to operate under interim approval even if the Attorney General requires contingency plans to go through the Coastal Management Program review process.

Comments of Meera Kohler before Senate Oil and Gas Committee hearing on SB 263.

My name is Meera Kohler. I am the General Manager of Naknek Electric Association, which generates and distributes electricity for the communities of Naknek, South Naknek, and King Salmon in western Alaska. I was recently appointed to a newly created seat on the Technical Working Group created by ADEC to assist in the writing of regulations to implement HB 567. My seat is as a representative of Alaska Rural Electric Cooperative Association ("ARECA").

The fact that ARECA was essentially excluded from the work group until April of this year clearly demonstrates that neither ADEC nor the legislature realized the extent to which Alaska's rural utilities will be impacted by this statute and its attendant regulations.

Currently, seven members of ARECA have bulk fuel storage capacity greater than 10,000 barrels whose contingency plans will have to be completely rewritten to incorporate the requirements of HB 567. Under this bill, the response section requires us to be able to contain and clean up the contents of our largest fuel tank in 72 hours. The ADEC has the authority to expand this requirement to the contents of our entire tank farm. Should a spill occur of the catastrophic size envisioned by HB 567 and we were unable to

perform to the standards of our C-Plan, we would be guilty of criminal behavior.

I believe that inadequate attention has been paid to the financial and operational impact of this bill on rural Alaskans, and that the impacts are only just beginning to be assessed through the regulation writing process.

A few months ago the Alaska Energy Authority and the Alaska Systems Coordinating Council circulated the 15th edition of the Alaska Electric Power Statistics, including data for calendar year 1989. This study depicts that 20% of the entire installed generation capacity in Alaska is fueled by diesel fuel. In 1989 34.4 million gallons of diesel were burned by electric utilities in rural Alaska. The utilities burning diesel are isolated from each other and generally speaking experience very high operating costs due to expensive fuel and small operating bases to spread administrative and maintenance costs over.

HB 567 will have a direct and significant impact on these utilities. A conservative estimate indicates a cost per gallon increase of at least 10 cents due to the higher cost of storing and transporting oil. In remotest Alaska 25-30 cents is more likely. In fortunate communities like Naknek where we had the foresight to build bulk fuel storage in past years in order to negotiate savings through bulk fuel purchases, we will experience cost increases not

only as our suppliers comply with the new regulations but will double those cost increases as we seek independently to comply ourselves.

Who will pick up these new costs? For home heating fuel and gasoline, the rural resident will pick up the tab. For about 75% of the 34 million gallons used to produce electricity, the state will pick up the tab through the PCE program. If a mid-point cost increase of 20 cents per gallon is assumed, utilities will spend about \$7,000,000 more on diesel in the next 12 months. If 75% of that cost is passed on through the PCE Program, about \$5,000,000 will be picked up by the State of Alaska.

I believe that ADEC will eventually have workable regulations put together -- targeted to go into effect February 1, 1992. We need the time to participate in the regulation making process and to incorporate the new regulations into our contingency plans. It would be a significant injustice to all refined fuel and uses if the implementation date of HB 567 was not delayed until after the regulations are written and accepted.

I thank the legislature for introducing SB 263 which proposes to postpone the effective date of HB 567 for non-crude facilities until June 1, 1992. The delay is imperative to allow ADEC and the affected facilities to compose regulations that will fully meet the intent of the legislation yet be practically implementable.

1991-03-18 17:48

Lowndes Lambert Eastcheap

071 283 1970 P.02



Members of Lloyds
Members of ILLIA

Lowndes Lambert Marine Limited

Lowndes Lambert House 53 Eastcheap London EC3P 3HL

Telephone 071-283 2000

Facsimile 071-283 1970 and 071-220 7548

Telex 8814631 Cable Elect London EC3

Our Ref: GRLKR/EP/H

18th March, 1991

Gene Sause & Company,
Albans Mill Building,
Suite 620,
1200 Northwest Front Avenue,
Portland,
Oregon,
U.S.A.

For the attention of Ginny Wade

Dear Ginny,

POLLUTION

State of Alaska Financial Responsibility

Following our recent correspondence and telephone conversations regarding the current position of our London Underwriters in respect of proof of Financial Responsibility, I am writing to advise as follows:-

We have available to us several markets for the insurance of Pollution here in London. There are specific Lloyds and/or Institute of London Underwriters members plus various agencies here in London who write for and on behalf of the aforementioned. We do also place a Pollution cover specifically for your office. Following the introduction of the United States Oil Pollution Act 1990, these Underwriters reviewed the basis on which they were prepared to offer coverage in respect of this exposure. The outcome of this review was to withdraw all previous forms of cover and offer in its place the "11-4" form. This form does not cover any additional coverage in respect of specific State Regulations. Additionally, they no longer provide any proof of Financial Responsibility under either the Act or any State Regulation.

I do appreciate this is not what you wanted to hear but must advise that London Underwriters are adamant in their stand in this respect.

Yours sincerely,
LOWNDES LAMBERT MARINE LIMITED

Gerald Becker



INTERNATIONAL GROUP OF P & I CLUBS
78 FENCHURCH STREET, LONDON EC3M 4BT

Telephone: 071 481 2070
Telex: 33000 IPICLUB
Fax: 071 481 0277

D.J. WATKINS

BY FAX

H.E. Masirow, Esq,
Robins, Kaplan, Miller & Ciresi
1220 19th St. N.W. Suite 700
Washington D.C. 20036
U.S.A.

5th April 1991

Dear Hal,

Certification: Alaska

Thank you for your letter of 1st April enclosing copy of Foss' letter of 28th March.

Perhaps the simplest answer is to underline that the Clubs in the Group are not prepared to issue certificates of financial responsibility in any of the States. This seems to have been accepted now in Alaska where in practice charterers provide the security required under State law. I regret that there is no flexibility on this issue and hope that Foss will be able to reach a satisfactory conclusion with the State authorities.

Yours sincerely,


D.J.L. Watkins

PI?



Alaska State Legislature

*Senate Special Committee on
Oil & Gas*

Please enter into the record my testimony to the _____
committee name
committee on SB 263 , dated 4-26-91
bill/subject

This a letter in support of SB 263.

Kodiak Oil Sales Inc. is a fuel distributor serving the Kodiak Area. We are a family owned business and have operated as a family business since 1950.

I would like to encourage the passage of SB 263.

The proposed regulations that came out of HB 567 have created many problems for fuel distributors like us.

There are so many unknown factors and unanswered questions. Trying to comply with regulations that don't actually exist is very confusing for both the State DEC and Industry.

Applying the same standards to Alyeska, Exxon USA and Kodiak Oil Sales Inc. (or electric utilities in Western Alaska) doesn't make sense to me. What does make sense is separating the issues of Crude and Noncrude, then designing regulations that fit the very different industries involved and the very different risks to the environment.

The passage of SB 263 will allow for a more orderly process, one that makes sense both to government and industry. A more orderly process makes for better Laws and better Regulations, regulations that are such better for both government and industry.

Jim Ranaglia
Vice Pres
Kodiak Oil Sales Inc
486-3245

Signed: *Jim Ranaglia*

Testifier
Kodiak Oil Sales Inc.

Representing (Optional)
Box 1487 Kodiak

Address
486-3245 486 3205 (Fax)

TESTIMONY OF SEAPRO MANAGER CONCERNING SB 263

04/30/91

SEAPRO is a cooperative organization made up of companies who transport, store, and use bulk quantities of oil in Southeast Alaska. With the exception of the Unocal terminal in Ketchikan, none of the companies who make up our membership can be considered "big oil". We are predominantly small businesses, the majority of whom are locally owned. Our members include tug and barge companies, medium and small fuel terminals, mining companies, pulp mills, and others. Our members are located in Juneau, Ketchikan, Sitka, Petersburg, Wrangell, and Thorne Bay. Some of our members have operations which service virtually all the smaller communities and habitations in the region, while others simply consume oil in sufficient quantity to fall within the jurisdiction of the new state law.

We are a relatively new entity, having officially started activities last December after several months of planning and organizational work. One of the main purposes of our organization is to provide a mechanism for making better use of the pollution response assets which already exist within our member companies, and to seek improvements in the overall pollution prevention and response system within our region.

SEAPRO has been working with co-op members, ADEC, the Coast Guard, other state and federal resource agencies, local emergency planning committees, and response organizations outside the region to identify region specific needs, conditions, and concerns which directly relate to the pollution prevention and response infrastructure of the region.

Naturally, the requirements of state law and regulation are a portion of the equation which will drive the final design of our region's system, so SEAPRO has been careful to pay close attention to developments in those areas, but especially to the non-crude oil regulations promulgated under HB 567.

Last Thursday and Friday, I participated in a two day meeting in Anchorage of a working group dealing with ADEC's draft financial responsibility and contingency plan regulations for non-crude oil vessels and facilities. I participated in this working group with the express purpose of trying to contribute the views of our region's companies who are very confused as to how they can comply with several specific provisions, and what impacts these regulations will have on their ability to continue in business. Additionally, as a professional in the pollution prevention and response fields, I had hoped to suggest specific technological language and methodologies which could improve the workability of the proposed rules.

While I am not all that knowledgable about insurance matters, it appeared that some progress was made toward resolving several of the insurance industry's objections to the draft financial responsibility rules during the first day of these meetings. Unfortunately, less progress was made in addressing technical details of the planning regulations.

It is my opinion that there are serious technical flaws with the draft planning regulations. Additionally, so far as I can determine, there are still no prevention regulations available for us to work with. It is imperative that these regulations, together with the financial responsibility regulations, be considered as a comprehensive package, especially as they relate to the interdependent system of distribution, storage, and use of distilled or refined products which exists in our region of the state. Failure to adopt these regulations as a system will limit their effectiveness and make compliance that much more difficult to achieve.

During these meetings, it was obvious to me that there is a great gap between what the DEC thinks they are saying to industry with these regulations, and what industry in our region believes is being said. This is not simply a matter of semantics. It is also a matter of our assumption of how these regulations will be applied by the state, and interpreted by the courts. These assumptions, even if incorrect, are exacerbated by an atmosphere of confusion caused by the law having an effective date which precedes the state's ability to complete a normal regulatory process.

Many of our businesses are firmly convinced that they cannot comply with certain provisions of the regulations because the technology to meet the required standards does not exist. There is also the problem of acquiring and putting into place capital assets which may meet some of the requirements, in time to comply with the law. Following this logic then, it should be obvious that these businesses believe they are faced with a quandary. Do they continue in business knowing they cannot comply with technical provisions of the regulations and hope that the government will correct the situation eventually, or should they strictly comply with current law and unadopted regulation and cease doing business?

I believe that progress has been and will continue to be made in constructing practical regulations which can satisfy the intent of the legislature. However, the current situation of HH 567 becoming effective in advance of implementing regulations creates an artificial barrier to progress and an atmosphere of uncertainty for our member businesses.

The work to craft functional regulations implementing HB 567 has at least begun, but there is a long way to go. The DEC, our businesses, and the communities of our region need time to do this work. I believe that SB 263 will give us an opportunity to do this work. More importantly, it will also give our member companies some assurance that while the regulations are being crafted, they can continue in business without the fear that they may be unintentionally breaking the law. I urge the legislature to adopt SB 263.

R. M. Mullen
Manager
Southeast Alaska Petroleum Resource Organization

May 3, 1991

The Honorable Bill Hudson
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative Hudson:

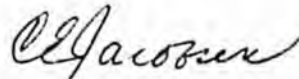
Last year's House Bill 567 goes into effect on June 1, 1991. Taku Oil, which is a small business, will be expected to obtain increased insurance, increased equipment to clean up a spill within 72 hours and will have to pay more for fuel. All of this will be passed on to the public as a higher fuel cost.

HB 567 was passed in reaction to the Exxon/Valdez spill. Some consideration should be given to the reason for passage of that bill versus the impact on small non-crude operators like Taku Oil, Inc.

Accordingly, I would appreciate your support for SB 263, which will extend for a year the effective date of HB 567. This will allow for realistic regulations to be proposed (they are not yet available to the public) and quite frankly, give us a chance to petition for a change in the law to recognize the interests of non-crude operators.

I appreciate your cooperation.

Yours very truly,



C. E. Jacobsen, President
Taku Oil Company

The Honorable Cheri Davis
House of Representatives
Juneau, Alaska 99833

Dear Cheri,

In their Legislative wisdom, the Legislature has seen fit to pass and implement HB 567, over the objections of business people all over the state of Alaska, in another classic cave-in to the Environmental special interest groups.

As we told some of you last year, no existing business, in this or any other region, can comply with the Engineering and operational standards set forth by the State.

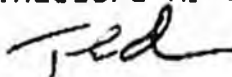
Without relief from you, all businesses subject to HB 567 will be in violation of that law as soon as it becomes effective, which is June 1, 1991.

Some modifications are being attempted, but without support of SB 263 and HB 312 by the house to delay implementation of HB 567, it will be impossible to conduct our businesses legally until realistic regulations can be implemented.

I and others that are being impacted, urge you, as our representatives to strongly support, and lead the house in passing HB 312.

In another vein, Thanks for your strong support for the Timber Receipts bill that came out of the House, I am sure your many hours of thought and hard work had a lot to do with the passage, and especially the way it passed. I have sent Senator Jones a letter asking his help and leadership in having the Senate do the same.

Theodore M. Smith



Alaska Fuel Service
P.O. Box 749
Petersburg, Alaska 99833

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

ONE SEALASKA PLAZA, SUITE 301 • JUNEAU, ALASKA 99801 • TELEPHONE (907) 586-2890 • TELECOPIER (907) 586-9814

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E. BUDD SIMPSON
STEPHEN F. SORENSEN
SHERIDAN STRICKLAND**
JONATHAN R. TILLINGHAST
T. HENRY WILSON

OF COUNSEL
JAMES D. NORDALE

*D.C. BAR
**D.C. AND ALASKA BAR
†MAINTLAND BAR
‡VIRGINIA BAR
ALL OTHERS ALASKA BAR

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 278-1660
TELECOPIER (907) 278-2822

KEY BANK BUILDING
100 CUSHMAN STREET, SUITE 311
FAIRBANKS, ALASKA 99701
(907) 452-1666
TELECOPIER (907) 452-5088

1188 CONNECTICUT AVE., N.W.
SUITE 1200
WASHINGTON, D.C. 20036
(202) 659-5800
TELECOPIER (202) 659-1027

May 6, 1991

Representative Cliff Davidson
P.O. Box V
Juneau, Alaska 99811

Re: HB312
Our File No.: 401.590.1

Dear Representative Davidson:

We represent Northern Transportation Company, Ltd. Northern Transportation is an affiliate of Inuvialuit Regional Corporation, a Canadian Native corporation. Northern Transportation intends to ship relatively small quantities of refined products to various North Slope communities this summer. The product will be transported by barge; and, as a result, Northern Transportation must obtain ADEC approval of both an oil spill contingency plan and proof of financial responsibility.

Northern Transportation supports the goals behind HB312. The bill would face up to the hard reality that Alaska's refined petroleum trade may be unable to meet the new demands of HB567, which would otherwise take effect in June. With respect to the state's financial responsibility laws, however, Northern Transportation urges that the scope of the legislation be expanded. Without additional statutory or regulatory relief, international commerce in refined products would remain in peril.

On the other hand, deferring the effective date of last year's changes to AS 46.04.040 (financial responsibility) would deprive industry of one beneficial aspect of that legislation.

¹The communities to be served include Barrow, Wainwright, Point Lay, Point Hope and Barter Island--in addition to a single delivery to Prudhoe Bay.

May 6, 1991
Representative Cliff Davidson

Page 2

Let me explain:

A. Financial Responsibility. Under existing law (that is, pre-HB567), Northern Transportation would be required to post approximately \$172,000 of financial responsibility.² Under HB567, the amount would be increased nearly tenfold--to approximately \$1.54 million.³ In-and-of-itself, this substantial increase in required financial responsibility will pose a substantial hardship on small operators.

More fundamentally, the options for providing financial responsibility are decreasing, rather than increasing. Under current law, Northern Transportation has four alternate means of meeting the state's financial responsibility requirements--self insurance, guarantee, surety or insurance. However, ADEC's regulations allow a party to self insure only if it has sufficient United States assets. And, the same requirement applies to any guarantor that the company might seek to employ. See 18 AAC 20.055 and 18 AAC 20.085. Being a foreign company, Northern Transportation is thus limited to two options--insurance or a surety bond.

However, current law (as well as HB567) requires that any insurer or surety must agree to submit to "direct action" in Alaska state courts. "Direct action" means that the injured party may sue the insurance company (or surety) directly, rather than through the insured (as is customarily the case). There has never been very much direct action insurance available, principally because most Protection and Indemnity (P&I) Clubs have declined to provide it. It is for this reason that HB567 allowed non-direct action insurance to be used for any financial responsibility in excess of \$50 million.

Unfortunately, the direct action insurance market now appears to have dried up completely. For example, until recently small amounts of direct action insurance were available through the Portland broker of Gene Sause and Company. However, as the enclosed correspondence indicates, that broker is now no longer able to place any direct action insurance; and, it is our understanding (based on conversations with ADEC) that other potential providers have left the market as well.

²Under existing law, oil barges are required to post an amount equal to the amount required under the federal Clean Water Act, which was \$150/gross ton.

³This amount is calculated on the basis of the carrying capacity of the company's largest barge operating in Alaska, multiplied by \$100/barrel.

May 6, 1991
Representative Cliff Davidson

Page 3

Thus, both current law and HB567 leave Northern Transportation (and, in fact, any international carrier) in an impossible position. They cannot self insure because of ADEC's requirement that the self insured's assets be located in the United States. Conversely, they cannot obtain direct action insurance, because none is available. And, because this problem arises under either current law or HB567, HB312, in its current form, would do nothing to alleviate this barrier to international trade.

We would therefore suggest one of two options:

1. The immediately-effective repeal of the direct action requirement under both current law and HB567. We understand the reasons for the direct action requirement. However, the need for direct action insurance has lessened as the result of other, newly-enacted financial guarantees--including the \$1 billion/incident oil spill fund established under the 1990 federal Oil Pollution Act.

More importantly, "direct action" insurance is no longer possible; or

2. Repeal the requirement, in ADEC's regulations, that a self insurer's assets be domestically located. ADEC could implement this cure itself, since the "domestic asset" requirement does not appear in statute. And, we believe that the change may be necessary for both constitutional and practical reasons. States may not unreasonably discriminate against foreign or interstate commerce. And yet the recent evaporation of any "direct action" insurance means that the agency is doing just that. It is preventing a foreign corporation from self insuring, yet at the same time conditioning the most commercially realistic alternative on an impossible standard.

We hope, through the deliberations on HB312, to convince ADEC that recent events warrant the repeal, and even the emergency repeal, of the "domestic asset" rule. Foreign corporations would still be required to submit to the jurisdiction of Alaska courts, and appoint an agent for service of process in Alaska.

Finally, while HB312 fails to address the recent loss of the "direct action" option, it also overlooks at least one favorable provision of HB567 whose effective date ought not to be postponed. Specifically, HB567 expands the list of available methods for financial responsibility to include letters of credit. While a foreign corporation dealing with foreign banks may still find the letter of credit option difficult, allowing a letter of credit option does provide some flexibility in attempting to meet the requirements of even current law.

2. Oil Spill Contingency Plans. We support a one year extension of the effective date for HB567's new oil spill contingency plan

May 6, 1991
Representative Cliff Davidson

Page 4

requirements. Oil barge operations like Northern Transportation's often navigate in more remote parts of the state, where cleanup capability is very limited. The debate over HB567 focused on Prince William Sound, where the nature of the trade better allows for rapid, large scale increases in cleanup capability. Outside of Prince William Sound, and perhaps Cook Inlet, oil spill cleanup resources, and the ability to expand those resources, are far more limited.

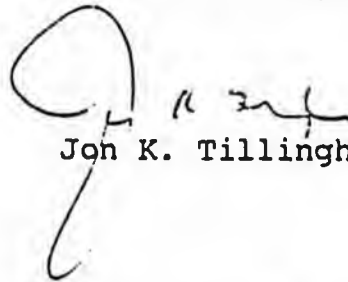
In summary, Northern Transportation supports HB312, with the following amendments:

1. A repeal of the "direct action" insurance requirement--unless ADEC is willing to change its "domestic asset" rule; and
2. The immediate implementation of the letter of credit option for providing financial responsibility.

Thank you for your consideration of our concerns, and we look forward to working with the committee on this legislation.

Sincerely,

BIRCH, HORTON, BITTNER & CHEROT



Jon K. Tillinghast

JKT/kpb

cc: Senator Al Adams
Members of the House Resources Committee
Janice Adair, ADEC

... APR-22-91 MON 11:11

GENE BAUSE & CO.

FAX NO. 5032848037

P.01

*Gene - Olson
789-567*

GENE BAUSE & COMPANY

ALASKA 1111 BULLY LANE, SUITE 200 • 1800 NORTHWEST FRONT AVENUE • PORTLAND OREGON 97209
TELEPHONE (503) 832-4101 TELEFAX (503) 832-4107

MAJOR INSURANCE
GENERAL INSURANCE

DATE: April 22, 1991

TO: Mr. Ed Bain
COMPANY: E.R. Bain Consultants Limited
FAX NO.: (416) 874-0078

FROM: Ms. Ginny Wade
COMPANY: Gene Bause & Company
FAX NO.: (503) 834-9037

NO. OF PAGES (including this cover): 1

FOR TRANSMISSION PROBLEMS, PLEASE CALL (803) 223-5693.

SUBJECT: Northern Transportation Company, Limited

Dear Mr. Bain:

Thank you for your April 16, fax regarding your clients movement of Oil Barges into the territorial waters of Alaska.

I am afraid that the Alaska Division of Insurance is slightly confused on what we provided to them as evidence of insurance for our various clients. While it is true that our clients are placed with a Ship Owners Mutual Insurance Club, the insurance that was evidenced to the State of Alaska was a separate Pollution Liability Insurance Policy that we obtain from the Lloyd's Marketplace. In order to meet the state's requirements, it was necessary for us to, in addition, purchase double insurance on the Oil Barges moving in the state of Alaska's waters. This was, of course, a financial burden on our clients, but was the only way to be in compliance with their state laws.

Unfortunately, since the passage of the Federal Oil Pollution Act and the pending June 1, implementation of the State of Alaska's new regulations, the London Marketplace has now firmly stated that they will no longer provide any form of insurance that will be direct action as is required by the State of Alaska. When the current policies we have in place expire, we will be in the same situation as you find yourself.

We are working with the State of Alaska in trying to convince them that their requirements are not commercially available. We are also having meetings later this week with one of the mutual Protection and Indemnity Clubs in order to elicit their assistance in defeating the State of Alaska's proposed statutes. If you would like to check back with me in a week or so, I would certainly be glad to update you on any progress we make toward resolution of the State of Alaska problems.

Best regards,

Ginny Wade

Ginny Wade

GW:wb

.....



Alaska State Legislature

SENATE SPECIAL COMMITTEE

Please enter into the record my testimony to the OIL & GAS
committee name

committee on SB 263 , dated 29 April 1991
bill/subject

We are in favor of SB 263. There must be an understanding of the difference between persistent petroleum products (crude and heavy oils that are going to hang around awhile) and non-persistent petroleum products (gasoline, diesel, and aviation fuels that are going to dissipate thru various avenues in short time) by the regulators, to make HB 567 workable. The industry that transports and stores non-persistent petroleum products are forced to comply with regulations that are aimed at the persistent oil transporters. There is a difference in the two. Something must be done to amend the regulations.

The economic ramifications of HB 567 as it stands is going to be far reaching. Continuing along the trackline now set, the number of transporters in business is going to decline very rapidly. Who is willing to mortgage the company to pay the insurance premium so they can transport gas and oil in Alaska? But worse of all, the consumer in the bush and the small coastal communities and the State of Alaska are going to pay the cost.

To make this bill work, when passed, the legislature and the Department of Environmental Conservation (DEC) must be willing to listen and learn from the industry (the non-persistent gas and oil transporters and facility operators) on who, what, where, when and how the industry functions. To date in dealing with DEC and in reviewing "preliminary draft 1/28/91 - oil discharge and contingency plans", it is easily noticeable, the inexperience of personnel involved in the regulatory process.

Put common sense and communication to work in solving this problem, pass SB 263 and let us study the problem together.

Signed: Allen M. Anelling
Testifier

SAMSON TUG & BARGE CO.
Representing (Option 1)

P.O. Box 559, SITKA, AK. 99835
Address

(907) 747-8559
Phone No.



P.O. Box 1947
 Sitka, Alaska 99835
 Phone (907) 747-8460

Post-It™ brand fax transmittal memo 7671		# of pages	4
To	Dick Eliason		
From	Don Brown		
Co.	Co.		
Dept.	Phone #		
Fax #	465-4928	Fax #	747 5382

May 2, 1991

Senator Dick Eliason
 President of the Senate
 Juneau, Ak.

Dear Senator Eliason:

Thank you for your prompt response to my phone call this morning. I am enclosing copies of the three letters I discussed with you. The problem is the outfall of HB 567, passed last session. The regulations being developed by the DEC are not in place and without a program you cannot tell the players. This is generating much concern among players and spectators alike.

At the DEC public hearing in Sitka yesterday evening a large portion of the public expressed a degree of delight that transporters and oilers were getting what they deserved. I did not favor these people with my Economics 101 theme, the consumer pays for all direct and indirect cost in the purchase price. I have been exposed to projected consumer cost per gallon, of the current DEC regulations, of a low of 30¢ per gallon to a high of 57¢ per gallon. Sitka Fuels is going to comply with whatever washes out of this deal and the end user will address all costs except the anxiety factor, and my blood pressure is the same as twenty years ago.

I strongly support the position of SB 263 by Senators Hoffman and Adams, requesting a delay in implementing the effects of HB 567 and bringing some realism to this "Land of Oz".

Thank you for volunteering your staff to distribute to other addressees. I will FAX direct to the Lt. Governors office. All the real halibut fishermen have left town.

Senator Al Adams
 Senator Sam Cotton
 Senator Rick Halford
 Senator Lloyd Jones
 Speaker Ben Grussendorf
 Representative Cheri Davis
 Representative Jerry Mackle
 Representative Robin Taylor
 Lt Governor Jack Coghill

Sincerely,

Don Brown
 Don Brown

Enclosures: Samson 5-1-91
 Venneberg 5-1-91
 Ribelin Lowell and Co. 4-19-91

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Jerome Brown
Sitka Fuels, Inc.
Box 1947
Sitka, AK. 99835

May 1, 1991

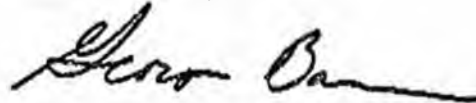
Dear Mr. Brown:

This letter is to inform you that effective 1 June 1991, we will be unable to deliver any petroleum products to your facility. Due to Alaska statutes (HB567) that will become effective June 1, 1991, Samson Tug and Barge will be unable to comply with the law, which we consider unworkable. Further operations under our Contingency Plan would constitute an illegal action on our part. Liability spill insurance coverage for the T/B Annahootz is minimal in comparison to the possible liabilities that could be incurred for a spill incident. Therefore because of regulatory action and increasing cost we are forced to discontinue our fuel delivery service.

Presently, there is legislative action to amend HB 567 and extend previous requirements until January 1992. In the event this bill, SB 263, passes, we will continue our fuel operation and will be able to provide you continued service.

We regret this action to a long and valued customer, however we must protect our company and its employees. Thank you for your patronage and your understanding.

Sincerely,



George Baggen

VENNEBERG INSURANCE, INC.

225 Harbor Drive
P.O. Box 199
Sitka, Alaska 99835
(907) 747-8625
FAX (907) 747-5065

May 1, 1991

Jerome Brown
Sitka Fuels, Inc.
P.O. Box 1947
Sitka, AK 99835

Re: Pollution Liability
#L5552/90

Dear Jerome:

The above pollution liability policy for Sitka Fuels, Inc. is due to expire on 6/4/91.

We have been notified by Ribelin Lowell & Co. that the current lead underwriters in London for this program are pulling out. They are in the process of remarketing to new underwriters and believe that they will be able to place the coverage but at a substantially higher premium. Last years cost of \$27,000 is likely to increase to something like \$40,000 - \$50,000.

As you are aware, the problem with marketing this coverage is the requirements that DEC has in the "Alaska Endorsement". We are in the process of getting quotes from two other markets which are able to provide this coverage but without the current wording of the "Alaska Endorsement".

One of these markets, AIG, is a very large writer of environmental impairment liability. They have looked over the current DEC required wording for Alaska and believe that two problems exist. One is that the wording requires the insurer to pay first dollar expense (No Deductible). The other problem exists in changing the coverage from a claims made to an occurrence basis.

The current financial responsibility laws are limiting competition for this coverage to only one source. It is possible for DEC to change the wording requirements and not reduce the coverage that is carried by Sitka Fuels.

If you have any questions on this or need any additional information please let me know.

Sincerely,



Mike Venneberg

Ribelin Lowell & Company

INSURANCE BROKERS INC.

3111 C STREET, SUITE 300
ANCHORAGE, ALASKA 99503-1111
Phone: (907) 561-1250 Fax: (907) 561-4315

DESTINATION CITY AND COUNTRY: SITKA

FAX NO.: () 747-5065

DATE: 4-19-91

COMPANY: VENNEBERG INSURANCE, INC. ATTN: JAN WILBUR

PAGES: ...
(INCLUDE THIS PAGE)

MESSAGE

SUBJECT: SITKA FUELS, INC- 6-4-91 EXPIRATION
JAN-

GLORIA WILBURMAN SHOULD HAVE MENTIONED IN HER... 4-9...
LETTER TO ED THAT WE'RE HAVING TO RE-MARKET THIS
PROGRAM W/A NEW LEAD UNDERWRITER, WHICH MEANS WE
NEED MORE LEAD TIME. SECONDLY, PREMIUMS ARE UP SUB-
STANTIALLY. MY GUEST IS SITKA FUEL COULD BE LOOKING
AT A \$40-450,000. COST. TO MY KNOWLEDGE, LONDON IS THE
ONLY SOURCE FOR MARINE FUEL TERMINALS.

PLEASE ADVISE IF YOU WANT ME TO PURSUE THIS. GLORIA
SENT A ONE Pg QUESTIONNAIRE W/HER LETTER

TTTUNKS,

Wm. Paule

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Senator Dick Eliason
Alaska State Legislature
P.O. Box V
State Capitol Building
Juneau, AK. 99811

May 2, 1991

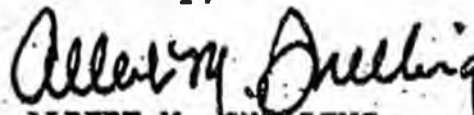
Dear Senator Eliason:

A marine industry organization from Anchorage advised us on Friday May 26, 1991, of Senate Bill 263, which had been introduced, was in committee, and that testimony was being received on that afternoon. This bill would amend a portion of HB 567 of 1990. It would offer some relief from the regulations that go into effect on 1 June 1991; extending portions of the regs until 1992. We have submitted written comment on this bill to the Oil and Gas Committee. We invite you to review the bill and encourage its passage.

Senate Bill 263 would allow time to study and analyze non-crude operations, including facility operations, transportation of and the economic effects. The operational and engineering standards, established by the state in HB 567, we consider to be unworkable and as a result petroleum transportation operations by our company will be discontinued on June 1, 1991. Operating under the interim approved contingency plan we now have, plus amendments that must be made, we feel cannot be done legally. The opposite of course being illegal, which subjects Samson Tug and Barge to civil penalties, lawsuits, and possible criminal action. We have been advised that other transportation companies are considering this same avenue.

As our State Senator, we would request that you keep us up to date on the outcome of this bill and future bills concerning the transportation of petroleum products.

Sincerely,


ALBERT M. SNELLING

Albert M. Snelling
ALBERT M. SNELLING
Safety Director

Copy: Congressman Grussendorf
Senator Cotten
Senator Hoffman



White Pass Alaska

May 6, 1991

Senator Lyman Hoffman
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

VIA FAX 465-4523

Dear Senator Hoffman:

White Pass Alaska strongly supports your Senate Bill 263 delaying the implementation of the effects of House Bill 567 until the Department of Environmental Conservation can develop some realistic regulations.

The proposed regulations by DEC are practically impossible for non crude operators to meet.

White Pass Alaska specifically endorses that portion of your bill that requires an economic analysis by DEC of its actions.

Thank you and please let us know if we can help you.

Sincerely,

A handwritten signature in cursive script that reads "Paul Taylor". The signature is written in dark ink and is positioned above the typed name.

M. Paul Taylor
Vice President
Alaska Operations

cc: M.P. Taylor
Dave Black
Stan Selmer
George Tipton
Tony Leichty
Warren Pellett
Oscar Jones
Ian Black
Jerry Davis

S B

267



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 488-5250

DURING SESSION:


STATE CAPITOL BLDG., JUNEAU, ALASKA 99801-1182 • (907) 465-3473 • FAX: (907) 483-3043

DISTRICT N

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

MEMORANDUM

TO: Representative Cliff Davidson, Chairman
House Resources Committee

FROM: Senator Fred Zharoff 

RE: Scheduling of CSSSSB 267, relating to notice of the Board of Fisheries' intention to consider approval of a petition to CFEC to establish a moratorium on entrants into a commercial fishery

DATE: April 16, 1992

I am writing to request that you schedule CSSSSB 267 for a committee hearing at your earliest convenience.

CSSSSB 267 amends AS 16.05.251(g) to provide that notice of, and a copy of, a petition from the Commissioner of Fish and Game to the Commercial Fisheries Entry Commission to establish a moratorium on entry in a commercial fishery shall be available to the public at Fish and Game Department offices, and distributed to the Fish and Game advisory committees in the areas affected by the proposed moratorium, 30 days before the Board takes action on the petition. The bill also requires that the Commissioner document the criteria used to determine that the fishery requires a moratorium in the petition.

This legislation will increase the public comment period from 15 to 30 days, and help to assure that the public has access to material critical to their considerations regarding the management of fish and game resources in their area in a timely manner.

Backup information is included.

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 267 (RESOURCES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/13/92
Referred: Rules

Sponsor(s): SENATOR ZHAROFF

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Fisheries' consideration of a petition to the Alaska
2 Commercial Fisheries Entry Commission to establish a moratorium on new entrants into
3 a commercial fishery; and providing for an effective date."

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

5 * Section 1. AS 16.05.251(g) is amended to read:

6 (g) The Board of Fisheries shall consider a written request of the commissioner for
7 approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a
8 moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next
9 regular or special meeting that follows the receipt by the board of the petition and the written
10 request for approval of the petition and that allows time for the notice required under this
11 subsection. The written request of the commissioner for approval of the petition must
12 document that the fishery, that is the subject of the petition, meets requirements for a
13 moratorium on new entrants under AS 16.05.050. The board may consider the petition and
14 the written request of the commissioner for approval of the petition only after receiving the

1 petition and the written request and only after 30 [15] days' public notice of the board's
2 intention to consider approval of the petition. The board shall distribute in a timely manner
3 a copy of the petition and the written request of the commissioner for approval of the
4 petition to each fish and game advisory committee and office of the department in the
5 administrative area where the proposed moratorium would be established. The board shall
6 consider whether the commissioner, in [SUPPORT OF] the request for approval of the petition,
7 has adequately shown that the fishery meets requirements for a moratorium on new entrants
8 under AS 16.05.050. The board by a majority vote of its members at the meeting when the
9 petition must be considered shall approve or disapprove the petition.

10 * Sec. 2. This Act takes effect July 1, 1992.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 267
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ZHAROFF

Introduced: 3/25/92
Referred: Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notice of the Board of Fisheries' intention to consider approval of
2 a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium
3 on new entrants into a commercial fishery; and providing for an effective date."

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

5 * Section 1. AS 16.05.251(g) is amended to read:

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7 a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on
8 new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special
9 meeting that follows the receipt by the board of the request for approval of the petition and that
10 allows time for the notice required under this subsection. The board may consider the request
11 of the commissioner for approval of the petition only after 30 [15] days' public notice of the
12 board's intention to consider approval of the petition. The board shall distribute in a timely
13 manner a copy of the public notice and the petition to each fish and game advisory
14 committee and office of the department in the administrative area where the proposed

1 moratorium would be established. The board shall consider whether the commissioner, in
2 support of the request for approval of the petition, has adequately shown that the fishery meets
3 requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority
4 vote of its members at the meeting when the petition must be considered shall approve or
5 disapprove the petition.

6 * Sec. 2. This Act takes effect July 1, 1992.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition. (§ 3 ch 206 SLA 1975; am § 2 ch 218 SLA 1976; am § 4 ch 151 SLA 1978; am §§ 1, 2 ch 110 SLA 1980; am §§ 8, 9 ch 132 SLA 1984; am §§ 1 — 3, 12 ch 52 SLA 1986; am § 4 ch 76 SLA 1986; am § 1 ch 33 SLA 1987; am § 2 ch 93 SLA 1988; am § 7 ch 145 SLA 1988; am § 3 ch 34 SLA 1991)

Revisor's notes. — In 1988, a reference to "AS 16.40.120(d)" was deleted from (f) of this section to correct a manifest error in § 7, ch. 145, SLA 1988.

Cross references. — For legislative findings in connection with the 1988 amendment to (a)(2) of this section, see § 1, ch. 93, SLA 1988 in the Temporary and Special Acts.

Effect of amendments. — The first 1988 amendment, effective June 3, 1988, in subsection (a), added all of the lan-

guage at the end of paragraph (2) beginning with "if consistent" and made a series of minor punctuation changes throughout the rest of the subsection.

The second 1988 amendment, effective June 9, 1988, added subsection (f).

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

The 1991 amendment, effective June 13, 1991, added subsection (g).

NOTES TO DECISIONS

Regulation upheld. — In promulgating a regulation governing commercial herring fishing in Norton Sound, the board pursued a permissible objective (allocation of a fishery resource between resident and nonresident fishermen) and employed means within its powers, and the

regulation itself was reasonable and nonarbitrary. *State v. Hebert*, 743 P.2d 392 (Alaska Ct. App. 1987).

Applied in *Meier v. State Bd. of Fisheries*, 739 P.2d 172 (Alaska Ct. App. 1987).

FISCAL NOTE

BILL NO. SSSB 267

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 3/25/92

Department Affected: Fish and Game

Title: Notice of Fish and Game Regulations

BRU: Boards/Boards Services

Component: Boards/Boards Services

Sponsor: Senator Zharoff

Requestor: Senate Resources
Expenditures/Revenues: (Thousands of Dollars)

COMPONENT SERIAL NO.

	4	8	2
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OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Geron Bruce G.B. Phone: 465-4100

Division: Commissioner's Office Date: 4/4/92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game Date: 4/6/92

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

- ADFG FISCAL NOTE, POSITION + CFEC -

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill Number: SSSB 267

Sponsor: Senator Zharoff

Bill Title: Notice of Fish and Game Regulations

Department Position: Support

Legislative Intent: It is the intent of this legislation to increase the existing 15 day public notice requirement on a petition from the Alaska Board of Fisheries to the Commercial Fisheries Entry Commission requesting a moratorium on new entrants into a commercial fishery. This legislation would also require the board to distribute, in a timely manner, a copy of the public notice and a copy of the petition to each fish and game advisory committee and the office of the department in the administrative area where the proposed moratorium would be established.

Effects of Legislation on Department Programs: Requiring a minimum 30 day public notice will provide greater public notice. This will not be burdensome, or cost any more than the existing 15 day public notice requirement. The department supports the intent to provide the public with greater notice.

It is not clear what "in a timely manner" means or is trying to accomplish. Currently, when the Division of Boards publishes the public notice to fulfill the Administrative Procedures Act (APA) for the board, the notice is also distributed pursuant to APA requirements. The public notice is an informative summary of the issue the board has accepted.

For fish issues, there is a standing distribution of 1,670. This includes all the advisory committee members on file, the 60 legislators, and any organization and individual that has requested to receive fish issue mailings. The notices are currently distributed to each of the Department of Fish and Game's divisions.

We do have concern on distributing the "petition" itself to the full mailing. Some petitions can be very lengthy. Just the other day we received a petition that was over two inches thick (though this was not a moratorium petition). The commissioner's petition to the board regarding the scallop petition was approximately 20 pages in length.

It is also not clear the parameters of what department offices are "in the administrative area where the proposed moratorium would be established." If not clearly defined, people can argue that this requirement was not fulfilled.

Department of Fish and Game
Position Paper 888B 267
Page 2

I would note that as the statutory requirements get more complex the chances of missing a procedural step increase. The courts historically turn over regulations and laws for procedural errors.

Commissioner's Signature

Paul J. Sullivan for

Date

4/6/92

TO: The Honorable Fred Zharoff
Chairman
Senate Rules Committee

DATE: March 31, 1992

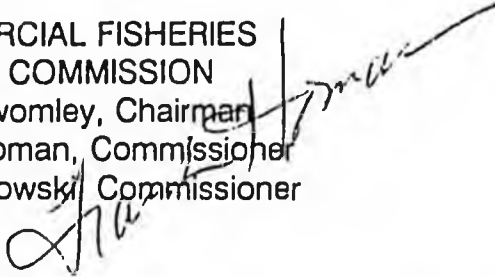
FAX NO: 789-6170

ATTN: David Shrader

TELEPHONE NO: 789-6160

FROM: COMMERCIAL FISHERIES
ENTRY COMMISSION
Bruce Twomley, Chairman
Frank Homan, Commissioner
Rich Listowski, Commissioner

SUBJECT: SSSB 267



You asked for our comments on SSSB 267 extending the time for public notice for moratorium requests under Board of Fisheries consideration from 15 days to 30 days. In the event of a petition for a moratorium from the Commissioner of Fish and Game, with the approval of the Board of Fisheries, comes to the CFEC, we would undertake our own separate public notice procedures as required by the Alaska Administrative Procedures Act. SSSB 267 together with CFEC public notice procedures extends the time period to the public for comments. While we cannot comment for the Board of Fisheries or the Department of Fish and Game, our statutes are not affected and we have no problem with this legislation.

If we can provide any additional information, please do not hesitate to contact us.

cc: Geron Bruce, Special Assistant to the Commissioner, ADF&G
Laird Jones, Director, Board of Fisheries, ADF&G

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

April 3, 1992

SUBJECT: Sectional Summary: Sponsor Substitute for SB 267

TO: Senator Fred Zharoff

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of SSSB 267: an Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date.

A sectional summary is not an authoritative interpretation of a bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05.251(g) which relates to the procedures of the Board of Fisheries for considering the request of the commissioner of fish and game for approval of the commissioner's petition to Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225.

The new language requires the board to provide 30 days' public notice of its intention to consider the petition of the commissioner. Current law requires only 15 days' public notice before the board can act on the commissioner's request for approval of the petition for a moratorium.

The new language also requires the board to distribute the public notice and a copy of the petition to all advisory committees and fish and game offices in the area where the proposed moratorium would be established. The board must distribute the public notice and copy of the petition in a timely manner, so as to give the public a meaningful opportunity to respond to and comment on the proposed petition.

Section 2 of the bill provides that the bill takes effect July 1, 1992.

GU:pl
92-240.plm

- SECTIONAL SUMMARY -

KODIAK FISH AND GAME ADVISORY COMMITTEE
211 MISSION RD.
KODIAK, ALASKA 99615

APRIL 2, 1992

Senator Fred Zharoff
Room 121
State Capital Bldg.
Juneau, AK. 99801-1182

Dear Senator Zharoff,

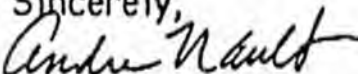
This letter is in regards to S.B. 267. The Kodiak Advisory Committee (K.A.C.) supports changes to the present law as we believe the 15 day notice period is very inadequate. We feel the public would be better served if the notices and copies of the petitions were distributed in a more timely manner and adequate review time was available.

We might suggest that even 45 days may be a more realistic notice period due to the normal length of time between advisory committees meetings. We also agree that it is important to provide copies of the petitions to the local advisory boards and local ADF&G offices.

In order to have time to notify the public of details of proposals, changes, and other actions, and be prepared to comment and make recommendations ourselves, we feel the Board and ADF&G has a responsibility to make information available as early as possible. As you know, the K.A.C. has written to you in the past about problems in receiving important fisheries related information, and any steps that can be taken to help correct this situation are appreciated.

Thank you for introducing this bill and for your consideration of our comments.

Sincerely,


Andre Nault, Chairman

Kodiak Fish and Game Advisory Committee

- SB267 Public Support -

Area K Seiners Association
P.O. Box 2399 Kodiak, Alaska 99615
Phone 907/486-4686 FAX 907/486-7655



March 31st, 1992

Senator Fred Zharoff
Room 121, State Capitol
P.O. Box V
Juneau, AK 99801-1182

Dear Senator Zharoff:

We strongly support Senate Bill 267. The recent attempt to place a moratorium on the 23 year old Alaska Scallop fishery showed some oversight in current law that SB 267 would correct.

A large part of the scallop fishery occurs near Kodiak. The Kodiak Advisory Committee was never informed of the process that could have closed this fishery to new entrants and granted a four year monopoly to ten or fewer vessels. The Committee chairman, Andre Nault, did enough research so that the committee was able to comment on the proposed moratorium. When the scallop moratorium proposal came before the Board, the public wasn't properly noticed. Additionally, the proposal was buried on the agenda under a category called "other" instead of listed as an individual item to be discussed.

It is clear that some fishermen will try to take advantage of the moratorium law to increase their own economic advantage. Senate Bill 267 would insure that the public could more adequately participate in the process.

Sincerely,

Oliver Holm,
Area K Seiners Board of Directors

**KODIAK LONGLINE
VESSEL OWNERS' ASSOCIATION**



326 CENTER AVENUE, P.O. BOX 135
KODIAK, ALASKA 99615
(907) 486-3781 FAX (907) 486-2470

HALIBUT • SABLEFISH • PACIFIC COD • CRAB

April 2, 1992

The Honorable Fred Zharoff
Alaska State Legislature
Juneau, Alaska 99811

SENT BY FAX: 463-3043

RE: Substitute for Senate Bill No. 267

Dear Fred,

We would like to express our support for Substitute SB 267. In the past, we have experienced frustration over not receiving adequate notice on Board of Fisheries agenda items. While legal requirements may have been met, it is sometimes difficult for groups in the state to track legal notices and information doesn't always get to groups which might be impacted.

In our opinion this bill is extremely important and we would like to urge you to pass this legislation.

Sincerely,

Linda Kozak
Executive Director

United Fishermen's Marketing Association, Inc.

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453



April 4, 1992

Senator Fred Zharoff
Room 121
State Capitol
Juneau, AK 99801-1182

SENT VIA FAX # 463-3043

Dear Senator Zharoff,

We would like to provide you with some comments regarding SSSB 267 ("An Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date." SSSB 267 addresses AS 16.05.251.

We support the changes to AS 16.05.251(g) that are proposed in SSSB 267. The 15 days public notice that is presently required by AS 16.05.251(g) is not adequate nor reasonable. Therefore, we believe that the 30 days public notice that is proposed in SSSB 267 is a much needed improvement to AS 16.05.251(g). However, we believe that 60 days or 45 days public notice is preferable and more reasonable than 30 days, and we respectfully suggest that SSSB 267 be amended to provide for 60 days public notice.

We also support those provisions of SSSB 267 that address the issue of the distribution of the public notice and of the petition to each ADF&G Fish and Game Advisory Committee and to each ADF&G office in each of the management areas where the proposed moratorium is proposed to apply. Recent occurrences regarding the manner in which a recent request and petition for a moratorium were handled by ADF&G dictate that it is absolutely necessary to require a provision such as this which is provided in SSSB 267. However, we believe that not only the public notice and the petition, but also the "request of the Commissioner for approval of the petition" that accompanies the petition should be included in this provision of SSSB 267.

We also believe that the petition and the "request of the Commissioner for approval of the petition" that accompanies the petition should be in writing, and submitted to the Board office in writing prior to the public notice being published by the Board that the Board intends to address a moratorium.

Thankyou very much for your attempt to improve and amend AS 16.05.251(g) in a manner that will allow the public a fair opportunity to have knowledge of, and to comment on, those ADF&G initiatives that apply to the establishment of a moratorium and which ADF&G proposes to submit to the Alaska Board of Fisheries.

Sincerely,

A handwritten signature in cursive script, reading "Jeffrey R. Stephen".

Jeffrey R. Stephen

United Fishermen's Marketing Association, Inc.



P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

April 5, 1992

Senator Fred Zharoff
Room 121
State Capitol
Juneau, AK 99801-1182

SENT VIA FAX # 463-3043

Dear Senator Zharoff,

As you know, we have previously provided you with some comments regarding SSSB 267 ("An Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date." SSSB 267 addresses AS 16.05.251.

These comments should be considered additive to those comments regarding SSSB 267 that we have previously provided to you in our letter of April 4, 1992.

We believe that AS 16.05.251 (g) should be amended in the following manner:

(g) The Board of Fisheries shall consider a petition and a written request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the petition and the written request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the petition and the written request of the commissioner for approval of the petition only after 60 [15] days' public notice of the board's intention to consider approval of the petition and the written request of the commissioner for approval of the petition. The board shall have in its possession the petition and the written request of the commissioner before the board may issue a public notice of the board's intention to consider approval of the petition and the written request of the commissioner. The written request of the commissioner must address the rationale that is required of the commissioner under AS 16.05.050(20). The board shall distribute in a timely manner a copy of the public notice, the petition and the written request of the commissioner for approval of the petition to each fish and game advisory committee and office of the department in the administrative area where the proposed moratorium would be established. The board shall consider whether the commissioner, in support of the written request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition and the written request of the commissioner for approval of the petition must be considered shall approve or disapprove the petition and the written request of the commissioner for approval of the petition.

*submit
notice to
fish and
game
office
before
notice.*

During recent activities that addressed a request by the Commissioner of ADF&G for a moratorium in the scallop fishery, the official request of the Commissioner (with his limited rationale for requesting such a moratorium) as well as the petition that the Commissioner intended to submit to CFEC, were not transmitted to the Board until the day that the Board

addressed the issue. Neither of these documents were considered ready or complete for submission to the Board until the day before the Board was expected to take action on the proposed scallop moratorium. On what basis, then, did the Board publish the legal notice that advertised that the Board intended to address the petition and the request of the Commissioner for approval of the petition to establish a moratorium on new entrants into the commercial scallop fishery under AS 16.43.225? Verbal requests that require the Board to address issues as significant as a moratorium, without any associated rational or draft petition language, do not serve the public process.

Under AS 16.05.050(20), the Commissioner has the power to petition to establish a moratorium on new entrants into commercial fisheries:

"(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery."

It is obvious that the requirements that govern the procedures under AS 16.05.251(g) must be made clear, and must be modified to provide that the public will have a fair opportunity to have knowledge of, and to comment on, those ADF&G initiatives that apply to the establishment of a moratorium, and which ADF&G proposes to submit to the Alaska Board of Fisheries and to the Commercial Fisheries Entry Commission.

It is reasonable to require in statutory language that the official request from the Commissioner (including the statutorily required rationale), and the language of the petition that has been drafted by the Commissioner, should be available in writing to the public during the public notification period.

It is also reasonable to require in statutory language that the Board must not give public notice that the Board intends to consider a petition and a written request of the Commissioner for approval of a petition to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 unless the Board has first received, in writing, the petition and the request of the Commissioner for approval of the petition to establish a moratorium on new entrants into a commercial fishery.

Thankyou for your consideration of our comments regarding SSSB 267.

Sincerely,



Jeffrey R. Stephan



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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

DURING SESSION:

STATE CAPITOL BLDG., JUNEAU, ALASKA 99801-1182 • (907) 485-3473 • FAX: (907) 463-3043

DISTRICT N

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

SSSB 267 SPONSOR STATEMENT

March 31, 1992

SSSB 267 amends AS 16.05.251(g) to require 30 days public notice of the intent of the Board of Fisheries to consider the approval of a petition by the Commissioner of Fish and Game to the Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery. SSSB 267 also provides that a copy of the public notice and the petition be distributed to each Fish and Game advisory committee and ADFG office in the administrative area where the moratorium would be established.

Current law requires only 15 days public notice of the board's intent to consider the approval of a petition to establish a moratorium on entry into a fishery, and there are no specific provisions to assure the prompt availability of the petition to the public for consideration.

Consideration and comment regarding fish and game issues by an informed public is the basis for the development of rational and effective fishery regulations under Alaska's Fish and Game Board system. Current statutory language does not provide adequate time for the public to be notified of, obtain material related to, and comment on the petition to be considered by the board. It is vital to this process that the public be given sufficient time and information to comment on issues and proposals that will affect their area.

This legislation will help to assure that the public and the Board of Fisheries are provided sufficient time and information in their considerations regarding the approval of a petition to establish a moratorium on entry into a commercial fishery.

SSSB 267
- SPONSOR STATEMENT -

RECEIVED MAR 2 1992

NOTICE OF REVIEW OF PROPOSED PETITION
BY THE ALASKA BOARD OF FISHERIES

Notice is given that the Alaska Board of Fisheries, under authority vested by AS 16.05.251(g), proposes to approve or disapprove a petition from the Alaska Department of Fish and Game, under AS 16.05.050(20), to the Commercial Fisheries Entry Commission that seeks to place a four year moratorium on new entrants into the statewide scallop fishery. A petition can be submitted if the department finds

- (1) that a fishery has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;
- (2) that a fishery has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and
- (3) there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

If the board approves the petition it will be submitted to the Commercial Fisheries Entry Commission for review. CFEC has the authority to establish a four year moratorium on new entrants to a fishery while the commission is investigating the need of limiting entry to that fishery.

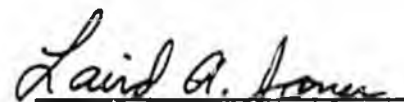
This action may require an increased appropriation.

Copies of the proposed petition may be obtained by writing to the Alaska Department of Fish and Game, Division of Commercial Fisheries, P.O. Box 25526, Juneau, Alaska, 99802-5526. Notice is also given that anyone interested may present written comments or arguments relevant to the proposed actions in this notice. Written comments may be submitted to the Board of Fisheries any time before the beginning of the public hearing tentatively scheduled as follows:

March 13, 1992 in Juneau, Alaska at the Baranof Hotel.

Anyone interested in or affected by the proposed moratorium is hereby informed that, by publishing this legal notice, the Board of Fisheries may consider all of the subjects covered by the proposed changes contained in this notice. The board is not limited by the specific language of the actual petition that has been submitted. The board's actions are limited to the subject matter given in this legal notice, but pursuant to AS 44.62.200(3), the board may review the full range of activities appropriate to any of the subjects listed.

DATE: 2.26.92


Laird Jones, Director
Division of Boards

Public notice re: SCALLOP MORATORIUM

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4100

March 10, 1992

Board of Fisheries
1255 West 8th Street
Juneau, AK 99801

Attention: Michael Martin, Chairman

Dear Board Members:

Recently some participants in the scallop fishery submitted information to me they are anticipating large increases in effort that could have serious negative effects on the state's scallop stocks. They also requested me, under authority granted in AS 16.05.050(20), to petition the Commercial Fishery Entry Commission to impose a moratorium on new entrants to the statewide scallop fishery to protect the resource and to stabilize the economic health of the commercial fishery.

Statute requires the board to approve or disapprove the petition before it is submitted to the Commercial Fisheries Entry Commission.

AS 16.05.050. POWERS AND DUTIES OF THE COMMISSIONER. The commissioner has, but not by way of limitation, the following powers and duties:

(20) to petition the Alaska Commercial Fisheries Entry Commission, unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

Board Members

-2-

March 10, 1992

AS 16.05.251. Regulations of the Board of Fisheries

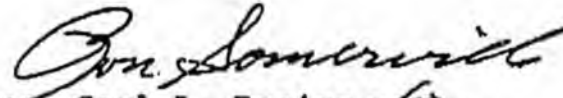
(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days public notice of the board's intention to consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

There is little information available on the scallop fishery. Fish ticket data has been collected since 1969. Limited work has been done on life history. The department has limited information on distribution, no solid data on abundance, recruitment rates, exploitation rates, and other knowledge necessary to properly manage a fishery. The limited information available indicates scallop populations may be easily overfished.

A moratorium on new entrants to the fishery could enable the department to develop a statewide scallop fishery management plan that would conserve the resource and stabilize the fishery.

In sum, I believe that present circumstances in the scallop fishery meet all three of the requirements of AS 16.05.050(20). I therefore request the board to approve the enclosed petition to the Commercial Fisheries Entry Commission.

Sincerely,


Carl L. Rosier
Commissioner

Enclosed: Petition to Commercial Fisheries Entry Commission

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4100

SCALLOP MORATORIUM PETITION

Under authority of AS 44.62.220, the Department of Fish and Game hereby petitions the Commercial Fisheries Entry Commission to establish, under AS 16.43.225, a moratorium on new entrants into the Alaskan scallop fishery. The Board of Fisheries has approved this petition under AS 16.05.251(g).

There are three statutory criteria that must be met before the department can request a moratorium:

- (1) the fishery must have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;
- (2) the fishery must be at a level of harvest that may approach or exceed the maximum sustainable level for the fishery; and
- (3) there must be insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

Interest in an Alaskan scallop fishery has existed since the early 1950's when the Bureau of Commercial Fisheries began systematic surveys to determine if commercial quantities were available. It was not until 1967 that the first commercial deliveries were made. Since then the commercial harvest of scallops has fluctuated greatly, ranging from a high in 1969 of 1,850,187 pounds of shucked meats by 19 vessels in 157 landings to no fishing effort being reported in 1978. Table 1. shows the variation in vessels, landings and pounds harvested by year.

A dramatic increase in the number of landings during the two most recent seasons is of concern to the department. Effort may continue to intensify and may threaten the conservation of the state's scallop resources if new management measures are not implemented. Additionally, as a result of a pending moratorium and other management efforts in the east coast scallop fishery, it is possible that some scallop vessels from that area could migrate to Alaska.

Large variations in effort and landings may indicate maximum sustainable levels for the fishery are being exceeded. However, at the present state of knowledge it is not known what level of harvest the state's scallop populations can withstand.

There is certainly not sufficient biological and resource management information available to promote the conservation and sustained yield of the fishery. The department issued a report in 1968, Informational Leaflet 125, that summarized the

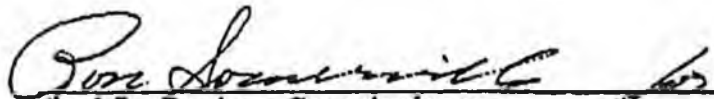
Scallop Moratorium Petition

state of scallop knowledge. Since that time there has been little additional information acquired on Alaskan scallop stocks, although the fishery has been prosecuted in every year except 1978. The department has a fair idea of the distribution of scallops in Alaskan waters, but no solid information on, abundance, recruitment rates, exploitation rates, and other knowledge necessary to properly manage the fishery. The limited information available indicates scallop populations may be easily overfished.

The Department of Fish and Game finds that the Alaskan scallop fishery meets the statutory criteria necessary for a moratorium under AS 16.05.050(20). Such a moratorium on new entrants would give department time to develop a management plan that would conserve the resource and stabilize the fishery. Expected increases in fishing effort may adversely impact the health of the resources which could result in a complete closure of the fishery. A moratorium would promote the orderly development of the state's scallop fishery and is necessary to protect Alaska's scallop stocks from over-exploitation, and to preserve the economic health and stability of the commercial fishery.

DATE:

3/13/92


Carl L. Rosier, Commissioner
Alaska Department of Fish and Game

ALASKA BOARD OF FISHERIES

TENTATIVE AGENDA

Spring Meeting
Part II

Westmark Baranof Hotel
Juneau, Alaska

March 7 - 14, 1992
1:00 p.m.

1. Call to Order
2. Introductions of Board Members & Staff
3. Board Member Ethics Disclosures
4. Staff Reports on Southeast Alaska Chinook Salmon Management
5. ^{3:00} Public Testimony on Southeast Alaska Chinook Salmon Management
6. Advisory Committee & Regional Council Reports on Southeast Alaska Chinook Salmon Management
7. Board Deliberations on Southeast Alaska Chinook Salmon Management

IMPORTANT AGENDA NOTE: This portion of the meeting will not begin prior to March 11. The actual beginning of the meeting will depend on the conclusion of the deliberations of the above portion of the meeting.

8. Board member Ethics Disclosures
9. Staff Reports on 1987 Area M Tagging Study
10. Public Testimony on Tagging Study and Chum Cap
11. Advisory Committee and Regional Council Reports on Study and Chum Cap
12. Board Deliberations on Tagging Study and Chum Cap
13. Petitions/Resolutions/Findings/Letters/Other
14. Adjourn

NOTE: This schedule is tentative and subject to change during the meeting. Schedule updates can be obtained by calling the board's recorded message phone during the meeting. The number is 586-9819.

U:\BDIR\AGENDA.JUN [02/14/92 @ 4:32pm]

BOARD AGENDA/MAR 7-14 MEETING

ALASKA BOARD OF FISHERIES

Summary

June Area M Chum Cap Issue and Other issues the Board Considered

The board had met from early afternoon of Friday, March 13 through the late evening of Sunday, March 15 on the June Area "M" Chum Cap Issues. Following the Area "M" issues, the board took actions on the other petitions and requests.

The department first briefed the board on the 1987 tagging study as the only staff report for this portion of the meeting. The board then heard from two public panels on interpretations of the significance of the 1987 tagging study. One panel represented the general western Alaska area from Bristol Bay through the Norton Sound areas. The other panel represented the Alaska Peninsula and Aleutian Islands Area ("Area M"). Each panel was provided 30 minutes to state their case on the 1987 tagging study. [Note: There was one coin toss to select which person representing each panel was going to call heads or tails (the Area M person won). The second coin toss was won by the Area M person. They selected to go second in the panel presentations]

After the panel presentations, the board asked the department additional questions about the study and items brought up during the panel presentations. The board voted unanimously to proceed with considering the June Area M Chum Cap (03/14/92 @ 3:11pm).

The evening of March 13 the chairman of the board (Mike Martin) met with five fishermen from Area M and five fishermen of the A-Y-K areas to see if there was common ground the groups could agree on. The next morning the chair reported that the groups could not agree on a solution to the issues but did agree on some other ideas. He also hoped the affected fishermen would continue the dialogue to see if there could be at least an understanding between the fishermen.

The board heard from approximately 83 people and 5 advisory committees that afternoon, next morning and into the afternoon.

At 4:30 the first motion was:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: The total chum salmon harvest shall not exceed "a range of 500,000 - 700,000 fish (cap). When the chum harvest reaches 500,000, a working group comprised of 4 area M and 4 A-Y-K persons and the ADF&G shall implement a plan to reduce chum harvest to allow for Area M to reach their project 8.3% allocation while not exceeding the chum cap. This will sunset in one year with the board reviewing the progress of the working group and the fishery. The department shall monitor both fisheries in concurrence with any

138 18 '92 01:20PM HUF&G BUREAU JUP&M P.3

existing subsistence needs in any of the effected areas." This motion was withdrawn at 5:26 p.m.

The second motion provided:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: [40 PERCENT OF THE FORECASTED SOCKEYE SALMON GUIDELINE HARVEST LEVEL. THE TOTAL ANNUAL CHUM SALMON HARVEST SHALL NOT EXCEED 900,000] [bracketed language to be deleted] "700,000". "When the harvest reaches 400,000 chum salmon, the department shall take appropriate management action, in season, to reduce the remaining chum harvest rate while attempting to allow full harvest of the sockeye guideline harvest level." Note: underlined language to be added. This motion carried at 6:45pm [6 in favor; 1 against].

The third motion provided [intent language]:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: "for the set gillnet fishermen approximately 16 hours of fishing opportunity during the periods after the 400,000 threshold is reached and to end when the 700,000 cap is reached." This carried at 7:47pm [6 in favor; 1 absent]. This is not to expand the set gillnet allocations. It is to maintain status quo on the allocations. Only to be implemented between the 400,000 and 700,000 chum harvest times.

NOTE: The draft regulatory language for 5AAC 09.365. is enclosed.

The board denied the request from the Commissioner of Fish and Game to petition Commercial Fisheries Entry Commission on providing a moratorium for the Scallop Fisheries [1 in favor; 5 against; 1 absent].

The board delegated authority to the commissioner to adopt certification:decertification for the shellfish onboard observer program [6 in favor; 2 absent].

The board approved adding to the October 1992 Soldotna meeting considering two proposals from Fish and Wildlife Protection to correct two statewide fish regulations (house keeping issues) [carried without objection].

The board denied a petition from the Chair of the Prince William Sound Aquaculture Corporation Production and Planning Committee [0 for; 6 against; 1 absent]. The petition requested the board to amend: 5AAC 24.367 (b)(1) to allow for "drift gillnet fleet to set amongst the setnets on openers only, to benefit from buildups."

After a long hard, but productive meeting cycle, the board adjourned at 10 pm.

DRAFT REGULATORY LANGUAGE - MARCH 1992 BOARD MEETING
FALSE PASS JUNE CHUM CAP
DRAFT AS OF MARCH 18, 1992

5 AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN.

(f) The department shall close the June fishery before the sockeye guideline harvest levels are taken if incidental harvest of chum salmon reaches [40 PERCENT OF THE FORECASTED SOCKEYE SALMON GUIDELINE HARVEST LEVEL. THE TOTAL ANNUAL CHUM SALMON HARVEST SHALL NOT EXCEED 900,000 FISH] 700,000 fish. When the harvest reaches 400,000 chum salmon, the department shall take appropriate management action, in season, to reduce the remaining chum salmon harvest rate while attempting to allow full harvest of the sockeye salmon guideline harvest level. The documented contribution of Russell Creek Hatchery chum salmon to the June fishery shall be added on over the existing chum salmon numerical quota beginning in 1993.

(g) If it becomes necessary for the department to take management actions, as specified in (f) of this section, to reduce the chum salmon harvest rate, the fishing periods for set gill gear shall not be less than 16 hours in duration, unless such a period will result exceeding the chum salmon guideline harvest level.

v:\paul\FALSE92.REG



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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

DURING SESSION:

STATE CAPITOL BLDG., JUNEAU, ALASKA 99801-1182 • (907) 465-3473 • FAX: (907) 463-3043

DISTRICT N

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

March 13, 1992

Mr. Michael Martin
Chairman
Alaska Board of Fisheries
P.O. Box 25526
Juneau, AK 99802-5526

Dear Mr. Martin:

It has come to my attention that, during the Board of Fisheries meeting now being conducted, the board will review a petition from the Alaska Department of Fish and Game, which proposes to place a four year moratorium on entry into the Alaska statewide scallop fishery.

Notice of review of this proposal, dated February 26, 1992, indicating that a comment period on this proposal would end on March 13, 1992, was received by my office on March 2, 1992. According to the notice, the public is required to have received the notification of this proposal, written to ADF&G in Juneau to obtain data relative to the proposal, and returned their comments to the Board of Fisheries between the dates of February 26, and March 13, 1992. The petition itself was not provided to the Kodiak Fish and Game Advisory Committee, the area where much of this fishery is conducted, for consideration. Review of this petition is not apparent on the tentative agenda for the March 7-14 Board of Fisheries meeting, except under item number 13, "Petitions / Resolutions / Findings / Letters / Other".

In my view, public notice of consideration of this moratorium proposal by the board has been seriously inadequate, and the ADF&G petition itself has not been adequately available for consideration and comment. Consideration of the approval of the petition from ADF&G to the Commercial Fisheries Entry Commission regarding a moratorium on entry into the statewide scallop fishery is not appropriate at this time.

In the interest of providing the public sufficient notification and opportunity to provide meaningful comment on this proposed action as intended, I most respectfully and strongly urge you to delay consideration of this petition by the Board of Fisheries at least until the next regular board meeting.

Sincerely,

Fred F. Zharoff
Alaska State Senator

FFZ/ds

- WRITTEN PUBLIC COMMENT -

KODIAK FISH AND GAME ADVISORY COMMITTEE
211 Mission Road
Kodiak, Alaska 99615

March 13, 1992

Alaska State Board of Fisheries
Post Office Box 25526
Juneau, Alaska 99802-5526

Dear Board Members:

The Kodiak Advisory Committee (KAC) voted unanimously to oppose a moratorium on entrants into the statewide scallop fishery. The Department of Fish and Game (ADF&G) should not have submitted this petition to the Board because the three criteria necessary are not met:

- 1) This fishery has not experienced recent increases in fishing effort that are beyond a low sporadic level of effort. Landings, vessels and catch are all within the historic range for this 23 year old fishery.
- 2) This fishery has not achieved a level of harvest that may be approaching or exceeding the maximum sustainable level. Weathervane scallop landings have fluctuated greatly with effort, but catches over one million pounds have occurred over relatively long periods. Average landings per vessel last year were almost exactly the same as the average for the first 23 years. (Bay scallops are not utilized at all.) Since the State is so large and abundance fluctuates locally, it is unlikely that all scallop beds are being exploited.
- 3) There is not much biological information on scallops, but the catch information indicates that current levels of harvest are sustainable although probably do vary. Intensive exploitation on the East Coast has not managed to eliminate scallops there. The Department has the ability, under their permitting powers, to require more information if they wanted to. The fact that the Department has not required observers or other changes in the fishery indicates that they do not feel more information is needed.

The KAC feels that the petition is being pushed strictly to limit competition. Scallop vessels around Kodiak have usually come from the East Coast. The petitioner came from the East Coast. The Committee would look with favor on conservation measures, but a moratorium is not a conservation measure. It is an allocation measure.

To protect crab stocks and to gather more detailed scallop information, we recommend including all scallop vessels in the shellfish observer program.

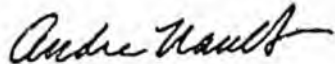
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Alaska State Board of Fisheries
March 13, 1992
Page 2

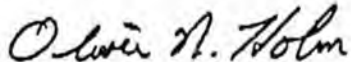
The KAC feels that the use of a moratorium may have some merit when used in a new and emerging fishery, providing that the Department and Board have exhausted all other reasonable management options and a serious increase in effort is demonstrated to be threatening the health of stocks. However, we do not feel this has been proven to be the case in the Alaska scallop fishery. We do not think the Board should use a moratorium to take the place of good biological management, and we object to creating a defacto limited entry program for a select few boats in a multi million dollar fishery.

After reviewing the history of the scallop fishery in Alaska, we are extremely surprised that the Commissioner forwarded this petition to the Board of Fisheries. We urge the Board to reject this petition. We would also point out that the agenda does not adequately notice when this will come before the Board.

Respectfully,



Andre Nault, Chairman
Kodiak Fish and Game Advisory Committee



Oliver Holm, Vice Chairman
Kodiak Fish and Game Advisory Committee

AN/OH/gp

copies: Senator Cliff Davidson
Senator Fred Zharoff

United Fishermen's Marketing Association, Inc.



P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

March 12, 1992



Mr. Michael Martin
Chairman
Alaska Board of Fisheries
P. O. Box 25526
Juneau, AK 99802-5526

COMMENT ON ADF&G PETITION REGARDING A MORATORIUM IN THE ALASKAN SCALLOP FISHERY

Dear Mr. Martin,

We request the Alaska Board of Fisheries ("Board"), under the authority granted to the Board in AS 16.05.251(g), to disapprove the Scallop Moratorium Petition that is submitted to the Board by the Commissioner of The Alaska Department of Fish and Game ("Commissioner"). The Board has authority to disapprove the Scallop Moratorium Petition.

In the Scallop Moratorium Petition, the Commissioner petitions the Commercial Fisheries Entry Commission ("CFEC") to establish, under AS 16.43.225, a moratorium on new entrants into the Alaskan scallop fishery.

Under AS 16.05.050(20), before the Commissioner can petition the CFEC to establish a moratorium in the Alaskan scallop fishery, he must demonstrate to the Board that the following three criteria exist:

(1) the Alaskan scallop fishery must have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) the Alaskan scallop fishery must have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) that there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the Alaskan scallop fishery

The Commissioner is grossly incorrect in his claim that the three statutory criteria exist. The Commissioner has not demonstrated, nor has he even remotely substantiated, that the three statutory criteria have been met, other than to little more than simply state that they have been met.

Prior to a request for the proposed moratorium by a predominant beneficiary of any moratorium in the Alaskan scallop fishery, there was no such request from any member of the staff of the Alaska Department of Fish and Game ("ADF&G") who have the responsibility to manage the Alaskan scallop fishery. Indeed, we challenge the Commissioner to produce documents, reports, memorandum, etc. that would demonstrate that ADF&G staff had any difficulty or concern that related to the three statutory criteria that have been claimed to exist by the Commissioner.

This Petition was requested by a member of the Alaskan scallop industry who will be one of a very few predominant beneficiaries of a moratorium in the Alaskan scallop fishery (such member claims to be one of 5 "traditional" scallopers at present). The very few beneficiaries

of the proposed moratorium will share in a scallop fishery that was worth, ex-vessel value, approximately \$4 Million in 1991, and approximately \$5.2 Million in 1990.

In the Scallop Moratorium Petition, the Commissioner states that, "Such a moratorium on new entrants would give the department time to develop a management plan that would conserve the resource and stabilize the fishery". We ask the Board to ask the Commissioner to explain several aspects of the management of the scallop fishery, including the details of developing a management plan for the Alaskan scallop fishery:

1. On what basis has ADF&G been managing the Alaskan scallop fishery to the present time?
2. Why has ADF&G failed to develop a management plan for the Alaskan scallop fishery before now?
3. What human and financial resources has the Commissioner currently budgeted for the development of this proposed management plan?
4. How much time does the Commissioner feel he needs to develop the proposed management plan?
5. Has the Commissioner proposed any human and financial resources in the ADF&G F/Y 1993 budget to develop the proposed management plan?
6. Is the Commissioner able to develop a management plan for the Alaskan scallop fishery without having a moratorium in place?
7. Is a moratorium a necessary prerequisite for developing a management plan for the Alaskan scallop fishery?
8. Is it not the responsibility of the Board to develop a management plan?
9. Has the Commissioner ever indicated to the Board in the past that such a management plan is necessary, or that he is unable to conserve or manage the Alaskan scallop fishery?
10. Has the Commissioner substantiated that his staff is unable to manage and conserve the Alaskan scallop fishery?
11. Can the Commissioner produce any past reports, documents, memorandum or verbal testimony from his staff who have responsibility for managing the Alaskan scallop fishery that ADF&G is unable to manage and conserve the Alaskan scallop fishery?
12. Has the Commissioner ever discussed, or proposed to the Board, any other solutions that would address the problems that he perceives to exist in the scallop fishery [ie, 100 % observer coverage on scallop vessels (wrap them into the Alaska shellfish observer program); the development of an enforcement plan in cooperation with the Fish and Wildlife Protection Division of the Department of Public Safety that would result in a focused enforcement effort on scallop vessels; the requirement of satellite or some other type of position indicators on scallop vessels; outright closures of areas that are determined to be in jeopardy; limiting the width of a scallop dredge; establishing a minimum ring size greater than the currently permitted 4 inches; limiting the length of a scallop vessel; establishing a trip limit for scallop vessels; establishing registration areas for scallop vessels (including exclusive and super-exclusive registration areas); etc.]?
13. Can the Commissioner provide information regarding the length of time that the beneficiary vessels, owners, operators and crews of a scallop moratorium have participated in the Alaskan scallop fishery?
14. How does the Commissioner reconcile the fact that he is now proposing a step as drastic as a moratorium, but yet has not submitted any other regulatory proposals to the Board that would assist ADF&G in conserving, stabilizing and managing the Alaskan scallop fishery?
15. Does the Commissioner intend to develop any regulatory proposals regarding the Alaskan scallop fishery prior to the April 10, 1992, proposal deadline?