

**ALASKA**

**LEGISLATURE**

**COMMITTEE**

**FILES**

**1991-1992**

**8672**

**7204**

**HOUSE**

**RESOURCES**

STATE OF ALASKA DEPARTMENT OF FISH AND GAME STANDARD OPERATING PROCEDURE	No. II-040	PAGE 040-6
	ISSUED 06/19/91	EFFECTIVE 06/19/91

SUBJECT            ETHICS/STANDARDS OF PROFESSIONAL CONDUCT

CHAPTER           DEPARTMENT POLICIES

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ALL PREVIOUS EDITIONS				<i>Calix Rain</i>

Decisions regarding outside employment, possible conflicts with these standards, and remedial actions taken to relieve conflict with the standards will be rendered only by the designated supervisor in consultation with the division directors.

All employees of the department, subject to provisions of the ethics policy, may not participate in commercial fishing, commercial game or fish guiding, trapping, mariculture, or aquaculture activities unless specifically approved by the division director and the designated supervisor. Provisions in the ethics policy do not apply to seasonal or temporary employees when they are on leave without pay status.

Employees may participate in secondary outside employment related to fish and game, providing the annual disclosure form has been completed, approved, and signed by the designated supervisor.

ETHICS POLICY

A. Commercial Activities

Exclusions

The department finds that no substantial and material conflict exists, but prior approval by the appropriate division director and designated supervisor is required if:

1. Employees participate in the commercial take of fish and game if those resources are not regulated by the department or the Board of Fisheries and Game.
2. Employees acting as a commercial guide for purposes other than fish or game harvest, such as photography or recreational camping, if no harvest or attempted harvest by the employee or the client of fish or game is involved in such guiding activities.
3. Employees trap, and their total annual compensation for sale of furs obtained from trapping does not exceed \$2,500.

Except for the above exclusionary findings, the prohibitions for commercial activities which relate to fish and game shall be based on divisional jurisdiction and region of employment.

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Divisional Prohibitions (all employees)

Divisions of FRED, Commercial Fisheries, Sport Fish, External and International Fisheries Affairs, and Commissioner's Office: No commercial harvest of fishery resources except as identified in number 1 under Exclusions.

Division of Wildlife Conservation and Commissioner's Office: No commercial harvest of game resources, including the sale of furs of more than \$2,500 annually.

All other divisions: Commercial harvest approved subject to disclosure and prior approval.

Geographical Prohibitions (all employees)

In addition to jurisdictional (divisional) prohibitions, the following geographical prohibitions also apply.

Regional restrictions: No commercial harvest of fish or game resources within the region of employment, as defined by divisional geographic boundaries.

Headquarters staff and staff located outside of Juneau with statewide responsibilities shall assume a regional prohibition of where they are stationed and/or where they primarily work.

B. Use of Information and Materials

1. Employees are encouraged to prepare job-related, general interest, and technical papers on official and personal time. Employees may not, however, accept any compensation for an article, paper, or photograph produced on state time or with state equipment.
2. Department employees appearing as speakers at meetings where they are representing only themselves and not the department shall not use department materials that are not generally available to the public unless they have obtained the approval of their supervisor. Department materials that are broadly distributed and of common access may be used by employees in the same manner as they might be by a citizen who is not an employee. In instances where the presentation might directly benefit

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an employee's personal or financial interest, the employee should carefully review the provisions of this policy and the Executive Ethics Act (AS 39.52), and consult wit. an immediate supervisor or the department's designated supervisor.

C. Use of State Equipment and Facilities

1. Department employees shall not use state equipment or facilities in the pursuit of personal activities, other than those uses which are minor and inconsequential, under that distinction in AS 39.52.110(a)(3). A factor indicating that a use is minor and inconsequential is that no additional cost will be incurred by the state. Activities which result in the employee receiving compensation, as defined in AS 39.52.960, are not minor and inconsequential. In field situations, at the discretion of the relevant division director, normal living activities of division employees will not constitute personal time for purposes of use of state equipment and facilities:
  - a. No additional costs will be incurred by the state.
  - b. The activities will not occur when the employee is on state time.
  - c. The activities do not result in the employee's receiving compensation, as defined in AS 39.52.960.

D. Use of Photographs

1. Employment with the department may provide employees with unique photographic opportunities. Consequently, a significant potential exists for both real and perceived conflicts of interest. The department's policy is to allow employees to pursue an interest in photography while clearly distinguishing between ethical and unethical personal gain that may come from photographs taken while working for the department.
2. When photography occurs during normal or assigned working hours and with the use of state equipment or film, the products of all such photography shall be considered

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property of the state. If personal equipment or film is used, the photos may be kept for personal use, but shall not be commercially used.

3. Photography at times other than normal or assigned working hours shall be considered a personal activity. If personal film and equipment are used, the photos shall be considered personal property and may be commercially sold or given to the state. However, if state equipment or film are used, the photos are state property and may not be used for personal gain.

E. Advisory Committees and Private Organizations

1. Department employees shall assist advisory committee and regional councils of the Boards of Fisheries and Game, but shall not participate in nominating or voting on candidates for office nor vote on items before the committee or council while attending such meetings representing the department. An employee is considered to be representing the department when he or she has: (a) been specifically requested to appear by a board or council member to comment on a proposal before the body; (b) is appearing, while on duty during his or her normal working day, as a member of a group of departmental employees; or (c) has been directed to appear by a supervisor to represent the department. In the event none of the above apply and an employee is asked to comment on a proposal before the committee or council, the employee must clearly convey that, in this instance, he or she is not speaking in an official capacity for the department. Employees of the department, who by job title or designated duties, are assigned management authority may not serve as members or officers of advisory committees to the Boards of Fisheries and Game, or as members or officers of regional councils. Management authority for purposes of this section includes the ability to take "official action" as defined in AS 39.52.920(14).
2. Department employees are encouraged to participate in private organizations with purposes related to fish and game resource use or conservation and to make public statements, as long as the employee does not purport, or

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appear to purport, that he or she is speaking or acting in an official department capacity. All employees must recognize that in circumstances when their outside activities conflict with department positions or policies, the employee's credibility and/or job effectiveness may be jeopardized. Accordingly, employees should consult their regional supervisor for guidance to reduce potential conflicts.

Example 1: Ernie is a fisheries biologist working on the Kenai Peninsula. He has been asked by a local sport fishing club (of which he is a member) to testify at a public hearing about the need to allocate more fish for sport use. After consulting with his regional supervisor, Ernie determines that it would be professionally unethical for him to testify as a private person since the public's trust in his credibility as an unbiased department management biologist would likely be significantly reduced.

Example 2: Ann is a habitat biologist in interior Alaska. She has been asked by a professional society (The Ecological Society of America) to testify before a House Agricultural Subcommittee in Washington, D.C., about the effects of a newly developed wastewater treatment system for placer mining on aquatic organisms (her area of expertise). Although the State of Alaska has endorsed this technology, after discussion of the request with her regional supervisor, Ann decides to testify but limit her testimony to the biological tradeoffs associated with this treatment technology. Ann's testimony is presented as a professional scientist, not as a representative of the state, and further, carefully avoids addressing the political or economic aspects of the issue.

Example 3: Bill is a Division of Wildlife Conservation area management biologist who attends an advisory committee meeting where officers will be elected and regulations will be discussed. Because area biologists speak on proposals and are commonly viewed by the public to represent the department, Bill does not vote in the committee elections.

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3. The department specifically encourages employee participation in professional societies and recognizes such organizations (e.g., The Wildlife Society, American Fisheries Society, Ecological Society of America, American Statistical Association, Professional Secretaries International, etc.) as distinctly different from other special interest groups. In some situations it may be beneficial to the department for individuals to participate in activities of such societies on state time, and requests to do so shall be made through the division director and the designated supervisor.
4. Department employees may not accept payment or reimbursement for travel or other expenses from any source other than as provided for in AS 39.52.130.

F. Patent/Copyright

The department will reserve all rights to any invention, discovery, material, equipment, or intellectual property designed, developed, and produced by department employees:

1. During working hours.
2. With a contribution by the department or the state of facilities, equipment, material funds, or of time and services or other state or department employees on official duty.
3. Which bears a direct relation to, or is made in consequence of, official duties of the inventory.

DISCLOSURE

One of the best ways to avoid even the semblance of impropriety is for all department employees to provide full and detailed prior disclosure, in writing, of the precise nature of any association, relationship, business arrangement, or circumstance which suggests that decisions may be made contrary to the best interest of the general public, resources, or the department; for the employee's personal financial gain; or for reasons contrary to the department's statutory responsibilities. All such prior disclosures shall be done through division directors to the designated supervisor.

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Example 1: Carol is a clerk typist who wants extra money for the holidays and takes an after-hours waitress job October through December. Disclosure is necessary.

Example 2: Sid is a permanent full-time technician working at the Fin Perfect Hatchery who builds and sells crab pots in his spare time. Disclosure is necessary.

REQUEST FOR AUTHORIZATION FOR EXEMPTION

A. Department employees shall submit written requests for authorization to participate in commercial activities, or to conduct other activities identified in this policy, through their director to the designated supervisor at least thirty working days before participating in the activity. Expedited requests will be considered by the designated supervisor in instances where the employee could not reasonably provide the thirty-working-day advance notice. Such requests must be accompanied by a written explanation of the factors which prohibited advance notice. The written request shall include:

1. Type of activity.
2. Duration or dates of activity.
3. Approximate location of activity.
4. Justification for authorization or exception.
5. Name, division, address, and phone number of the employee.

Detailed and complete answers on the "Ethics Disclosure Form" shall satisfy this requirement.

B. The designated supervisor shall indicate if an ethical problem exists with a request for authorization because of an employee's specific employment responsibilities, and shall recommend appropriate action in a memorandum to the employee, with a copy to the division director within twenty working days upon receipt of a request.

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APPEAL PROCESS

Department employees may utilize the grievance procedure in the Personnel Rules (2 AAC 07.435) if they disagree with the designated supervisor's decision. However, it is recognized that in all cases, provisions of AS 39.52.910(b) apply.

DIVESTITURE PERIOD

Employees of the department who hold an interest or are otherwise involved in an activity precluded by this policy have until January 1, 1992 to divest themselves of that interest or activity. The effective date, January 1, 1992, applies only to those items precluded by the departmental policy. The Ethics Act (AS 39.52) is in effect and its prohibitions and requirements presently apply to all departmental employees.

CORRECTIVE ACTION

Violation of the Executive Branch Ethics Act (AS 39.52) includes not only a conflict of interest, but also failure to file a disclosure form or inadequately or falsely filing a disclosure form.

If a department employee is found to have violated the Executive Branch Ethics Act (AS 39.52), the State Personnel Rules (2 AAC 07), or these standards, the commissioner or designated supervisor may, by written memorandum: Order the employee to stop engaging in the prohibited activity; temporarily or permanently reassign job responsibilities to eliminate the potential conflict; order divestiture, establishment of a blind trust, restitution, or forfeiture; or take administrative disciplinary action against that employee. Disciplinary action, depending on severity, will range from: A verbal reprimand; a written reprimand placed in the employee's personnel file; suspension without pay; or termination of employment with the department [see AS 39.52.410(a)].

PUBLIC COMPLAINT PROCESS

Complaints will be handled according to the provisions of AS 39.52.210 and AS 39.52.230.

STATE OF ALASKA  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF FISH AND WILDLIFE PROTECTION

OFFICER'S INFORMATION MANUAL

APPROVAL: <u>Jack W. Jordan</u>	Policy No.: <u>C-9</u>
PAGE <u>1</u> of <u>2</u>	Date: <u>July 16, 1990</u>
	SUBJECT: <u>OUTSIDE EMPLOYMENT</u>

All requests for employment outside the Department are reviewed by the Commissioner's Office on a case by case basis. However, the following guidelines have been previously established concerning certain types of work which will not be approved.

1. Alcohol dispensary business
2. Guiding profession
3. Commercial fishing or sport fish guiding

The permission may be withdrawn if a conflict or the appearance of a conflict, with the discharge of the employee's official duties arises.

In the Ethics Law governing outside employment (AS 39.52.170), there is further clarification stating; no public employee may work for (paid or unpaid) an organization other than the employee's own department if that work is incompatible, or in conflict with the proper discharge of official duties.

Please note two important points above:

1. The work is paid or unpaid.
2. Appearance of a conflict is sufficient grounds for disapproval.

Permission for outside employment must be renewed annually.

Requests for outside employment should be made in memo form and must be accompanied by a blue Ethics Disclosure Form. An example of the form follows this policy. Forms are available from the Commissioner's Office and the Department of Public Safety Personnel Office.

Please note that under the Executive Branch Ethics Act, the only person authorized to sign the Ethics Disclosure Form for this Department on behalf of the Commissioner is the "Designated Ethics Supervisor", Special Assistant Gretchen Pence.

# Ethics Disclosure Form

## Outside Employment or Services Notification

To: Designated Supervisor

Subject: Certification of Outside Employment or Services (AS 39.52.170)

In accordance with AS 39.52.170(b), I hereby officially report my employment or provision of services outside the Department of \_\_\_\_\_

These outside duties will in no way affect my usual State duties or duty hours in this Department. This employment or service consists of the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Hours and days of the week \_\_\_\_\_

I understand that for any employment outside State service, no State owned/operated facilities, supplies, equipment and/or vehicles (including personnel time and effort) shall be utilized in any manner whatsoever.

_____ (Signature)	_____ (Date)
_____ (Printed Name)	_____ (PCN)
_____ (Job Title)	_____ (Location)

### Designated Supervisor's Acknowledgement

Your notification of engagement in outside employment or service has been received.

Acknowledgement of your outside employment or service is made with the understanding that your outside work will not in any way detract from or be in conflict with the proper discharge of your official duties as an employee of this Department.

Please note that any change in your outside service or employment must be reported when it occurs.

\_\_\_\_\_  
(Signature-Designated Supervisor)

\_\_\_\_\_  
(Date)



State of Alaska  
**ombudsman**

Duncan C. Fowler

Reply to:

P.O. Box 102636  
Anchorage, AK 99510-2636  
(907) 277-8848  
(800) 478-2624

P.O. Box WO  
Juneau, AK 99811-3000  
(907) 485-4970  
(800) 478-4970

P.O. Box 74358  
Fairbanks, AK 99707-4358  
(907) 452-4001  
(800) 478-3257

April 14, 1992

Representative Gene Kubina  
Capitol Building  
Juneau, Alaska 99801-1182

RE: Senate Bill 375

Dear Representative ~~Kubina~~ *Kubina*:

Senate Bill 375 is to be heard by your committee April 15. This bill relates to the propriety of Fish and Wildlife protection officers maintaining guide licenses during their period of state employment.

My office has recently completed an investigation relating to this issue. I have enclosed a copy of this for your review. I believe this investigation demonstrates that the provisions of SB375 are appropriate. I support its passage.

In the best of all worlds, I would like to see this bill have provisions which would prevent public safety officers from being able to apply guiding credits earned in past years towards their guiding license. However, I have been advised that such a retroactivity provision could be legally challenged.

Please let me know if you have any questions about this investigation or the Office of the Ombudsman.

Sincerely,

Duncan C. Fowler  
Ombudsman

DCF:pjc  
Enclosure  
cc: Lyman Hoffman  
Pat Rodey



**INVESTIGATIVE REPORT**  
(Finding of Record)

Ombudsman Complaint A090-1956  
April 14, 1992

**NOTE:** This public version of this investigation has been heavily edited to comply with state law and constitutional privacy provisions.

**SUMMARY OF THE COMPLAINT**

On November 23, 1990, the above-referenced complaint was filed with the Office of the Ombudsman. Assistant Ombudsman Gwen Byington completed a preliminary review of the allegations, and on April 19, 1991, official notice was provided to Lieutenant Robert Boutang and Public Safety Commissioner Richard L. Burton.

The investigation is based on four specific allegations. These allegations are set out below:

(1) Fish and Wildlife Protection Officer Lieutenant Robert Boutang maintained a current guide license and worked in the guiding industry from 1983 through 1988 with approval from his supervisors contrary to agency policy;

(2) Lieutenant Boutang improperly made conflicting statements concerning his work as an assistant guide and his intent to obtain a registered guide license;

(3) Lieutenant Boutang used his position as a Fish and Wildlife Protection officer for personal gain; and,

(4) the Department of Public Safety, Division of Fish and Wildlife Protection officials were inefficient and untimely in taking appropriate personnel action in the matter concerning Lieutenant Boutang.

Including the current ombudsman investigation, a total of six investigations have been initiated surrounding Lieutenant Boutang's guiding activities. Ms. Byington reviewed all the investigation files as well as Lieutenant Boutang's personnel file during the course of her investigation. These records are confidential by statute and cannot, therefore, be released to the complainant.

**BACKGROUND**

*Personal*

Lieutenant Boutang was employed as a Fish and Wildlife Protection officer while at the same time he held a guide license. His guide license lapsed following a 1988 ombudsman investigation.

As noted in a January 25, 1992, Anchorage Daily News article, Lieutenant Boutang published an article in the Alaska Professional Hunters magazine. In that article, Lieutenant Boutang speaks openly about his opposition to outfitters working in Alaska's hunting industry. Likewise, in 1988, Registered Guide Ed Grasser published an article titled Guides v. Outfitters. In this article, Mr. Grasser refers to outfitters as "outlaw guides," "illegitimate guides" and "pseudo outfitters." Lieutenant Boutang had a working relationship with Mr. Grasser.

### *Agency Policy*

In 1982, an attorney general opinion was published. This opinion addressed certain scenarios which the Attorney General believed to be a conflict of interest. While this opinion did not specifically address enforcement officers working in the guiding industry, the opinion speaks generally about what might constitute a conflict of interest. The opinion concluded that the common law concerning conflict of interest, "... aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation." (Emphasis added.)

In 1984, Public Safety Commissioner Robert Sundberg issued a policy concerning outside employment in the guiding industry. He determined that there was a conflict of interest between guiding and enforcement.

On January 31, 1986, the Division of Legislative Audit issued a report supporting Commissioner Sundberg's policy prohibiting Fish and Wildlife Protection officers from outside employment in the guiding industry. The conclusion was:

... the probability of risk to DPS's integrity is greatly increased and public perception of wrongdoing can be harmful and create operational inefficiencies.

### *Court Testimony*

In June 1988, Lieutenant Boutang testified at an omnibus hearing in State v. Zedler. The defense attorney, Barbara Brink, asked Lieutenant Boutang about his involvement in the guiding industry. She asked him if he was currently licensed as an assistant guide and whether or not he was working toward a registered guide license. Lieutenant Boutang admitted that he did have an assistant guide license, but he denied he had any future interest in becoming a registered guide.

When asked what the Division of Fish and Wildlife Protection policy was concerning outside employment in the guiding industry, Lieutenant Boutang testified he would have to check to make sure.

Lieutenant Boutang testified that he had never been employed as an assistant guide. His sole reason for being in the guiding camps was to learn more about the industry to become a better enforcement officer. He admitted that he had participated in the guiding industry. He "tagged" along with the registered guide, and he admitted there were two times that he had taken a hunter out by himself.

Finally, Lieutenant Boutang testified that a hunter will pay the guide from \$4,000 to \$4,500 just for the hunt, excluding their transportation, food and other costs.

From December 12 to December 14, 1988, Lieutenant Boutang was a witness in State v. Romero. Lieutenant Boutang testified he had no desire to become a registered guide but that he wanted to take the written test.

The defendant, George Romero, asked Lieutenant Boutang whether or not he was aware of an internal investigation being conducted by Colonel Jack Jordan concerning Lieutenant Boutang's work as an assistant guide. Lieutenant Boutang denied having any direct knowledge of an internal investigation until Mr. Romero told him about it. Superior Court Judge Richard Savell clarified the question by asking Lieutenant Boutang if he had been contacted about any internal ethical violations. Lieutenant Boutang denied that he had been contacted. He did, however, state that he was aware of an ombudsman investigation.

### *Agency Investigations*

On September 12, 1988, ombudsman complaint A088-1084 was opened. The agency was subsequently notified. Colonel Jordan initiated an informal internal investigation. The allegation was that Lieutenant Boutang had held a guide license and worked as an assistant guide contrary to agency policy.

The agency advised the ombudsman that the policy did exist prohibiting officers from working as guides. Because Lieutenant Boutang did not receive financial remuneration and he guided only on his own time, his supervisors believed Lieutenant Boutang was not in violation of agency policy.

On January 9, 1989, Ombudsman Duncan Fowler sent a closing letter to the complainant. The letter concluded that Commissioner Sundberg's 1984 policy "did not specify whether uncompensated service in those businesses (guiding and liquor industry) would be considered 'employment.'" On January 11, 1989, the ombudsman complaint was closed.

The third investigation was initiated by the Department of Commerce, Division of Occupational Licensing. This investigation was eventually referred to the Department of Law.

A criminal investigation ensued. At the conclusion of the criminal investigation the matter was referred to the Division of Fish and Wildlife Protection for an administrative review.

The sixth investigation is the current investigation conducted by the Office of the Ombudsman, which has precipitated this report.

### ANALYSIS AND FINDINGS

*Allegation 1: Fish and Wildlife Protection Officer Lieutenant Robert Boutang maintained a current guide license and worked in the guiding industry from 1983 through 1988 with the approval of his supervisors contrary to agency policy.*

In 1984, Commissioner Sundberg issued a policy statement establishing that it was a conflict of interest for officers to work in enforcement and the guiding industry simultaneously.

Lieutenant Boutang, along with his supervisors, failed to research department policy before deciding that it was appropriate for Lieutenant Boutang to maintain his assistant guide license and to pursue a registered guide license. Their interpretation was in direct contravention of the policy issued by Commissioner Sundberg.

In the Romero trial Lieutenant Boutang stated that the complaint had been initiated by a convicted felon, someone who had a vendetta against him. While the credibility of the complainant is not immaterial, agency officials allowed the

complainant's perceived credibility to overshadow the seriousness of the allegations brought against Lieutenant Boutang.

As stated in the 1986 Legislative Audit report, it is the public perception that must be considered. The report supported Commissioner Sundberg's position that it was a conflict of interest for an officer to maintain an assistant guide license. A 1982 attorney general opinion concluded that the common law concerning conflict of interest, "... aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation." [Emphasis added.]

Individuals at the supervisory level failed to enforce the commissioner's decision in instructing the officer.

The focus of this investigation has been upon whether or not Lieutenant Boutang worked as an assistant guide and thus was eligible to apply for a registered guide license. The complaint as it was presented to our office, however, was that Lieutenant Boutang maintained an assistant guide license contrary to agency policy and with the approval of his supervisors. Allegation 1 was written to reflect that Lieutenant Boutang both maintained a guide license and carried out guiding activities contrary to Commissioner Sundberg's policy and with the approval of his supervisors.

I believe that a Fish and Wildlife Protection officer acting, working or employed as an assistant guide presents an obvious conflict. However, merely holding an assistant guide license, as the complainant initially alleged, provides nothing less than a perceived conflict of interest.

The article written by Lieutenant Boutang concerning his position with regard to outfitters working in the hunting industry only further supports the conflict between guiding and enforcement.

I find this allegation justified.

*Allegation 2: Lieutenant Boutang improperly made conflicting statements concerning his work as an assistant guide and his intent to obtain a registered guide license.*

Our investigation concluded that Lieutenant Boutang has in the past made conflicting statements concerning his work as an assistant guide. There is no question that Lieutenant Boutang worked very hard while he was acting as an assistant guide and that he did not receive wages for his work. As the court testimony indicates, he made conflicting and somewhat confusing statements concerning his own guiding activities.

After reviewing all the records and the various statements made by Lieutenant Boutang, my greatest concern is that of credibility. As Lieutenant Boutang pointed out, a peace officer must follow the letter of the law and be truthful at all times.

I find this allegation justified.

*Allegation 3: Lieutenant Boutang used his position as a Fish and Wildlife Protection officer for personal gain.*

While it is to his credit that he acted or worked as an assistant guide during his vacation time so that he could learn more about the guiding industry, I question Lieutenant Boutang's motives.

It is impossible to show his work as an assistant guide was dependent upon his position as a Fish and Wildlife Protection officer and thus a personal gain. Judging from his keen interest in hunting, Lieutenant Boutang would probably have sought experience in the guiding industry regardless of any other professional position he may have held.

Lieutenant Boutang and at least one individual he associated with in the guiding industry was strongly opposed to outfitters and the services they provided to hunters. Outfitters were competition to licensed guides. As a Fish and Wildlife Protection officer, Lieutenant Boutang had the authority to target individual outfitters for investigation. I am not accusing Lieutenant Boutang of having used his position in such a manner, but there is certainly a perception that he had an opportunity to do so. In my mind, this perception compromises the officer's credibility.

Working in the guiding industry while at the same time being a law enforcement officer overseeing the guiding industry is clearly a conflict of interest. The scenario is so intertwined one cannot envision that there was not some personal benefit received by his involvement in both enforcement and guiding -- not the least of which is the fact that Lieutenant Boutang is able to claim credit for working as an assistant guide to meet the requirements of a registered guide. I cannot, however, find that Lieutenant Boutang used his position as a Fish and Wildlife Protection officer by and through his work in the guiding industry for "personal gain."

I find this allegation unsupported.

*Allegation 4:* The Department of Public Safety, Division of Fish and Wildlife Protection officials were inefficient and untimely in taking appropriate personnel action in the matter concerning Lieutenant Boutang.

Ombudsman complaint A088-1084 was filed on September 12, 1988. As a result of that complaint, Fish and Wildlife Protection Officer Colonel Jordan was contacted concerning the allegations. Colonel Jordan agreed that working as an assistant guide while being employed as a Fish and Wildlife Protection officer was contrary to department policy.

At the conclusion of Colonel Jordan's review of the allegations, he told Ms. DeCamp that Lieutenant Boutang was not in violation of department policy. He stated that Lieutenant Boutang had approval from his supervisor to act as an assistant guide so long as he did not receive payment for his services. Colonel Jordan then instructed all officers holding assistant guide licenses to let their licenses expire.

Based upon the information provided by the agency, Ombudsman Duncan Fowler concluded the investigation.

The complainant in ombudsman complaint A088-1084 did attempt to file a complaint with the agency prior to coming to the ombudsman. The agency, however, refused to look into the allegation.

It was not until the ombudsman received specific statutory authority in 1990 to review confidential law enforcement investigation files that a thorough investigation was completed.

I find this allegation justified.

**RECOMMENDATIONS**

(1) The Department of Public Safety conduct an administrative review of the Division of Fish and Wildlife Protection officer Lieutenant Boutang to determine if additional complaints exist. The administrative review be conducted by the troopers. This matter has become public, e.g. publication of a Legislative Audit report addressing the Big Game Commercial Services Board and the Division of Fish and Wildlife Protection and the January 25, 1992, Anchorage Daily News article. The ombudsman is concerned about the public perception of the Division of Fish and Wildlife's credibility as well as morale within the division.

(2) The Department of Public Safety recommend to the Division of Occupational Licensing that current and/or former public safety officers applying for a registered guide license not be given assistant guide credits for years claimed while they were employed as peace officers. If this end cannot be achieved administratively, the Department of Public Safety submit legislation which would preclude Fish and Wildlife Protection officers from receiving credit for those years they acted as an assistant guide contrary to agency policy.

(3) The Department of Public Safety review the supervisors' involvement in this matter and take appropriate personnel action.

(4) The Department of Public Safety review Lieutenant Boutang's involvement in this matter and take appropriate personnel action.

GBP:pjc

cc: Commissioner Burton



State of Alaska  
**Ombudsman**

Duncan C. Fowler

February 7, 1992

Patrick Rodey, Chairman  
Senate State Affairs Committee  
Alaska State Legislature  
Capitol Building  
Juneau, Alaska 99801-1182

RE: SB-375

Dear Senator Rodey:

The Office of the Ombudsman supports the purposes of SB-375. I believe that law enforcement officers with involvement in areas they have responsibility for enforcing are in an unfortunate conflict of interest. Any person charged with the responsibility of enforcing laws faces a challenge of not only having to be, but needing to appear even handed in the performance of their duties.

SB-375 helps set out the state policy that it is inappropriate for enforcement officers to be in the position of working as a guide or an assistant guide while they are involved in enforcing state fish and wildlife protection laws. This policy makes it clear that those charged with enforcing our state laws must take an arms-length approach in their off-duty activities to ensure they maintain the necessary independence so their enforcement activities may not be questioned.

Through our investigations, I have become aware of at least one public safety employee in this situation. He volunteered to work under the tutelage of licensed guides to apparently obtain the necessary work experience which would allow him to apply for and receive a guide license after leaving law enforcement work. Although an employee in this situation may not have received monetary compensation for their work, they clearly intend to profit from their off-duty activities. Their volunteer experience will convert to dollars upon receipt of a guide license. It clearly has a long-term benefit to the employee involved.

A situation such as this also presents a potential enforcement problem. The opportunity exists to perhaps apply a different standard when enforcing state laws involving the friendly guide who is providing off-duty guiding supervision. It can

Reply to:

- P.O. Box 102636  
Anchorage, AK 99510-2636  
(907) 277-6848  
(800) 478-2824
- P.O. Box WO  
Juneau, AK 99811-3000  
(907) 465-4970  
(800) 478-4970
- P.O. Box 74358  
Fairbanks, AK 99707-4358  
(907) 452-4001  
(800) 478-3257

February 7, 1992

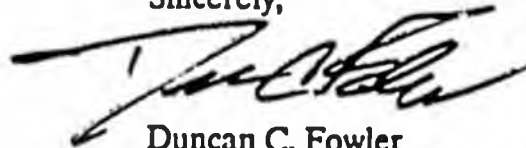
also create the appearance of being biased when he must enforce game laws against his friend's competitors.

It is my information that the Department of Public Safety has had a policy prohibiting such conflicting off-duty activities for several years. However, if a public safety employee did work and obtain guide experience credits in conflict with that policy in the past, there was no prohibition to prevent the Guide Board from acknowledging that experience and allowing it to be applied towards the licensing requirements. Ann Boudreaux, director of the Division of Occupational Licensing, told me that the board would probably accept that past experience as there was nothing which would allow them to discount either the quality or applicability of that experience.

I would propose that the committee consider modifying the "ethical conduct" standards and definitions in AS 08.54 to include a person's past non-guiding employment history. Clearly, the concept I propose needs refining and defining. However, I do believe it would be improper for guiding experience credits, which have been obtained contrary to the policies of their employer, be allowed when applying for a state license.

I am sorry I am unable to meet with the committee at its hearing this afternoon. I am committed to meet with another committee. Please let me know if you have any additional questions about this matter.

Sincerely,



Duncan C. Fowler  
Ombudsman

DCF:pjc

cc: Senator Lyman Hoffman

# HOUSE COMMITTEE REPORT

(7) Date Referred: April 3, 1992 FURTHER REFERRALS: Resources

Date of Committee Action: 4/15/92

The STATE AFFAIRS Committee considered: CSSB 375(STA) am

CS FOR SENATE BILL NO. 375 (STA) am TROOPERS CANNOT BE GAME GUIDES

"An Act prohibiting certain law enforcement officers from holding big game guide-outfitting licenses; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with CSSB 375(STA)  a new title

- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) Public Safety 2-12-92

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene H. Kubler</i>	<input checked="" type="checkbox"/>				
<i>T. M. Beckman</i> <small>MOY</small>	<input checked="" type="checkbox"/>				
<i>[Signature]</i> <small>BECKMAN</small>	<input type="checkbox"/>				
<i>[Signature]</i> <small>BAKER</small>	<input checked="" type="checkbox"/>				

*Eugene H. Kubler*  
CHAIRMAN'S SIGNATURE

SB

391

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE LINCOLN

TO: SB 391 am

Page 1, after line 9:

Insert new bill sections to read:

\*\* Sec. 2. AS 46.08.070(a) is amended to read:

(a) Except as provided in (d) of this section, the [THE] commissioner shall seek reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance that has been released.

\* Sec. 3. AS 46.08.070(b) is amended to read:

(b) Except as provided in (d) of this section, the [THE] attorney general, at the request of the commissioner, shall immediately seek to recover money expended by the department under AS 46.08.005 - 46.08.080 or other law to contain and clean up oil or a hazardous substance that has been released or to control the threatened release of oil or a hazardous substance.

\* Sec. 4. AS 46.08.070 is amended by adding a new subsection to read:

(d) Notwithstanding (a) and (b) of this section, the state may not seek reimbursement or recovery of containment and cleanup costs incurred to restore unsafe public drinking water supplies or to provide safe alternative public drinking water supplies if a village, as defined in AS 46.07.080, is a party responsible for the release that caused the water supply to become unsafe."

Renumber the following bill sections accordingly.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill Version: SB 3917

(S) Publish Date: 3-6-92

Revision Date: \_\_\_\_\_  
Title: Restoring Impaired public  
drinking water supplies  
Sponsor: Sen. Hoffman  
Requestor: Sen. Hoffman

Department Affected: Environmental  
Conservation  
BRU: Spill Prevention and Response  
Component: Contaminated Sites

COMPONENT SERIAL NO. 

1	4	3	1
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
OPERATING						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE: 1052						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

\* Any costs associated with this legislation would be recovered from the party responsible for the contamination.

Prepared by: Janice Adair  
Division: Commissioner's Office

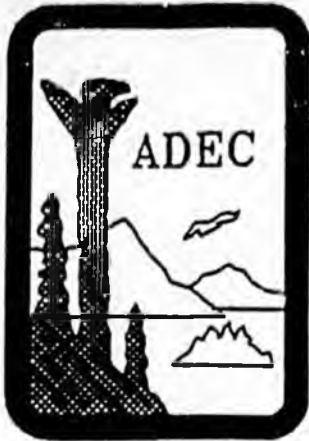
Phone: 465-5050  
Date: 2/10/92

Approved by Commissioner: *Janice Adair*  
Agency: Environmental Conservation

Date: 2/10/92

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





Department of Environmental Conservation

## POSITION PAPER

RECEIVED  
13 1992

BILL NO: SB 391

APPROVED:

*James D. Taylor*

TITLE: Restoration of Impaired Water

DATE:

3-18-92

The Department supports this legislation. There have been several occasions in the last few years when undetected spills of hazardous substances, including petroleum products, have contaminated public drinking water supplies in remote communities. In many cases, the Department of Environmental Conservation (ADEC) undertook containment and cleanup activities using the Oil and Hazardous Substance Release Response (470) Fund.

Generally, cleanup activities of contaminated soil involve drilling "monitoring" wells to determine the extent of the contamination. The same equipment used for these monitoring wells can be used to drill a new drinking water well. ADEC has no mechanism to provide an alternative drinking water source to a community absent a specific capital project appropriation. The legal restrictions on the 470 Fund prevent ADEC from using this fund source to reestablish the drinking water source as a part of ADEC's cleanup activities. The community is thus forced to wait through at least one capital budget cycle for the necessary funds. By this time, another construction season is gone, as is the equipment used to drill any monitoring wells. The need to return this equipment to the community in order to drill a new drinking water well can significantly add to the cost of the capital project.

A.S. 46.08.040 outlines the purposes for which the 470 Fund may be used. It includes the containment and cleanup of a release of a hazardous substance. Any funds so expended are to be recovered from the party responsible for the release pursuant to AS 46.08.070. SB 391 amends the definition of "containment and cleanup" to include the restoration of a contaminated public drinking water supply. Any funds used for this purpose would be added to those the responsible party must repay to the State.

# FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO SB 391

Revision Date: \_\_\_\_\_ Department Affected: Environmental  
 Title: Restoring impaired public Conservation  
drinking water supplies BRU: Spill Prevention and Response  
 Sponsor: Sen. Hoffman Component: Contaminated Sites  
 Requestor: Sen. Hoffman

COMPONENT SERIAL NO. 

1	4	3	1
---	---	---	---

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	*					
---------	---	--	--	--	--	--

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	*					
FUND SOURCE: 1052						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

**ANALYSIS:** (Attach a separate page if necessary.)

\* Any costs associated with this legislation would be recovered from the party responsible for the contamination.

Prepared by: Janice Adair  
 Division: Commissioner's Office

Phone: 465-5050  
 Date: 2/10/92

Approved by Commissioner: *Janice Adair*  
 Agency: Environmental Conservation

Date: 2/10/92

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

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

ALASKA DIVISION OF EMERGENCY SERVICES

PO BOX 5750  
FT. RICHARDSON, AK 99505-5750  
PHONE: (907) 438-7000

January 2, 1992

**NOTE:**

This letter is an example of the problems experienced by rural residents faced with an unreliable water supply. Even obtaining water from traditional sources can now have environmental and health problems.

Mr. John Amik  
Village Administrator  
Kipnuk Village Council  
General Delivery  
Kipnuk, Alaska 99614

Dear Mr. Amik:

The Division of Emergency Services has reviewed your request for assistance in meeting the village's need for a more readily available source of water by filling the storage tank with water drawn from a nearby lake. While recognizing the difficulty that villagers encounter in supplying themselves with water in the traditional ways, hauling ice from nearby lakes, we have concluded that your proposal does not offer a feasible alternative.

This conclusion is based in part on engineering advice we have obtained from the Alaska Department of Environmental Conservation and the U.S. Public Health Service. There are two problems with your proposal: (1) the water in the lake from which you propose to draw, and other area lakes, is extremely turbid with suspended material at this time of year. Moreover, because of the shallowness of the lakes (two feet or less), it would be impossible to avoid pumping an excessive amount of material from the bottom along with the water. The quality of the water would thus be too poor for use in daily laundry purposes, let alone drinking. (2) the logistics of drawing water from lakes and pumping it a minimum of 2000 feet to the storage tank at this time of year would be extremely difficult to accomplish without a prolonged period of temperatures that are higher than normal for this time of year.

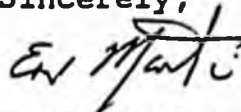
While this does not alleviate immediately the hardships that villagers must undergo to obtain water, there is some gratification in knowing that this will probably be the last year that residents of Kipnuk experience a water shortage of this magnitude. As you know, the State Department of Environmental Conservation and the U.S. Public Health Service have been working for some time on proposals to provide a long term solution to the village's water problems,

January 2, 1992  
Page 2

including the construction of larger capacity storage facilities and a washeteria. At present, over \$1.2 million in federal and State funds are committed to this project, with construction of the first phase scheduled for next summer. It is expected that completion of this phase will assure a storage capacity adequate to meet all of the community's needs throughout the winter.

In the meantime, we can offer a recommendation. We suggest that the Village approach the school and request that the school make available, at least for elderly residents who have difficulty in obtaining water in the traditional way, a place for distributing limited supplies of drinking water from the school's storage tanks. With careful monitoring, this should be possible without depleting the water supply needed by the school to meet its own needs.

Sincerely,



Ervin Paul Martin  
Director

EPM:JB:th

cc: Office of the Governor, ATTN: Nancy Barnes  
Village Safe Water, ATTN: Greg Capito  
US Public Health Service, ATTN: Tom Coolidge  
Senator Lyman Hoffman  
Representative Ivan Ivan



## TANANA CHIEFS CONFERENCE, INC.

122 FIRST AVENUE  
FAIRBANKS, ALASKA 99701-4897  
PHONE (907) 452-8251 FAX (907) 451-8938

SB 391

April 8, 1992

The Honorable Representative Georgianna Lincoln  
P.O. Box V  
Juneau, Alaska 99811

Dear Georgianna:

This letter is to express my strong support for the passage of House Bill No. 535. This bill, if ratified, would provide a much needed source of funds to reestablish a safe drinking water source in villages where community water supplies have been rendered unusable from hazardous material spills.

Contamination of public water supplies from fuel or other hazardous material leaks and spills is a serious public health threat to the Native people of the Tanana Chiefs Conference Region. When a public water system becomes contaminated with a hazardous material such as fuel, it often takes years and considerable sums of money to reestablish a potable water supply in the community. In the interim, community residents are forced to obtain water from unprotected sources such as nearby rivers and streams. A good example of this occurred in the Village of Minto. A fuel line leak in 1988 caused gross contamination of the community well. Development of a new well and transmission line capable of meeting the needs of the village was not completed until 1991 at a cost to the state of \$250,000. For three years, village residents were forced to drink untreated water from the Tolovana River. The provisions of House Bill No. 535 would help to prevent this type of situation from reoccurring. By allowing the use of 470 funds to reestablish a safe drinking water supply where contamination of the existing supply has occurred, the state would be able to offset any impact of the 470 fund by the savings that will be realized by using well cleaning equipment already on-site for spill remediation and clean-up. More importantly, village residents who rely on community wells for their water needs will not be required to wait for prolonged periods of time before safe water can once again be provided for them.

Good luck in your efforts to promote ratification of this bill.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

*Will Mayo*  
Will Mayo, President

Rec'd 4/13/92



# Yukon-Kuskokwim Health Corporation

"Fostering Native Self Determination in Primary Care, Prevention and Health Promotion"

April 4, 1992

Representative Georgianna Lincoln  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Ms. Lincoln:

This letter is written in support of House Bill 535.

SB 391

A recent study conducted by YK staff working with Village Clinics, listed a total of 47 clinics in the Delta. Of the 47 clinics, 21 or 45% of those clinics have water and sewer and 26 or 55% do not.

The impact of an impaired public drinking water supply in the Villages would be severe. This Bill would facilitate cleanup or containment of oil or a hazardous substance that has been released and would allow DEC to put the 470 fund to use in restoring a safe drinking water supply to the impacted Village. This is especially important for the Delta where Villages, because of the time it takes to get the required funding for restoring drinking water. The impact for a Village having to wait for funding for clean-up and water restoration would cause a needless wait.

Sincerely,

Orie Williams



# WESTERN STATES WATER

THE WEEKLY NEWSLETTER OF THE WESTERN STATES WATER COUNCIL

Creekview Plaza, Suite A-201 / 942 East 7145 So. / Midvale, Utah 84047 / (801) 561-5300 / FAX (801) 255-9642

editor - Tony Willardson

chairman - William H. Young

typist - Carrie Curvin

executive director - Craig Bell

## WESTERN STATES WATER COUNCIL

### Quarterly Meetings

The Western States Water Council held its 106th quarterly meetings in Portland, Oregon on April 8-10. On Wednesday afternoon, the state of Oregon and U.S. Army Corps of Engineers hosted a tour of Bonneville Dam, including its second powerhouse and upstream and downstream fish passage facilities. The tour prefaced later discussions on the Columbia River system and the listing of some salmon as endangered species.

On Wednesday evening a subcommittee met and reviewed federal legislation on national energy policy, as well as continuing discussions with the Federal Energy Regulatory Commission regarding federal hydropower licensing and state water management and water rights administration processes. An effort to draft a memorandum of agreement between FERC and states was discussed. Also on Wednesday, the Water Policy Seminar subcommittee reviewed plans to meet in Washington, D.C. on April 21-23, 1993.

Thursday morning, the Water Resources Committee met and addressed many issues. It recommended a Council position on dam safety that was later adopted. The committee next addressed various water policy initiatives, including Senator Mark Hatfield's (R-OR) bill on western water policy review (S. 1228; WSW #931), an ICWP roundtable (WSW #928), a series of WGA/WSWC workshops, and activities of the Advisory Commission on Intergovernmental Relations. The Committee also reviewed the status of omnibus reclamation legislation (WSW #933), including Senator Tim Wirth's (D-CO) successful amendment adding S. 1812, the San Luis Valley Protection Act (WSW #921), which the Council opposes. The committee also heard a report on

FERC subcommittee activities, discussed an ongoing state water conservation program study, and noted a new contract has been signed with the Bureau of Reclamation to review its ground water recharge demonstration program. The Committee reviewed state water use fees, including proposed legislation in Alaska and a draft policy report from Oregon.

Further, Dave Johnson, Soil Conservation Service, presented the committee with the most recent westwide information regarding precipitation, snowpack, reservoir storage, and streamflow forecasts. Much of the West continues to suffer through a sixth year of drought, with some exceptions in Arizona, Colorado, New Mexico and Texas. Bill McDonald, Assistant Commissioner of the Bureau of Reclamation for Resources Management, discussed new federal authorities under the Reclamation States Emergency Drought Relief Act (H.R. 355; P.L. 102-250), which provides the Secretary of Interior with greater flexibility in operating federal projects to meet critical needs during drought. It also creates a long-term drought contingency planning program (WSW #927). Of note, the bill directs the Secretary of Interior to conduct a precipitation management technology transfer program. The Council supports the program, and recently wrote House and Senate appropriation committees requesting funding.

The Water Quality Committee began by discussing the celebration of 1992 as the Year of Clean Water, with Jay Pitkin, Utah Division of Water Quality, leading an interchange of ideas regarding appropriate state activities. Next, Gary Hanson, Washington Department of Ecology, recommended a related resolution for the Council's approval. The Committee also discussed watershed protection, with Lydia Taylor, Oregon Division of Water Quality, describing the watershed protection initiative of the Association of State and Interstate Water Pollution Control

Administrators, and Lorna Sticckel, Chair of the Oregon Water Resources Board, outlining a draft watershed management bill being circulated by Rep. Les AuCoin (D-OR). The Committee also heard an update on Clean Water Act (CWA) reauthorization matters, and a description of a related meeting on western water quality issues (WSW #926). Further, EPA's efforts to define comprehensive state ground water protection plans were discussed. A presentation on state assumption of the CWA Section 404 program was rescheduled for the July meeting because an EPA spokesman was unable to attend.

The Executive Committee met to review the current budget report and other matters. Of particular note, with the addition of Hawaii as a full member this past year, the Council determined it could maintain the existing level of dues unchanged through fiscal year 1994/95. Dues have not increased since 1987/88.

The Legal Committee addressed general water right adjudications in Arizona, Idaho, Oregon, Washington, and Wyoming, and some recent court decisions. Members also heard presentations on Oklahoma v. EPA (WSW #930), Nebraska v. Wyoming (WSW #929), and South Dakota v. Needham (WSW #892 and #873). Council staff reported working on a summary of western state water right permitting procedures, and preparations for a second WSWC/Native American Rights Fund Symposium on Indian Water Right Settlements on September 1-3, in Albuquerque, New Mexico.

Finally, the committee held a provocative and in-depth discussion on the Endangered Species Act. A panel of experts included: Steve Sanders, Oregon Attorney General's Office (moderator); Elizabeth Holmes Gaar, National Marine Fisheries Service; Frank Dunkle, Nationwide Public Project Coalition; Anne Squier, Northwestern School of Law; Gail Achterman, Attorney; Rob Lothrop, Columbia River Intertribal Fish Commission; and John Volkmann, Northwest Power Planning Council.

The 106th WSWC Quarterly Meeting began Friday morning with brief reports by the working committees. The Council adopted two policy positions. The first, on dam safety, urges the Administration and Congress to restore funding for the Federal Emergency Management Agency's dam safety work, reauthorize and update the Dam Safety Act of 1986,

and provide appropriate federal financial assistance. The second position marks the 20th Anniversary of the Clean Water Act and urges states to proclaim 1992 as the "Year of Clean Water" and October 1992 as "Clean Water Month." The Council also adopted two resolutions of appreciation recognizing the contributions of Dave Walker and Jeris Danielson (WSW #933 and #929).

Most of the meeting was dedicated to a discussion of the Columbia River System in an era of change. Various issues were addressed by a panel including: WSWC Chairman Bill Young, Director of the Oregon Department of Water Resources (moderator); Robert Flannagan, Corps of Engineers; Ken Pedde, Bureau of Reclamation; John Palensky, Bonneville Power Administration; Bob Turner, Special Assistant to Washington Governor Booth Gardner; and Andy Brunelle, Special Assistant to Idaho Governor Cecil Andrus. The panel described the hydrology and development of the Columbia River system and efforts to improve operations to meet the demands placed on the resource for water, power, recreation, navigation and fish and wildlife protection and enhancement.

Concern is focused on restoration of depleted salmon stocks, several of which have been proposed for protection under the Endangered Species Act. The many federal and non-federal dams within the system provide enormous water and power benefits, as well as a gauntlet of obstacles challenging both upstream and downstream migration of anadromous fish. The complexity of the system and varying public values result in difficult intergovernmental and interagency management problems that can be confusing and frustrating. The precipitous decline of certain salmon stocks is creating pressure for change. Several separate, but related, reviews are underway, and various actions are being considered and implemented. Last year, BPA committed \$100 million to fish conservation. Some Corps and Bureau dams are storing water for release, while the pool at others is being lowered up to 40 feet to increase the velocity of downstream flows to aid fish migration. Idaho has enacted new legislation to allow the necessary water transfers. Flexibility and innovation will be needed to resolve system problems, and tradeoffs are inevitable.

The next WSWC Quarterly meetings will be held in Salt Lake City, Utah, on July 8-10.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of member states - Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, with Oklahoma as an associate member state.



# WESTERN STATES WATER

THE WEEKLY NEWSLETTER OF THE WESTERN STATES WATER COUNCIL

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## LITIGATION

### General Adjudication-Arizona

The Arizona Supreme Court has issued an opinion in its review of Arizona trial court procedures for service of summons, filing, and service of pleadings in the consolidated general adjudication of the Salt, Verde, Gila, Agua Fria, Upper Santa Cruz, and San Pedro River watersheds (In the Matter of the Rights to the Use of the Gila River,..., No. WC-90-0001-IR, Mar. 19). The trial court entered an order in 1986 to establish procedures to manage the complex litigation and has implemented them since. In December, 1990, the Arizona Supreme Court agreed to review six issues decided in the pretrial orders. The recent opinion addresses the first issue: whether provisions for filing and service are constitutional.

In the face of various due process challenges, the court upheld the notice by summons and publication procedures, which included a comprehensive mailing of some 850,000 summons to identifiable land owners, water right holders, well owners, and others and publication of a number of legal notices in news papers printed in or near watershed areas. The court acknowledged that some property owners, lien holders, and federal government lessees and permit holders may not have received a summons by mail, but found they were accorded due process through newspaper publication. The court also rejected arguments that the content of the notice was constitutionally deficient. With respect to filing and service of pleadings, the trial court's order required each party to file a copy of all pleadings with the clerk of the court, who compiled them into a docket system. The Arizona Supreme Court held that the docketing system was well designed to afford litigants adequate notice of all filings, and therefore constitutionally sound.

## WATER RESOURCES

### Water Supply Outlook/Drought

According to the Soil Conservation Service, spring and summer streamflows for nearly all western states will be below to well below average. March 1 forecasts have been reduced as a result of below to well below average precipitation during February, in combination with lower than average snowpacks. Streamflows below 70% of average are expected throughout California, Nevada, Oregon, southern Idaho, southern Wyoming, southeastern Montana, northern and central Utah, and along the northern border of Colorado. Only southcentral Colorado, New Mexico, central Arizona, and central and southeastern Alaska can expect above to well above average runoff.

Since the beginning of this water year, most western states have received well below to near average precipitation. Less than 80% of average was recorded in February throughout most of Montana, Idaho, northern Wyoming, central Oregon, western Washington, northeastern California, western Nevada, eastern Arizona, eastern Colorado, and northeastern New Mexico. Precipitation patterns favor the southwest. In February, much of California, Utah, southern and eastern Nevada, western and southern Arizona, southern New Mexico, the western border of Colorado, and central and southeastern Alaska received precipitation exceeding 120% of average.

However, below average snowpack conditions continue. Snow water equivalent values of less than 70% were recorded throughout California, Nevada, Oregon, southern Idaho, central Montana, western Wyoming, central Utah, and northern Alaska. Above to well above average snow water contents were reported in southeastern Alaska, northcentral

Washington, central Arizona, southcentral Colorado, and New Mexico. With respect to surface water storage, six states are near to well above average. New Mexico has 179%, compared to Nevada's 13% on February 29.

## WATER RESOURCES/ENVIRONMENT

### Endangered Species

California state and federal water projects will sharply reduce their pumping in the Sacramento-San Joaquin Delta to protect the endangered winter-run chinook salmon. The cutbacks, announced April 10 by the California Department of Water Resources and the U.S. Bureau of Reclamation, will reduce pumping to 1200 cubic feet per second, a fraction of the capacity of the state and federal pumping plants. Under the cutback the state will pump 350 cfs and the Bureau 850 cfs. Immediately before the cutback the state was pumping 2,000 cfs and the Bureau 3300 cfs. The cutback was ordered by the National Marine Fisheries Service after consultation over losses this year of young winter-run chinook migrating out from the Sacramento River watershed. The projects have pumped heavily from the Delta since the rains of early February, nearly filling the two million acre-foot San Luis Reservoir south of the Delta.

### Rivers

The environmental group American Rivers has recently released its annual list of "endangered" and "threatened" rivers. The focus of the list has changed this year away from protecting pristine river resources to restoring rivers already adversely affected, in American Rivers' view, by hydroelectric development, mining, silviculture, agriculture, ground water withdrawals, and other problems. Western rivers included on the "threatened" list are: Virgin River, Arizona, Nevada and Utah; Verde River, Arizona; Rio Conchos, Rio Grande, Texas; Klamath River, Oregon; Illinois River, Oregon; Gunnison River, Colorado; Elwha River, Washington; Clavey River, California; and Animas River, Colorado.

Rivers included on the "endangered" list are: Columbia and Snake River, Washington, Oregon, Idaho, and Montana; Blackfoot River, Montana; Colorado River, Arizona; American River, California; and Alsek and Tatshenshini River, Alaska. The

Columbia and Snake river system is listed first, according to an American Rivers representative, because of the "tremendous decline in the number of native fish species moving up and down those rivers." The group asserts that over 200 fish species are imperiled in the system.

## WATER RIGHTS

### Indian Reserved Rights/Northern Cheyenne Tribe

The Senate Select Committee on Indian Affairs has reported S. 1607, a bill that codifies a reserved water rights settlement agreement between the Northern Cheyenne Indian Tribe and the state of Montana. It provides approximately \$22M to the Tribe, half of which the tribe will loan to Montana to rehabilitate the Tongue River Dam. The loan's repayment agreement will include provisions creating an Indian preference clause for all contracts for work on the dam. Markup for S. 1607 was first scheduled last fall, but was delayed a number of times because of opposition from the Administration and because some senators had placed holds on the bill. No companion bill has yet passed the House.

In addition to its provisions to settle the Northern Cheyenne Tribe's claims, S. 1607 would create a trust fund at the Department of Treasury for Indian water claims settlement generally. Appropriations under the bill, and those for future settlements, would be deposited into the fund to provide a consistent and dependable funding source for Indian water rights settlements. Under current policy, funding for settlements often competes with funding for other Bureau of Indian Affairs and Indian Health Service programs. This competition has been criticized in the past.

## MEETINGS

Enclosed with this newsletter is a brochure advertising a two day symposium sponsored by various Oregon water organizations which will focus on experiences of administering water marketing policies in the western states. Speakers will explore both successes and problems related to water marketing efforts. Oregon Senator Mark Hatfield will be a keynote speaker. The symposium will take place May 27-28, at the Willamette University College of Law Smith Auditorium in Salem, Oregon.

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The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of member states - Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, with Oklahoma as an associate member state.

## WATER MARKETING SYMPOSIUM

The two day symposium focuses on the experiences of administering water marketing policies developed in other western states. Speakers will explore both the successes and the problems they have encountered in developing a workable marketing policy.

Oregon policymakers--the government, the Legislature, and special interest groups who actively participate in water policy issues--will have the opportunity to share these experiences and to explore which combination of alternatives might be woven into a Water Market Policy for Oregon.

Oregon's Senator Mark Hatfield is the co-sponsor of U.S. Senate bill S.1228 proposing to coordinate water policy issues on a national basis. Senator Hatfield will open the conference with a national perspective.

## CONFERENCE LOGISTICS

The following discounted accommodations have been arranged to facilitate travel for conference attendees:

**AIR TRAVEL - DISCOUNTED FARES ON UNITED AIRLINES, UNITED EXPRESS AND DELTA AIRLINES**

**TRAVEL WORLDWIDE NETWORK**  
1-800-631-9675

The TRAVEL WORLDWIDE NETWORK has negotiated special conference airfares with both United Airlines and their United Express affiliate, and with Delta Airlines. Discounts of up to 45% off regular coach or 5% off the lowest super-savers are available. Please let The Travel Worldwide Network know if you are a senior citizen, since most airlines offer additional discounts of 5%-10%. Please compare the rates offered by Travel Worldwide Network before making your airline reservations. Call Travel Worldwide Network 1-800-631-9675 from 8:30 - 5:00 EST.

Travel Worldwide Network also will arrange for your discounted car rental through Alamo or shuttle service from Portland International Airport.

WEDNESDAY, MAY 27

SMITH AUDITORIUM, WILLAMETTE UNIVERSITY  
7:30-8:30 REGISTRATION AUDITORIUM FOYER

8:30 WELCOME  
President Jerry E. Hudson  
Willamette University

8:40 INTRODUCTIONS  
John E. Borden, Deputy Director  
Oregon Water Resources Department

8:50 KEYNOTE ADDRESS  
The Honorable Mark O. Hatfield  
U.S. Senator, State of Oregon

9:10 SESSION 1

### THE ECONOMIC THEORY OF THE WATER MARKET

Topics: Characteristics of the water market, curing market imperfections; competitive & distribution problems in free market.

Introduction: Martha O. Pagel  
Governor's Senior Policy Advisor for  
Natural Resources, State of Oregon

Richard E. Howitt, Professor  
Department of Agricultural Economics  
University of California, Davis

10:10 COFFEE BREAK

10:25 SESSION 2

### LEGAL CONSTRAINTS ON WATER MARKETS

Topics: What are the legal constraints that set the parameters for water marketing? How does the "public trust" apply? What are the limitations on interstate commerce?

Introduction: Kimber Johnson, President  
Oregon Water Utilities Council

A. Dan Tarlock, Professor of Law  
Illinois Institute of Technology  
Chicago Kent College of Law

11:30 LUNCHEON--WILLAMETTE UNIVERSITY CAFETERIA  
on own

12:30 SESSION 3

### TECHNICAL & ENGINEERING ASPECTS OF WATER MARKETS

Topics: How are marketable rights "measured"? Is the "irretrievably lost" standard effective? Should only a portion of the right be marketed?

Introduction: Ben "Kip" Lombard, Jr., Counsel  
Oregon Water Resources Congress

Steven J. Shupe, Engineer & Attorney  
President, Shupe & Associates, Inc.  
Director, COMPACT Dispute Resolution Service

1:30 BREAK

1:45 SESSION 4

### PROTECTING PUBLIC VALUES

Topics: What interests or values should be protected? What is the public review process?...the Administrative role?...the Judicial role?

Moderator: Susan L. Smith, Professor of Environmental and Natural Resources Law  
Willamette University College of Law

Panelists:

Richard Lazarus, Professor of Environmental and Natural Resources Law, Washington University, St. Louis, Missouri

Karen Garrison, Senior Project Scientist  
Natural Resources Defense Council, San Francisco

Anne Squier, Assistant Professor of Law,  
Lewis & Clark Northwestern School of Law

3:00 ADJOURN

Topic areas will be more comprehensive. The topics listed will be among those discussed at presentations.

4:00-6:00 pm

**RECEPTION WILLAMETTE UNIVERSITY CENTER**

Oregon Wine and Cheese and Conversation  
"Meet the Speakers and Conference Participants"

**THURSDAY, MAY 28**

8:45 CALL TO ORDER

9:00 SESSION 5

**FEDERAL GOVERNMENT'S ROLE IN WATER TRANSFERS**

Topics: What are the federal agency constraints on water marketing? How can they be overcome? What is the federal gov.'s role in reallocation of water through market transfers?

Moderator: Dave Frohnmayer, Dean, School of Law University of Oregon

Panelists:

J. William McDonald, Assistant Commissioner, Resources Management, Bureau of Reclamation, U.S. Department of Interior

Thomas C. Jensen, Counsel Committee on Energy & Natural Resources, U.S. Senate

10:15 BREAK

10:30 SESSION 6

**WHAT WORKS? -- WATER TRANSFERS IN OTHER STATES**

Topic: Review of other States' transfer procedures.

Moderator: William H. Young, Director Oregon Water Resources Department

Panelists:

Lawrence J. MacDonnell, Director, Natural Resources Law Center, University of Colorado, School of Law

John E. Echohawk, Executive Director  
Native American Rights Fund, Boulder, CO

12:00 LUNCHEON - WILLAMETTE UNIVERSITY CAFETERIA  
on own  
1:30 SESSION 7

**CALIFORNIA EXPERIENCE WITH WATER TRANSFERS**

Moderator: Gail L. Achterman, Attorney & Partner  
Steel Rives Boley Jones & Gray, Portland, OR

Panelists:

Brian E. Gray, Professor of Law  
University of California, Hastings College of the Law

Jerome C. Muys, Attorney & Partner  
Will and Muys, P.C., Washington, D.C.

Robert G. Potter, Deputy Director, Department of Water Resources, State of California  
Supervisor, Divisions of Planning, Management and Fiscal Services

Jason Peltier, Manager  
Central Valley Project Water Association

3:00 BREAK

3:15 SESSION 8

**CONSERVATION & WATER MARKETING**

Topics: How can conservation be a source of marketable water rights? Should beneficial use be a limitation on sellers? What are consequences for land use changes resulting from water marketing?

Moderator: Lorna Slickel, Chair,  
Oregon Water Resources Commission

Panelists:

Edwin V. Lance, Vice President and Director of Agricultural Land & Management, CH2M Hill, Engineers, Denver

Edward E. Pokorney, Manager, Intergovernmental Relations, Denver Water Dept.

Thomas J. Graff, Senior Attorney, Environmental Defense Fund, San Francisco

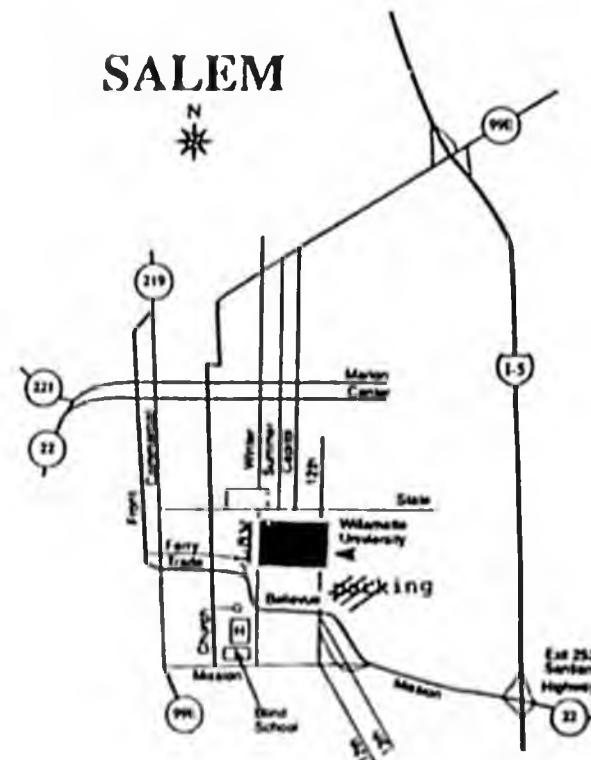
4:15 WRAP UP

SUSAN L. Smith, Professor of Environmental and Natural Resources Law, Willamette University, College of Law... "Conference Overview"

A. Reed Marbut, Manager, Adjudication Section Oregon Water Resources Department  
"Oregon's Water Market Task Force"

For more information contact:  
Water Marketing Symposium  
Phone (503) 363-0121; FAX (503) 371-4926

**DIRECTIONS TO WILLAMETTE UNIVERSITY COLLEGE OF LAW**



## REGISTRATION

We encourage Oregon policymakers - government, Legislature and special interest groups active in development of statewide water issues - to register as soon as possible to assure participation

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

FIRM/AGENCY \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_

ZIP \_\_\_\_\_

ADDITIONAL PARTICIPANTS FROM SAME FIRM/AGENCY \_\_\_\_\_

PLEASE REGISTER \_\_\_\_\_ PARTICIPANTS @ \$275 ea.  
Add \$25 for all registrations received after May 1.

TOTAL \$ \_\_\_\_\_

PAYMENT: My check is enclosed payable to "WATER MARKET SYMPOSIUM," P.O. Box 3532, Salem OR 97302.

VISA/MASTER CARD:  
Please charge my VISA \_\_\_\_\_ M/CARD \_\_\_\_\_

No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

Signature \_\_\_\_\_

REGISTRATION includes conference materials and the hosted reception on campus. Lunches are available at the University Center daily for under \$5.

CANCELLATIONS must be made by May 1 to receive a full refund. Cancellations after May 1 will be refunded less a \$25 administration fee.

We are sorry that we cannot provide discounted rates for state agencies, non-profit groups or others. While we would have liked to present this conference at a limited registration fee for all participants, we are providing the air transportation and lodging costs for all conference speakers and a hosted social event.

The Oregon Bar Association has pre-approved 12.5 CLE credits for this event.



### WILLAMETTE UNIVERSITY

All conference functions will be held on campus. Willamette University is celebrating its Sesquicentennial this year--its 150th Anniversary! Parking will be available on campus. Maps will be provided on request.

The campus is bounded by Winter Street on the West and 12th Street on the East. It lies south of State Street and north of Bellevue Street. (The State Capitol is on State Street.)

The Smith Fine Arts Auditorium is located in the center of the campus.

Lunch service is available on campus at the University Center each day of the conference.



## --OUR SPECIAL THANKS--

**WILLAMETTE UNIVERSITY, COLLEGE OF LAW,**  
Susar, L. Smith, Professor of Environmental and Natural Resources Law

**OREGON WATER RESOURCES DEPARTMENT**  
**WATER RESOURCES COMMISSION (503) 378-3671**  
3850 Portland Road, Salem OR 97310

*With special thanks to Reed Marbut of the Water Resources Department who assisted in the planning of the conference and the administration of Oregon's WATER MARKET POLICY TASK FORCE.*

**OREGON WATER RESOURCES CONGRESS**  
P.O. Box 3609, Salem OR 97302 (503) 363-0121  
Attention: Jan Boettcher, Executive Director

*an association representing irrigated agriculture and irrigation districts in Oregon since 1912*

**OREGON WATER UTILITIES COUNCIL**  
P.O. Box 10148, Eugene OR 97440 (503) 484-2411  
Attention: Kimber Johnson, President

*an association representing municipal utilities, serving municipal water and energy supply to Oregon communities.*



## CAR RENTAL

Alamo Car Rental from Portland International Airport is available at discounted rates.

Economy:	\$24 day.
Compact:	\$25
Intermediate:	\$27
Full-sized:	\$29

All prices include unlimited mileage. Please contact Travel Worldwide Network 1-800-631-9675.

## HOTEL ACCOMMODATIONS

We have arranged accommodations at two facilities, for your convenience:

**EXECULODGE (800) 452-7879**  
200 Commercial SE, Salem OR 97301  
Rate: \$42 Single/ \$50 Double

This facility is within walking distance of Willamette University and restaurants in downtown Salem.

**BEST WESTERN MILL CREEK INN**  
3095 Ryan Dr. SE, Salem OR 97301  
Rate: \$51 Single/\$56 Double  
(800) 346-9659

This is a new facility, approximately 2 miles from Willamette University, just off I-5 Freeway.

In either case, identify WATER MARKET SYMPOSIUM room block to get the conference rate. Make your reservations directly with the hotel before May 11.

## HUT COMMUTER SHUTTLE

The shuttle is available by reservation between the Portland and Salem Airports, about a one hour drive. (There are no commercial flights coming into Salem Airport.) Reservations must be made along with air travel and can be booked by Travel Worldwide Network. The shuttle is \$20 each way. Airport Limousine service is provided by the hotels from the Salem Airport.



*Reservations received by April 5th,  
discounted to \$225.00.*

**WATER MARKET SYMPOSIUM**  
P.O. Box 3532  
Salem OR 97302

# SYMPOSIUM: WATER MARKETING FOR OREGON



May 27 - 28, 1992

**WILLAMETTE UNIVERSITY  
COLLEGE OF LAW  
SMITH AUDITORIUM  
SALEM, OREGON**

## SPONSORS:

**WILLAMETTE UNIVERSITY COLLEGE OF LAW  
OREGON WATER RESOURCES CONGRESS  
OREGON WATER RESOURCES COMMISSION  
OREGON WATER UTILITIES COUNCIL**

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SALEM OREGON

SB

405



Revised Letter of intent to SB 405:

The Department of Environmental Conservation, the Division of Insurance within the Department of Commerce and Economic Development, and the Legislative Research Agency shall research the possibility of group pooling or other mechanisms to assist non-crude operators in meeting the state's financial responsibility requirements for oil spill pollution coverage, and shall report back to the Legislature with their findings and recommendations by February 1, 1993.

5/5/92

Senate adopted Letter of Intent

FISCAL NOTE

No. 1

Bill Version: SB 405

BILL NO. (S) Publish Date: 4-15-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Financial responsibility for  
oil operations  
Sponsor: Hoffman  
Requestor: (S) Oil and Gas

Department Affected: Environmental  
Conservation  
BRU: Spill Prevention and Response  
Component: Spill Prevention, Planning and  
Management

COMPONENT SERIAL NO. 

1	4	3	0
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EXPENDITURES/REVENUES:

(Thousands of Dollars)

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

CAPITAL						
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REVENUE FUND SOURCE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

changes in CSB 405 (01G)  
have no fiscal impact. This  
fiscal note is appropriate.  
4-15-92 Jenny Bylund  
date Conce Aile (initial)

Prepared by: Janice Adair  
Division: Commissioner's Office

Phone: 465-3010  
Date: 2/21/92

Approved by Commissioner: [Signature]  
Agency: Environmental Conservation

Date: 2/21/92

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

SB

416



SENATOR FRED F. ZHAROFF  
ALASKA STATE LEGISLATURE

P. O. BOX 486, KODIAK, ALASKA 99015 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 185-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • Pribilof Islands • Shumagin Islands

MEMORANDUM

TO: Representative Cliff Davidson

FROM: Senator Fred F. Zharoff

DATE: May 5, 1992

RE: CS For Senate Bill No. 416 - "An Act authorizing the commissioner of commerce and economic development to defer certain principal and interest payments on loans made under the fishery enhancement loan program to accommodate transfer of operational responsibility for state-owned hatcheries."

BILL SUMMARY: CSSB 416 would allow the commissioner of commerce to defer repayment of principal and interest on fisheries enhancement loans in order to allow regional aquaculture associations enough time to establish cost recovery programs at former state-operated hatcheries. The deferral period may not exceed five years.

Four conditions must be met for the commissioner to authorize a deferral. First, the regional aquaculture association must have entered into a multi-year agreement to take over the operations of a state-owned hatchery. Second, the hatchery involved must have had insufficient salmon returns to support a cost-recovery program while it was operated by the state. Third, the state did not transfer management of the hatchery before June 30, 1991. And fourth, the commissioner must determine that the deferral would materially assist the association in paying the operational costs of the hatchery.

FISCAL IMPACT: The Department of Commerce and Economic Development's fiscal note is \$480,000 for FY 94, \$480,000 for FY 95, \$567,200 for FY 96, \$529,200 for FY 97, and zero for FY 98. The Alaska Industrial and Development Authority's fiscal note is \$312,500 for FY 93. The Department of Fish and Game's fiscal note is zero.

PREVIOUS ACTION: The Senate Labor and Commerce Committee moved the bill on April 14 (1 DP, 4 NR). The Senate Finance Committee moved the bill on May 7 (1 DP, 5 NR). Passed the State Senate 18-1 on May 8.

BACKGROUND: The state's policy in recent years has been to encourage and facilitate the transfer of state-owned fish

hatcheries to qualified regional aquaculture associations. While state hatcheries are entirely dependent on general fund appropriations for operating costs, regional aquaculture associations are allowed to conduct cost-recovery operations, where surplus fish returning to the hatcheries are harvested and sold to cover hatchery operating costs.

Due to natural salmon cycles, varying periods of time are required before the transferred hatcheries can establish viable cost-recovery programs. By allowing the deferral of principal and non accrual of interest, CSSB 416 would provide the associations with the operating capital necessary to make the transferred hatcheries financially self-sufficient.

The Beaver Falls Salmon Hatchery outside Ketchikan is the one hatchery that would be immediately affected by this bill. The Southern Southeast Regional Aquaculture is interested in turning Beaver Falls into a full production sockeye hatchery, if funds are available. The passage of CSSB 416 would allow SSRAA to proceed with a 20 year agreement to operate the hatchery.

ATTACHED BACKUP INFORMATION:

1. Fiscal note from the Alaska Industrial Development and Export Authority.
2. Fiscal note from the Department of Commerce and Economic Development.
3. Department of Commerce and Economic Development position paper on the original bill.
4. Fiscal note from the Department of Fish and Game.
5. Letter from Mr. Carl Rosier, Fish and Game commissioner, describing the current status of the state's hatcheries as of April 2, 1992.

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. Proposed  
CSSB 416 (FIN)

1

Revision Date: \_\_\_\_\_  
Title: Defer Fisheries Enhancement Loan  
Repayments  
Sponsor: Zharoff, Jones  
Requestor: Senate Finance

Department Affected: Commerce & Econ. Dev.  
BRU: Alaska Industrial Dev. & Export Auth  
Component: \_\_\_\_\_

COMPONENT SERIAL NO. 

1	2	3	4
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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	312.5	0	0	0	0	0
TOTAL OPERATING	312.5	0	0	0	0	0

CAPITAL						
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REVENUE FUND RESOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	312.5	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS (Attach a separate page if necessary.)

See Division of Investments, Department of Commerce and Economic Development, fiscal note analysis. AIDEA fisheries enhancement loans and receipts therefrom are pledged to the repayment of the DeLong Mountain Transportation Project Revenue Bonds.

Prepared By: Bill Scott, Executive Director *[Signature]* Phone: 561-8050

Division: Alaska Industrial Dev. & Export Auth. Date: 4/22/92

Approved by Commissioner: Glenn A. Olds *[Signature]*

Agency: Department of Commerce & Economic Development Date: 4.21.92

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

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. Proposed CSSB 416 (FIN)

2

Revision Date: \_\_\_\_\_  
Title: Defer Fisheries Enhancement Loan  
Repayments  
Sponsor: Zharoff, Jones  
Requestor: Senate Finance

Department Affected: Commerce & Econ. Dev.  
BNU: Investments  
Component: \_\_\_\_\_

COMPONENT SERIAL NO. 

0	3	8	4
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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 & STRU. URES						
GRANTS, CLAIMS						
MISCELLANEOUS	0	480.0	480.0	567.2	529.2	0
TOTAL OPERATING	0	480.0	480.0	567.2	529.2	0
CAPITAL						
FERLF 1070						
REVENUE FUND RESOURCE:	0	<480.0>	<480.0>	<567.2>	<529.2>	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	480.0	480.0	567.2	529.2	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	480.0	480.0	567.2	529.2	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Martin J. Richard, Director Phone: 465-2510  
Division: Investments Date: 4/22/92  
Approved by Commissioner: Glenn A. Olds  
Agency: Department of Commerce & Economic Development Date: 4.21.92

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

Page 1 of 2

GW/dg119280-1/042292b

(Rev. 12/91)

FISCAL NOTE - CSSB 416 (FIN)

ANALYSIS:

	<u>CIAA Tutka 7/1/92</u>	<u>SSRAA Beaver Falls 7/1/92</u>	<u>FUND TOTAL</u>
FY 93	---	*312.5	0
FY 94	---	480.0	480.0
FY 95	---	480.0	480.0
FY 96	38.0	529.2	567.2
FY 97	---	529.2	529.2
FY 98	---	---	---

\*This figure is included in the Alaska Industrial Development & Export Authority fiscal note.

SB 416: "Defer Fisheries Enhancement Loan Repayments"

SB 416 makes changes to the fisheries enhancement loan program to provide financial assistance to regional aquaculture associations and their nonprofit corporations that are taking over hatcheries previously operated by the state. This financial assistance will be accomplished without direct appropriations to the Department of Fish and Game or the regional aquaculture associations by reducing the amount of interest charged to these associations on loans received under the fisheries enhancement loan program. SB 416 allows the department to approve a noninterest accrual and nonpayment period to defray the costs of operation of a state-owned hatchery that has been transferred to a qualified regional aquaculture association. This time period which would be determined by the commissioner could not exceed five years from the date that the association assumes operating responsibility for the hatchery and can only be approved if certain conditions are met.

Those conditions are:

1. the association or corporation holding the loan has entered into or is prepared to enter into an agreement with the state to take over the operation of a state-owned facility, and
2. deferral of repayment of the loan would materially assist the association or corporation to pay the operational costs of the hatchery.

The department is neutral on this legislation. While the passage of SB 416 will result in fewer dollars returning to the loan fund over the next few years and may increase the department's general fund request for this program, there will be savings over the long term due to a reduction in the amount of general fund monies spent by the Department of Fish and Game to operate the facilities being transferred.

  
\_\_\_\_\_  
Glenn A. Olds, Commissioner

Date: 3.17.92

4

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SB 416

Revision Date: 3/12/92

Department Affected: Fish and Game

Title: Defer Fishery Enhancement Loan

BRU: FRED

Payments

Component: FRED

Sponsor: Senator Zharoff

Requestor: Senate Labor and Commerce  
Expenditures/Revenues: (Thousands of Dollars)

COMPONENT SERIAL NO. 4 6 7

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 Phone: 465-4100  
 Division: Commissioner's Office Date: 3/12/92  
 Approved by Commissioner: *Gene Somerville* for  
 Agency: Department of Fish and Game Date: 3/19/92

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

# STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 3-2000  
JUNEAU, ALASKA 99803-2000  
PHONE: (907) 463-4100

5

SB 416

April 2, 1992

The Honorable Drue Pearce  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

\*\*\*\*\*  
F A X T R A N S M I T T A L M E M O \*\*\*\*\*

TO: Ray Gillespie

DEPT: \_\_\_\_\_ FAX #: \_\_\_\_\_

FROM: Johnny Holland PHONE: \_\_\_\_\_

CO: \_\_\_\_\_ FAX #: \_\_\_\_\_

Post-it brand fax transmittal memo 7671

Finally!

NO. OF PAGES
5

Dear Senator Pearce:

During the March 18 Senate Subcommittee on Commerce and Labor hearing, Dr. J. S. Holland, Assistant Director of the department's Fisheries Rehabilitation, Enhancement and Development (FRED) Division, responded to questions posed by committee members. The committee requested clarification of the funding status of the state's hatcheries. Also, at one point, Dr. Holland mentioned the FRED Division's public hatchery strategic plan, three copies of which are enclosed.

Of the 20 state-owned hatcheries, nine are currently operated and/or funded by the private sector. Of those contracted hatcheries, Beaver Falls has no long-term contract commitment by the private sector and faces closure in FY 93. Negotiations are ongoing for the Southern Southeast Regional Aquaculture Association (SSRAA) to operate Beaver Falls. A long-term contractual commitment by SSRAA to operate Beaver Falls is dependent on both a hatchery upgrade CIP request (currently on the Governor's CIP list) and on deferment of fishery enhancement loans.

Three of the remaining 11 hatcheries (Clear, Elmendorf, and Ft. Richardson) are sport fish production facilities and, as such, are primarily funded by Sport Fish Restoration Act federal aid funds with matching funds provided from the fish and game fund or general fund. Following development of the enclosed public hatchery strategic plan, the FRED Division learned that Anadromous Fish Conservation Act federal aid funds will no longer be available. This leaves the Deer Mountain Hatchery with only half of the necessary funds needed to operate it in FY 93. The division is seeking additional funding sources for Deer Mountain, but if this funding does not come through, the facility will face closure in FY 93.

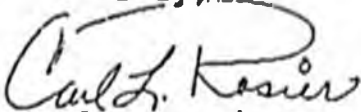
Of the remaining seven state hatcheries, three (Big Lake, Klawock, and Russell Creek) have been slated for closure in FY 93 given the magnitude of the department's proposed FY 93 budget reduction. At

April 2, 1992

this time, there are no private sector salmon producers that have expressed an interest in contracting the operations of any of these facilities, as cost-recovery options are severely limited. The four remaining hatcheries (Crystal Lake, Snettisham, Crooked Creek, and Sikusuilag Springs) each have unique properties; i.e., major impact on international fisheries treaties, research status, major impact on sport fish production, etc., that require they remain open.

I hope this information is useful when considering Senate Bill 416.

Sincerely,



Carl L. Rosier  
Commissioner

Enclosures

cc: Geron Bruce  
J. S. Holland  
Jeff Koenings

Alaska Department of Fish and Game-FRED Division  
Public Hatchery Strategic Plan

Hatchery	Location	Species	Program * Intent	Comments	Operating Costs	FY92		Oper. Plan FY	Agenc	Percent ** Subsistence	Percent Sport	Percent Commercial
						Funding Source						
Beaver Falls	Ketchikan	Sockeye	CF	Contracted to SSRAA with GF for FY92 operation.	\$294.8			92	SSRAA	***	0%	100%
Big Lake	Big Lake	Sockeye	CF, PU	Major production of enhancement fish for Anchorage area. Sockeye shortfunded in FY93.	\$60.0	CIP	92	FRED		14%	1%	85%
		Coho	SF, CF, PU		\$317.4	GF				5%	65%	30%
Cannery Creek	Whillier	Pink	CF	Operated by PWSAC			89	PWSAC				100%
Clear	Clear	Arctic char	SF	Major sport fish production facility vital to US/Can churn and chinook programs	\$22.9	GF	92	FRED			100%	
		Arctic grayling	SF		\$313.6	DJ/WB				100%		
		Lake trout	SF		\$92.5	F&G				100%		
Crooked Creek	Soldotna	Sockeye	CF, PU	Sockeye contracted to CIAA. Contributes substantially to sport fish program through egg take for other facilities.	\$46.0	CIAA	92	FRED	CIAA	3%	2%	95%
		Coho	SF, PU		\$340.3	GF		5%		95%		
		Steelhead	SF		\$3.8	PGR				100%		
		Chinook	SF							100%		
Crystal Lake	Petersburg	Chinook CL rd.	US/C, SF, CF	Large US/Can capital investment including Harding River, Deep Cove, and Farragut River. Provides 5-7 million chinook eggs in addition to its own needs primary stream rehab work from unique isolation modules.	\$602.6	GF	92	FRED			44%	56%
		Chinook remote	US/C, CF		\$15.0	PGR					1%	99%
		Coho	SF, PU, CF		\$12.8	DJ/WB				***	17%	83%
		Steelhead	SF								100%	
Deer Mountain	Ketchikan	Chinook	RES, SF, CF	Fisheries technology development results supplied to other state and private programs. Print tourist facility, over 250,000 annually. Major role in public education. Urban (SF) fisheries program being developed with Rainbow trout.	\$149.7	GF	92	FRED		***	40%	60%
		Coho	SF, PU, CF		\$141.5	AHAD				***	17%	83%
		Steelhead	SF		\$13.0	DJ/WB					100%	
		Rainbow	SF								100%	

Hatchery	Location	Species	Program Intent *	Comments	Operating Costs	Funding Source	Operational FY	Plat Aqen	Percent Subsistence **	Percent Sport	Percent Commercial
Sikusuilag	Kolzebue	Chum	CF, SUB	Developmental facility for fisheries technology. Potential for subsistence harvest. To be contracted in 1999.	\$390.8	GF	99	Reg. Asso	20%		80%
Snellisham	Juneau	Sockeye CIF	US/C, CF, RE	Tremendous involvement in US/Can projects, transboundary river sock enhancement plus SE Baranof chum. Applied technology development for sockeye smolt. Major sport fish production in Juneau recreation project.	\$612.8	GF	92	FRED	***		100%
		Sockeye (small)	US/C, CF		\$108.0	US/CAN			***		100%
		Chinook (Deep)	US/C, CF		\$94.1	W/B				6%	94%
		Chinook (juvenile)	SF							34%	66%
Trail Lakes	Moose Pass	Coho Sockeye	SF, CF CF	Operated by CIAA			89	CIAA	***	75%	25% 100%
Tulko	Homer	Pink Chum Sockeye	CF CF CF	Contracted to CIAA		CIP	92	CIAA	*** ***	2%	98% 100% 100%

\* - Legend- subsistence (SUB), sport fish(SF), commercial fish(CF), research (RES), US/Canada (US/C)

\*\* - Includes personal use

\*\*\* - Thought to contribute to subsistence but as yet unquantified

\*\*\*\* - SSRAA -Southern Southeast Regional Aquaculture Association

PWSAC- Prince William Sound Aquaculture Corporation

CIAA - Cook Inlet Aquaculture Association

NSRAA - Northern Southeast Regional Aquaculture Association

REG. ASSOC.- as yet unknown aquaculture association.

Pg.R. - program receipts

Hatchery	Location	Species	Program Intent	Comments	Operating Costs	Funding Source	Operational FY	Pla Agen	Percent ** Subsistence	Percent Sport	Percent Commercial
Elmendorf	Anchorage	Chinook	SF	Major sport fish production facility	\$112.8	F&G	92	FRED	1%	90%	9%
		Coho	SF	High visibility tourist attraction	\$385.2	DJ/WB			3%	87%	10%
					\$67.7	GF					
Pt Richardson	Anchorage	Chinook	SF	Major sport fish production facility	\$143.9	GF	92	FRED		88%	13%
		Coho	SF		\$596.0	DJ/WB				90%	10%
		Rainbow	SF, RES		\$181.6	F&G				100%	
Gulkana	Glennallen	Sockeye Chinook	CF, SUB CF, SF, SUB	The most cost effective sockeye facility in the world. 35 million sockeye salmon egg lake annually. FY92 contract for one year, potential long term contract.	\$41.2	GF	92	FRED/ PWSAC	8% 20%	2% 30%	90% 50%
Hidden Falls	Sitka	Chinook	CF	\$2.5 million chinook expansion with US/Can funds. Operated by NSRAA.				89	NSRAA		100%
		Chum	CF		100%						
Kitoi Bay	Kodiak	Pink	CF	Operated by state with funds provided by KRAA.			92	FRED/KRAA			100%
		Chum	CF		100%						
		Coho	SF, CF		50%	50%					
		Sockeye	CF		100%						
Klawock	Klawock	Sockeye	SUB	BIA funds to address local projects. GF used in projects to rehabilitate POW in post-logging years.	\$424.3	GF	92	FRED	100%		93%
		Coho	CF, SUB		\$10.0	PgR(non-existent)			***	7%	
		Sleethaad	SF		\$18.0	DJ/WB				100%	
Muir Bay	Whittier	Sockeye	CF	Operated by PWSAC			92	PWSAC		1%	99%
Pillar Creek	Kodiak	Sockeye	CF	Primarily operated with funds provided by KRAA. Same GF involved.	\$37.9	CF	92	FRED/KRAA	***		100%
Russell Creek	Cold Bay	Chum	CF	FY92 PgR from Aleutian's East Borough. Fisheries developmental facility to be contracted in FY99	\$420.0	GF	99	Reg. Assoc.			100%
		Pink	CF		\$52.8	PgR				1%	99%
		Coho	SF, CF							50%	50%

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4 2 3



# Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

HOUSE RESOURCES COMMITTEE  
LETTER OF INTENT  
FOR  
HOUSE CS FOR CSSB423(RES)

It is the intent of the Legislature that the Commercial Fisheries Entry Commission will monitor the temporary transfer of limited entry permits allowed under the provisions of this bill and annually will report back to the Legislature by January 15. The report should include an analysis of how the temporary transfer provision has been working, and any effects it has had on the availability and distribution of permits and levels of participation in limited fisheries.

*Cliff Davidson*

---

Representative Cliff Davidson  
Chairman, House Resources Committee  
May 11, 1992

LETTER OF INTENT FOR CSSB 423 (FSH)

By the Senate Special Committee on Domestic and  
International Commercial Fisheries

It is the intent of the Legislature that the Commercial Fisheries Entry Commission will monitor the temporary transfer of limited entry permits allowed under the provisions of this bill and will report back to the Legislature by January 15, 1997. The report should include an analysis of how the temporary transfer provision has been working, and any effects it has had on the availability and distribution of permits and levels of participation in limited fisheries.

*ADOPTED by the Senate 4/29/92*

FISCAL NOTE

No. 1

Bill Version: SB 423

(S) Publish Date: 4-15-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game  
 Title: Temporary transfer of commercial fisheries BRU: Commercial Fisheries (Limited) Entry Commission  
entry permits Component: Limited Entry Program Administration  
 Sponsor: Senator Zharoff  
 Requestor: Senator Zharoff COMPONENT SERIAL NO 

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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						

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Changes in CSSB 423 (RES) have no fiscal impact. This fiscal note is appropriate.

4/14/92 TCO  
date Comte Aide (initial)

Prepared By: Roger Kolden Phone: 789-6160  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/6/92

Approved by Commissioner: [Signature]  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/6/92

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



## SENATOR FRED F. ZHAROFF

### ALASKA STATE LEGISLATURE

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

DURING SESSION:

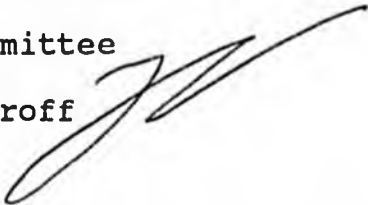
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 485-3474

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 F. Zharoff 

DATE: May 5, 1992

RE: CS For Senate Bill No. 423 (FSH) - "An Act relating to the year-to-year transfer of a limited entry permit of a permit holder who is at least 65 years old and unable to participate in the fishery due to illness or disability; and providing for an effective date."

---

I respectfully request that CSSB 423 be scheduled for a hearing before the House Resources Committee at the earliest possible opportunity.

CSSB 423 has drawn considerable support from commercial fishermen in the Bristol Bay region. The bill previously passed the Senate 18-0.

Thank you for your consideration of my request.



# SENATOR FRED F. ZHAROFF

## ALASKA STATE LEGISLATURE

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

DURING SESSION:

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

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 F. Zharoff

DATE: May 5, 1992

RE: CS For Senate Bill No. 423 (FSH) - "An Act relating to the year-to-year transfer of a limited entry permit of a permit holder who is at least 65 years old and unable to participate in the fishery due to illness or disability; and providing for an effective date."

BILL SUMMARY: CSSB 423 amends the emergency transfers section of the limited entry statutes. It requires the Commercial Fisheries Entry Commission to adopt regulations that provide for the temporary emergency transfer of limited entry permits held by individuals age 65 or older who, because of illness and disability, are unable to continue to participate in the fisheries.

The amendment allows the commission to renew the transfer annually for multiple years. It limits the privilege to long time commercial fishermen who have held permits for at least 10 years immediately preceding their request to transfer.

The CS adopted by the Senate Special Committee on Domestic and International Commercial Fisheries restricted the bill's applicability. The CS made the title more specific, made the Findings more specific, specified "illness or disability" as the only reason a transfer under this subsection would be granted, specified that the subsection did not apply to nontransferable salmon handtroll permits [AS 16.43.170(c) or (e)], and added a five-and-one-half year sunset clause.

In addition, the Senate adopted a letter of intent requiring the commission to report back to the legislature by a time certain on the impact of this legislation.

PREVIOUS ACTION: Moved out of the Senate Resources Committee on April 14 (4 DP, 1 NR). Moved out of the Senate Special Committee on Domestic and International Fisheries April 27 (1 DP, 3 NR). Passed the State Senate 18-0 on April 29.

FISCAL IMPACT: Zero fiscal note submitted by the Commercial Fisheries Entry Commission.

BACKGROUND INFORMATION: Under current law, older commercial fishermen have few options open to them when they reach the age where, for medical reasons (illness or disability), they are unable to continue to participate in physically demanding commercial fisheries. At that time, they must either sell or transfer their permits, forever giving up their privilege to own and operate commercial fishing operations.

CSSB 423 would allow ill or disabled commercial fishermen 65 years of age or older to temporarily transfer their permits to another individual or a younger family member, continue to earn income, and plan for an orderly transition into retirement.

The limited entry statutes currently contain a provision for one year emergency transfers. Using its discretionary powers through regulations, the commission has been able to accommodate a number of older fishermen who need to transfer their permits for more than one year. CSSB 423 would place this authority in statute and clearly state the commission's powers.

The bill contains protections against the possibility that the new provision would open the door to widespread leasing.

-- A person must be 65 years of age to qualify. The age of 65 was chosen because it is the standard age for retirement, and also the age in Alaska when people qualify for the longevity bonus and other senior programs.

-- The applicants must have held a permit in the fishery for at least 10 years. This will discourage speculators by limiting the beneficiaries to bonafide commercial fishermen who have invested considerable time and money in the profession. The Findings include the rationale for this provision.

-- The applicants must be suffering from an illness or disability. Just being over 65 is not an automatic qualification.

-- It excludes nontransferable handroll permits, which make up the largest category of unused entry permits.

-- It has a Dec. 31, 1997 sunset clause. Because of the concerns expressed, the Senate decided to allow the program to exist on a temporary basis in order to evaluate its impact.

BRISTOL BAY NATIVE ASSOCIATION

RECEIVED MAY 7 1992

P.O. BOX 310  
DILLINGHAM, ALASKA 99576  
PHONE (907) 842-5257

May 4, 1992

Representative Cliff Davidson, Chairman  
House Resources Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99801

Re: CSSB423 "Relating to the transfer of a limited entry permit of a permit holder who is at least 65 years old and unable to participate in the fishery..."

Dear Representative Davidson;

I am writing to urge you to hear CSSB423 at the earliest possible date. The bill passed the Senate 18 - 0 and indications are that, as good policy, there is a good chance it will pass the House too.

You are aware of the importance of this bill to the orderly transfer of limited entry permits to a younger generation. It clearly would be a much welcomed benefit to our elderly permit holders, whose numbers increase greatly with each passing year.

Here in Bristol Bay we hope that besides benefiting our elderly permit holders this bill will help stem the outflow of permits from the region and benefit our younger fishermen as well.

Please calendar this bill in House Resources as early as you can.

Sincerely,



Terry Hoefflerle  
Executive Director

TH/mc

cc: Senator Fred Zharoff  
Rep. George Jacko

4

Ugashik, Alaska 99613

April 8, 1992

Senator Fred Zharoff  
P.O. Box V, Juneau, Alaska 99011

Dear Senator Zharoff:

Re: Amendment to Limited Entry Law 16.43-180

Add a new subsection c.

"The Commission shall adopt regulations providing for the temporary transfer from year to year of an entry permit if the permit holder is at least 65 years of age, has participated in the fishery for which the permit is issued for at least 10 years and is unable to participate in the fishery for medical reasons."

We support this bill for the following reasons:

1. No provision was made in the original Limited Entry Law or subsequent regulations for multiple year transfers for senior fishermen with continuing medical problems.
2. As of 1989, according to a Limited Entry Commission report requested by Senator Zharoff, 3222 fishermen in the state were between 60 and 70 years of age, while an additional 1364 were over 69 years of age.
3. This amendment is not a new concept because in two other circumstances multiple year transfers are permitted by the Commission.
  - a. An estate may emergency transfer a permit year after year until the estate is settled.
  - b. A permit inherited by a minor may be transferred year after year until the minor reaches the age of presumptive ability to participate.
4. This amendment would provide a fisherman 65 years of age or older an option to continue to participate in the fishery but in a less strenuous manner, thereby imparting the knowledge gained thru many years of experience to a younger fisherman..

Respectfully submitted,

*Roger and Randy Briggs*

Roger and Randy Briggs

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**Number of Permits Issued and Number of Permits Fished  
By Year and Age  
For the Limited Entry Fisheries**

**Prepared by:  
Susan M. Shirley**

**CPFC Report 92-08**

**April 10, 1992**

**Commercial Fisheries Entry Commission  
8800 Glacier Highway #109  
Juneau, Alaska 99801  
Telephone: (907) 789-6160 FAX: 789-6170**

COMMERCIAL FISHERIES EXTERIOR COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
801A SOUTHEAST SALMON SKINE	Under 50	281	262	93.24%	19	6.76%
	50 - 59	66	60	90.91%	6	9.09%
	60 - 64	33	28	84.85%	5	15.15%
	65 and over	40	33	82.50%	7	17.50%
	<b>Fishery Totals</b>		<b>420</b>	<b>383</b>	<b>91.19%</b>	<b>37</b>
803A SOUTHEAST SALMON DRIFT GILL NET	Under 50	321	314	97.82%	7	2.18%
	50 - 59	94	87	92.55%	7	7.45%
	60 - 64	35	33	94.29%	2	5.71%
	65 and over	35	32	91.43%	3	8.57%
	<b>Fishery Totals</b>		<b>485</b>	<b>466</b>	<b>96.08%</b>	<b>19</b>
815B SOUTHEAST SALMON POWER TROLL	Under 50	550	497	90.36%	53	9.64%
	50 - 59	227	197	86.78%	30	13.22%
	60 - 64	80	71	88.75%	9	11.25%
	65 and over	101	82	81.19%	19	18.81%
	<b>Fishery Totals</b>		<b>958</b>	<b>847</b>	<b>88.41%</b>	<b>111</b>
805B SOUTHEAST SALMON HAND TROLL	Under 50	1,019	439	43.08%	580	56.92%
	50 - 59	382	141	36.91%	241	63.09%
	60 - 64	136	48	35.29%	88	64.71%
	65 and over	209	72	34.45%	137	65.55%
	<b>Fishery Totals</b>		<b>1,746</b>	<b>700</b>	<b>40.09%</b>	<b>1,046</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
804D YAKUTAT SALMON SXT NET	Under 50	124	121	97.58%	3	2.42%
	50 - 59	23	20	86.96%	3	13.04%
	60 - 64	6	6	100.00%	0	0.00%
	65 and over	15	14	93.33%	1	6.67%
	<b>Fishery Totals</b>		<b>168</b>	<b>161</b>	<b>95.83%</b>	<b>7</b>
G01A SOUTHEAST SAC ROE HERRING SKIME	Under 50	29	10	34.48%	19	65.52%
	50 - 59	9	5	55.56%	4	44.44%
	60 - 64	5	4	80.00%	1	20.00%
	65 and over	8	3	37.50%	5	62.50%
	<b>Fishery Totals</b>		<b>51</b>	<b>22</b>	<b>43.14%</b>	<b>29</b>
G34A SOUTHEAST SAC ROE HERRING GILL NET	Under 50	82	58	70.73%	24	29.27%
	50 - 59	28	20	71.43%	8	28.57%
	60 - 64	5	2	40.00%	3	60.00%
	65 and over	6	4	66.67%	2	33.33%
	<b>Fishery Totals</b>		<b>121</b>	<b>84</b>	<b>69.42%</b>	<b>37</b>
C61A NORTHERN SCE INSIDE SABLEFISH LONGLINE	Under 50	87	86	98.85%	1	1.15%
	50 - 59	16	16	100.00%	0	0.00%
	60 - 64	12	12	100.00%	0	0.00%
	65 and over	12	12	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>127</b>	<b>126</b>	<b>99.21%</b>	<b>1</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
C61C SOUTHERN SE INSIDE HALIBUT LONGLINE	Under 50	17	15	88.24%	2	11.76%
	50 - 59	6	6	100.00%	0	0.00%
	60 - 64	3	3	100.00%	0	0.00%
	65 and over	5	5	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>31</b>	<b>29</b>	<b>93.55%</b>	<b>2</b>
C91C SOUTHERN SE INSIDE HALIBUT POTS	Under 50	1	1	100.00%	0	0.00%
	50 - 59	1	0	0.00%	1	100.00%
	<b>Fishery Totals</b>	<b>2</b>	<b>1</b>	<b>50.00%</b>	<b>1</b>	<b>50.00%</b>
K19A SOUTHEAST RED/BLUE KING CRAB POTS	Under 50	2	2	100.00%	0	0.00%
	<b>Fishery Totals</b>	<b>2</b>	<b>2</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>
K29A SOUTHEAST RED/BLUE/BROWN KING CRAB POTS	Under 50	3	3	100.00%	0	0.00%
	<b>Fishery Totals</b>	<b>3</b>	<b>3</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>
K39A SOUTHEAST BROWN KING CRAB POTS	Under 50	1	1	100.00%	0	0.00%
	50 - 59	2	2	100.00%	0	0.00%
	<b>Fishery Totals</b>	<b>3</b>	<b>3</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>

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COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
K49A SOUTHEAST ROK/BLUE KING + TANNER POTS	Under 50	11	10	90.91%	1	9.09%
	50 - 59	4	3	75.00%	1	25.00%
	60 - 64	2	2	100.00%	0	0.00%
	65 and over	3	2	66.67%	1	33.33%
	<b>Fishery Totals</b>		<b>20</b>	<b>17</b>	<b>85.00%</b>	<b>3</b>
K59A SOUTHEAST BROWN KING + TANNER POTS	Under 50	6	5	83.33%	1	16.67%
	65 and over	2	1	50.00%	1	50.00%
	<b>Fishery Totals</b>	<b>8</b>	<b>6</b>	<b>75.00%</b>	<b>2</b>	<b>25.00%</b>
K69A SOUTHEAST KING (ALL) + TANNER POTS	Under 50	29	28	96.55%	1	3.45%
	50 - 59	2	2	100.00%	0	0.00%
	60 - 64	4	4	100.00%	0	0.00%
	65 and over	6	5	83.33%	1	16.67%
	<b>Fishery Totals</b>	<b>41</b>	<b>39</b>	<b>95.12%</b>	<b>2</b>	<b>4.88%</b>
T19A SOUTHEAST TANNER CRAB POTS	Under 50	10	7	70.00%	3	30.00%
	50 - 59	5	4	80.00%	1	20.00%
	<b>Fishery Totals</b>	<b>15</b>	<b>11</b>	<b>73.33%</b>	<b>4</b>	<b>26.67%</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
801E PRINCE WILLIAM SOUND SALMON SEINE	Under 50	205	194	94.63%	11	5.37%
	50 - 59	39	38	97.44%	1	2.56%
	60 - 64	14	12	85.71%	2	14.29%
	65 and over	13	9	69.23%	4	30.77%
	<b>Fishery Totals</b>		<b>271</b>	<b>253</b>	<b>93.36%</b>	<b>18</b>
803E PRINCE WILLIAM SD SALMON DRIFT GILL NET	Under 50	406	393	96.80%	13	3.20%
	50 - 59	92	86	93.48%	6	6.52%
	60 - 64	24	23	95.83%	1	4.17%
	65 and over	19	15	78.95%	4	21.05%
	<b>Fishery Totals</b>		<b>541</b>	<b>517</b>	<b>95.56%</b>	<b>24</b>
804E PRINCE WILLIAM SD SALMON SEY NET	Under 50	21	20	95.24%	1	4.76%
	50 - 59	5	5	100.00%	0	0.00%
	60 - 64	3	3	100.00%	0	0.00%
	65 and over	1	1	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>30</b>	<b>29</b>	<b>96.67%</b>	<b>1</b>
801E PRINCE WILLIAM SD SAC ROE HERRING SEINE	Under 50	82	80	97.56%	2	2.44%
	50 - 59	16	15	93.75%	1	6.25%
	60 - 64	5	5	100.00%	0	0.00%
	65 and over	4	4	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>107</b>	<b>104</b>	<b>97.20%</b>	<b>3</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
G34E PRINCE WILLIAM SD SAC ROE HERR GILL NET	Under 50	18	18	100.00%	0	0.00%
	50 - 59	4	4	100.00%	0	0.00%
	60 - 64	1	1	100.00%	0	0.00%
	65 and over	1	1	100.00%	0	0.00%
	Fishery Totals	24	24	100.00%	0	0.00%
L21E PRINCE WILLIAM SD HERRING SPAWN POUND	Under 50	112	105	93.75%	7	6.25%
	50 - 59	13	11	84.62%	2	15.38%
	60 - 64	3	3	100.00%	0	0.00%
	Fishery Totals	128	119	92.97%	9	7.03%
S01E COOK INLET SALMON SEINE	Under 50	60	52	86.67%	8	13.33%
	50 - 59	11	8	72.73%	3	27.27%
	60 - 64	6	5	83.33%	1	16.67%
	65 and over	6	3	50.00%	3	50.00%
	Fishery Totals	83	68	81.93%	15	18.07%
S03E COOK INLET SALMON DRIFT GILL NET	Under 50	373	370	99.19%	3	0.81%
	50 - 59	122	121	99.18%	1	0.82%
	60 - 64	45	43	95.56%	2	4.44%
	65 and over	44	44	100.00%	0	0.00%
	Fishery Totals	584	578	98.97%	6	1.03%

COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
804H COOK INLET SALMON SET NET	Under 50	535	463	86.54%	72	13.46%
	50 - 59	101	89	88.12%	12	11.88%
	60 - 64	48	43	89.58%	5	10.42%
	65 and over	61	53	86.88%	8	13.11%
	<b>Fishery Totals</b>		<b>745</b>	<b>648</b>	<b>86.98%</b>	<b>97</b>
801H COOK INLET SAC ROE HERRING SEINE	Under 50	60	46	76.67%	14	23.33%
	50 - 59	7	6	85.71%	1	14.29%
	60 - 64	6	4	66.67%	2	33.33%
	65 and over	3	2	66.67%	1	33.33%
	<b>Fishery Totals</b>	<b>76</b>	<b>58</b>	<b>76.32%</b>	<b>18</b>	<b>23.68%</b>
801K KODIAK SALMON SEINE	Under 50	299	276	92.31%	23	7.69%
	50 - 59	53	44	83.02%	9	16.98%
	60 - 64	21	19	90.48%	2	9.52%
	65 and over	15	9	60.00%	6	40.00%
	<b>Fishery Totals</b>	<b>388</b>	<b>348</b>	<b>89.69%</b>	<b>40</b>	<b>10.31%</b>
802K KODIAK SALMON BEACH SEINE	Under 50	28	15	53.57%	13	46.43%
	50 - 59	4	2	50.00%	2	50.00%
	60 - 64	1	0	0.00%	1	100.00%
	<b>Fishery Totals</b>	<b>33</b>	<b>17</b>	<b>51.52%</b>	<b>16</b>	<b>48.48%</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
 8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
804K KODIAK SALMON SET NET	Under 50	143	142	99.30%	1	0.70%
	50 - 59	26	24	92.31%	2	7.69%
	60 - 64	8	7	87.50%	1	12.50%
	65 and over	12	12	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>189</b>	<b>185</b>	<b>97.88%</b>	<b>4</b>
601K KODIAK SAC ROE HERRING SKINE	Under 50	59	28	47.46%	31	52.54%
	50 - 59	9	3	33.33%	6	66.67%
	60 - 64	2	1	50.00%	1	50.00%
	<b>Fishery Totals</b>	<b>70</b>	<b>32</b>	<b>45.71%</b>	<b>38</b>	<b>54.29%</b>
634K KODIAK SAC ROE HERRING GILL NET	Under 50	85	55	64.71%	30	35.29%
	50 - 59	12	7	58.33%	5	41.67%
	60 - 64	3	2	66.67%	1	33.33%
	65 and over	2	0	0.00%	2	100.00%
	<b>Fishery Totals</b>	<b>102</b>	<b>64</b>	<b>62.75%</b>	<b>38</b>	<b>37.25%</b>
801L CHIGNIK SALMON SKINE	Under 50	66	66	100.00%	0	0.00%
	50 - 59	19	19	100.00%	0	0.00%
	60 - 64	8	8	100.00%	0	0.00%
	65 and over	8	8	100.00%	0	0.00%
	<b>Fishery Totals</b>	<b>101</b>	<b>101</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
801M PEM/ALEUTIANS SALMON SEINE	Under 50	77	76	98.70%	1	1.30%
	50 - 59	28	27	96.43%	1	3.57%
	60 - 64	11	10	90.91%	1	9.09%
	65 and over	10	7	70.00%	3	30.00%
	<b>Fishery Totals</b>		<b>126</b>	<b>120</b>	<b>95.24%</b>	<b>6</b>
803M PEM/ALEUTIANS SALMON DRIFT GILL NET	Under 50	135	134	99.26%	1	0.74%
	50 - 59	18	17	94.44%	1	5.56%
	60 - 64	4	4	100.00%	0	0.00%
	65 and over	7	7	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>164</b>	<b>162</b>	<b>98.78%</b>	<b>2</b>
804M PEM/ALEUTIANS SALMON SEIT NET	Under 50	90	87	96.67%	3	3.33%
	50 - 59	9	8	88.89%	1	11.11%
	60 - 64	5	5	100.00%	0	0.00%
	65 and over	10	10	100.00%	0	0.00%
	<b>Fishery Totals</b>		<b>114</b>	<b>110</b>	<b>96.49%</b>	<b>4</b>
803T BRISTOL BAY SALMON DRIFT GILL NET	Under 50	1,210	1,210	100.00%	0	0.00%
	50 - 59	416	413	99.28%	3	0.72%
	60 - 64	123	123	100.00%	0	0.00%
	65 and over	132	127	96.21%	5	3.79%
	<b>Fishery Totals</b>		<b>1,881</b>	<b>1,873</b>	<b>99.57%</b>	<b>8</b>

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COMMERCIAL FISHERIES ENTRY COMMISSION  
8800 GLACIER HIGHWAY #109, JUNEAU, ALASKA, 99801

April 10, 1992

Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
804T BRISTOL BAY SALMON SET NET	Under 50	791	743	93.93%	48	6.07%
	50 - 59	129	113	87.60%	16	12.40%
	60 - 64	37	34	91.89%	3	8.11%
	65 and over	68	60	88.24%	8	11.76%
	<b>Fishery Totals</b>		<b>1,025</b>	<b>950</b>	<b>92.68%</b>	<b>75</b>
L12T BRISTOL BAY HERRING SPAWN ON KELP	Under 50	369	200	54.20%	169	45.80%
	50 - 59	55	26	47.27%	29	52.73%
	60 - 64	14	9	64.29%	5	35.71%
	65 and over	10	6	60.00%	4	40.00%
	<b>Fishery Totals</b>		<b>448</b>	<b>241</b>	<b>53.79%</b>	<b>207</b>
804P UPPER YUKON SALMON GILL NET	Under 50	41	19	46.34%	22	53.66%
	50 - 59	10	6	60.00%	4	40.00%
	60 - 64	12	8	66.67%	4	33.33%
	65 and over	9	3	33.33%	6	66.67%
	<b>Fishery Totals</b>		<b>72</b>	<b>36</b>	<b>50.00%</b>	<b>36</b>
808P UPPER YUKON SALMON FISHWHEEL	Under 50	91	60	65.93%	31	34.07%
	50 - 59	28	18	64.29%	10	35.71%
	60 - 64	16	15	93.75%	1	6.25%
	65 and over	20	17	85.00%	3	15.00%
	<b>Fishery Totals</b>		<b>155</b>	<b>110</b>	<b>70.97%</b>	<b>45</b>

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Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
804W KUSKOKWIM SALMON GILL NET	Unknown	1	1	100.00%	0	0.00%
	Under 50	649	630	98.31%	11	1.69%
	50 - 59	121	115	95.04%	6	4.96%
	60 - 64	42	40	95.24%	2	4.76%
	65 and over	20	20	100.00%	0	0.00%
Fishery Totals		833	814	97.72%	19	2.28%
804X KOTEBUE SALMON GILL NET	Under 50	152	90	59.21%	62	40.79%
	50 - 59	40	29	72.50%	11	27.50%
	60 - 64	11	10	90.91%	1	9.09%
	65 and over	16	8	50.00%	8	50.00%
Fishery Totals		219	137	62.56%	82	37.44%
804Y LOWER YUKON SALMON GILL NET	Under 50	550	530	96.36%	20	3.64%
	50 - 59	106	103	97.17%	3	2.83%
	60 - 64	32	31	96.88%	1	3.13%
	65 and over	20	16	80.00%	4	20.00%
Fishery Totals		708	680	96.05%	28	3.95%
804K MORTON SOUND SALMON GILL NET	Under 50	141	95	67.38%	46	32.62%
	50 - 59	23	11	47.83%	12	52.17%
	60 - 64	12	5	41.67%	7	58.33%
	65 and over	25	14	56.00%	11	44.00%
Fishery Totals		201	125	62.19%	76	37.81%

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Permits Issued and Fished, in 1991, by Age

Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
G34M NELSON ISLAND SAC ROE HERRING GILL NET	Under 50	110	0	0.00%	110	100.00%
	50 - 59	29	0	0.00%	29	100.00%
	60 - 64	8	0	0.00%	8	100.00%
	65 and over	2	0	0.00%	2	100.00%
	<b>Fishery Totals</b>		<b>149</b>	<b>0</b>	<b>0.00%</b>	<b>149</b>
G34U NUNIVAK ISLAND SAC ROE HERRING GILL NET	Under 50	34	12	35.29%	22	64.71%
	50 - 59	11	4	36.36%	7	63.64%
	60 - 64	4	1	25.00%	3	75.00%
	65 and over	1	0	0.00%	1	100.00%
	<b>Fishery Totals</b>		<b>50</b>	<b>17</b>	<b>34.00%</b>	<b>33</b>
G34Y LOWER YUKON SAC ROE HERRING GILL NET	Under 50	63	51	80.95%	12	19.05%
	50 - 59	20	14	70.00%	6	30.00%
	60 - 64	5	4	80.00%	1	20.00%
	65 and over	12	11	91.67%	1	8.33%
	<b>Fishery Totals</b>		<b>100</b>	<b>80</b>	<b>80.00%</b>	<b>20</b>
G02K NORTON SOUND SAC ROE HERRING BEACH SKINE	Under 50	9	6	66.67%	3	33.33%
	60 - 64	1	1	100.00%	0	0.00%
	65 and over	1	0	0.00%	1	100.00%
	<b>Fishery Totals</b>		<b>11</b>	<b>7</b>	<b>63.64%</b>	<b>4</b>

COMMERCIAL FISHERIES ENTRY COMMISSION  
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April 10, 1992

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Fishery	Age	Total Permits Issued	Total Permits Fished	Percent Permits Fished	Permits Not Fished	Percent Permits Not Fished
G34E MORTON SOUND SAC ROE HERRING GILL NET	Under 50	330	218	66.06%	112	33.94%
	50 - 59	46	33	71.74%	13	28.26%
	60 - 64	13	7	53.85%	6	46.15%
	65 and over	12	11	91.67%	1	8.33%
	<b>Fishery Totals</b>		<b>49</b>	<b>269</b>	<b>67.08%</b>	<b>132</b>