ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7213 HOUSE RESOURCES

SOUTHEAST ALASKA ENERGY

A Regional Solution

For years, only the larger urban communities enjoyed the benefits of low-cost, low-pollution hydroelectric power. Small communities which investigated the feasibility of hydroelectric or transmission intertie projects for their areas found that electric rates would rise dramatically if the project were built. The problem was simple: small numbers of people having to pay for large projects. For instance, a transmission line from Kake to Petersburg would increase the rates in Kake by 50¢ per kWh. If the line was downgraded to serve only Kake, rates would increase by 15¢.

Meanwhile, the urban communities which enjoy hydroelectric power are now reaching the capacity limits of their hydros. Ketchikan is using all of Swan Lake, Sitka is nearing the capacity limits of Green and Blue Lake hydros, Juneau will exceed capacity from Snettisham when the AJ mine is brought on line, and Skagway already supplements its hydro with diesel. Wrangell and Petersburg have excess hydro energy at Tyee Lake, but no one can use it. The irony is that these communities now face a larger version of the rural problem. That is, power project development exceeds their ability to pay or to finance the project.

The significant common factor is that each community is trying to find a solution only for itself. They are forced to look at projects which are inherently unfeasible because they are too small to benefit from economies of scale, or because they are too large for the community's size. None are looking at a project that could benefit the entire region. Such a solution is a regional transmission intertie. If all of the Southeast communities were connected, a number of positive benefits and opportunities result:

1. Individual communities would not have to pay the entire cost of any project by themselves. For instance, Kake would not have to pay for an expensive intertie to Petersburg. Rather, Kake would only pay for a fair portion of an intertie that serves Juneau, Sitka, Wrangell, Petersburg and Ketchikan, not to mention all of the smaller communities along the route of the intertie.

2. Communities would not be forced to look at projects in their area which may be too small or too large an increment of power than they need or can afford at that time. Rather, only the best project meeting the needs of the entire region would be considered. For instance, the Takatz Project, which is too large to meet Sitka's current need, may

be just the right size to meet the needs of the entire region. The project could then go forward--and it would enjoy the political and financial support of the entire region.

3. No longer would a parade of community leaders come to the Governor and the Legislature asking for funds to build projects in their communities. Rather, the community leaders in concert would lend their support to projects that would benefit the entire region. Because of economies of scale, the regional projects would have more long-term benefits than the sum of all of the individual projects.

4. I propose that the communities join with the Administration and the Legislature to promote this regional solution. It is a solution that can be applied across the State, providing benefits to all Alaskans.

A regional intertie system would start with a connection of Tyee Lake to Swan Lake. Excess power from Tyee would be immediately available to Ketchikan where it's needed. The next logical step would be an intertie from Petersburg to Snettisham, but from a regional solution perspective, the intertie would run through Kake to Sitka (at the Takatz site) then on to Green's Creek, finally joining the Juneau system at Douglas Island. The communities of Angoon Tenakee Springs and Hoonah could then easily be tied into the system. The line could then be extended to Haines, Skagway and finally to Yukon Energy at Carcross. In the south, Prince of Wales Island and Metlakatla would be connected.

The total load represented by the interconnected communities would be large enough to consider joining the continental grid, either at Prince Rupert or through the Misty Fjord Monument to Stewart, B.C., picking up the Quartz Hill mineral development Power could be provided to mineral developments in B.C. at Johnny Mountain east of Wrangell, and to proposed mineral developments at Kensington/Jualin mines at Berners Bay and the Windy Craggy mine northwest of Haines in Canada.

The attraction of this regional solution is that each community contributes its fair share to the project and no more. No one community will be forced to develop and pay for small, unfeasible power projects. Only the best, most efficient projects with lowest unit costs need be developed. Each community would pay only for the portion of the energy used by that community. Everyone benefits.

Lonnie Anderson, Mayor
Kake, Alaska

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Jan 24, 1992 KTN Daily News

Editorial

Future planning

We support Ketchikan Sen. Lloyd Jones' proposal to the Ala Legislature to identify utility and transportation corridors federal and state land.

While corridors won't be used immediately, it is clear thi route connecting Southeast Alaska to a possible power grid w British Columbia likely will be needed. Commissioner Glenn Olds, Department of Commerce and Economic Developme said late in 1991 that it might be possible in the future to be power from point to point without using transmission lines. hope that develops soon, but in the event it doesn't we sho have a corridor designated for power lines.

Also, there is interest in building a road off Revillagigedo Isla to the mainland. The road would link into British Colombi extensive highway system. It would provide a land option vacationers to leave Revilla and for goods to be transported.

The Tongass Land Management Plan has some of the area t could be used for either type of corridor placed in designatic that limit or prevent development. Those designations should changed to accommodate the corridors. A road can be built in t most environmentally sound manner possible. With time, tec nology will improve and we might have techniques that wo have less impact. Possibly laser cutters?

If federal and state governments designate land use withc considering those two needs, we could run into roadblocks expanding our power and transportation systems.

Electrical and transportation options are good long-term pla ning, something we need more of in Southeast, to accommod a likely future need.

It never hurts to plan.

From other editors—

Need rational dialogue

It's a cloudy situation in Algeria. We hope this calm react would continue, but we fear the possible civil war.

A logical dialogue must be initiated among both leaders as h

March 7, 1992

Senator Lloyd Jones
State Capitol
Juneau, Alaska 99811-1182

Dear Senator Jones:

I am writing in support of Senate Joint Res lution 40 asking the Congress and the Forest Service to refrain from placing further unnecessary land use designations/restrictions in Southeast Alaska. This statement is necessary given the Forest Service's current revision of the Tongass Land Management Plan. These land restrictions hamper transportation and utility corridor planning and construction. Both the state and federal governments through these designations have placed needless, yet costly, bureaucratic hurdles on reasonable economic development.

An example of the need for this resolution is my community of Kake located on Kupreanof Island, some 100 miles from Juneau. Kake has been anticipating for some time both an energy transmission line and road extending from near Petersburg to Kake. Kake lies some 60 air miles due west of Petersburg. The Forest Service has nearly completed a forest road between Kake and the east side of Kupreanof Island near Petersburg. Most the residents of Kake would like to have the opportunity to drive into Petersburg to use the medical and dental facilities both in emergency and non-emergency situations. Another benefit would be more commerce and less costly access for Kake's residents.

This past fall the Forest Service had made a preliminary decision to build the final link between the two road segments. The village of Kupreanof located on the east side of Kupreanof Island near Petersburg objected because they have chosen to be a roadless community. An outside group American Rivers also objected because they wanted the upper portion of the Duncan-Saltchuck River designated a Wild River under the Wild and Scenic River System. This river may be recommendation by the Forest Service for inclusion in the Wild and Scenic River System. The road was nearly built, except for these objections. Because of these small group's objections the Forest Service abandoned the project for now.

The people of my community want this road with a power line to help the local economy. The federal government is hampering our economic development efforts. This resolution is needed to tell the Congress and the Forest Service to let us get on with becoming economically self-sufficient.

I urge passage of this resolution. Thank you for your consideration of my testimony.

Sincerely,

Lonnie Anderson, Mayor
Kake, Alaska

SJR

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Alaska State Legislature

Sen. Jay Kerttula, Co-Chairman
Sen. Pat Pourchot, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling

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Senate Finance Committee

SPONSOR STATEMENT
SJR 45
by
Senator Jay Kerttula

SJR 45 attempts to alleviate some of the problems which are being experienced within the pink salmon industry due to a severe drop in prices, at least partially caused by a surplus inventory of canned pink salmon.

By this resolution, the Alaska Legislature is urging the Department of Agriculture to place canned pink salmon on the 1992 "Food for Peace" docket; this is essentially a list of the commodities which are available to countries under our foreign food aid programs.

Public Law 480 governs the foreign food aid programs of the Agricultural Trade Development Assistance Act of 1954. The programs are administered jointly by the Agency for International Development (AID) and the U. S. Department of Agriculture (USDA). This program provides humanitarian assistance and market development activities for U.S. agricultural products overseas.

The prices for each commodity are set through an open bid process.

Title I of PL 480 (Sales Program)is a long-term concessional loan program for countries where the annual per capita income is above $600. Loan terms are for 20-30 years. Each country looks at the commodities that are available and the prices which are being quoted and then decides if they wish to purchase the commodity. The country purchases directly from the seller.

Title II (Foreign Donations) provides for foreign donations through private, nonprofit organizations. The organizations request an available

commodity and the Department of Agriculture purchases the commodity at commercial prices.

Title 1II of PL 480 (Food for Development)is a grant program for the neediest countries who cannot afford any long-term loans. The Department of Agriculture issues an invitation to bid on commodities which have been approved and USDA then pays the supplier directly. Each country decides which commodities they wish to purchase and how much of their allocation they wish to utilize.

Now that the Department of Commerce has declared canned pink salmon a surplus commodity, the next "step" is for the U.S. Department of Agriculture to place the commodity on its docket so it is available for the various programs under PL 480.

Foreign Food Aid

Background. Section 416 of the Agricultural Act of 1949 and P.L. 480, Food for Peace, are the two primary U.S. foreign food aid programs. Both foreign food aid programs conduct humanitarian assistance and market development activities for U.S. agricultural products overseas. P.L. 480 is the larger, providing about 5 million metric tons of farm commodities overseas each year for long-term concessional credit sales (Title I) and foreign donations (Title II). Section 416 is a much smaller program, authorizing USDA to donate CCC-owned commodities, as needed and as available, to fill short-term food deficits in foreign countries. In contrast to P.L. 480, about 1 to 2 million metric tons of surplus commodities are shipped annually under Section 416. (See CRS Issue Brief 90035 for more detail on foreign food aid programs.)

Prior to the 1990 act, both USDA and the Agency for International Development (AID) jointly administered all foreign food aid programs; USDA was the lead agency in administering P.L. 480, Title I and Section 416, and AID was the lead agency in administering P.L. 480, Title II.

Both P.L. 480 and Section 416 were amended by the 1985 farm act. P.L. 480 was reauthorized through Dec. 31, 1990. Congress included a number of amendments in 1985 to move more commodities abroad; a reinstitution of the sales for local currency program (long-term Title I loans for currencies that are inconvertible to dollars), the Food for Progress Program (multiyear food programming using Title I of P.L. 480 and Section 416), and monetization (sales of donated commodities within the country to help fund distribution costs) are a few examples. Section 416 was amended to include all CCC-held surplus commodities, not just wheat and dairy products, as was formerly the case.

The Food Security Wheat Reserve (FSWR), a 4 million metric ton reserve of Government-owned wheat, was established by Congress in 1980 at the time of the U.S. grain embargo to the USSR. It was designed to remove the amount of wheat that would have been purchased by the USSR, to offset any negative impact the surplus wheat might have on the domestic market, and to be available when urgent world food needs cannot be met through production or normal P.L. 480 commodity programming.

Funding. Funding authority for Title I is within the CCC budget. Annual funding authority for P.L. 480 Title II was increased from $1 billion to $1.2 in the Food Security Act of 1985. The FY1990 appropriations act sets total P.L. 480 programming levels at more than $1.522 billion. The FY1991 appropriations law (P.L. 101-506) sets total P.L. 480 funding at $1.576 billion.

1990 Changes. The 1990 Act extends the P.L. 480 program, Food For Progress, and the authority to replenish the Food Security Wheat Reserve through FY1995. It also directs new funds and commodities to "emerging democracies" such as the countries of Eastern Europe.

The new law makes a number of significant changes in the P.L. 480 program, with the intention of streamlining it and increasing its effectiveness in delivering food grants and developing future markets. One fundamental change in P.L. 480 under the Act is that it assigns USDA primary responsibility for the long-term concessional sales program in Title I, while assigning the Agency for International Development (AID)

primary responsibility for food grant activities under Titles II and III. Prior to this act, an interagency committee maintained the responsibility for all foreign food aid activities under P.L. 480; no single agency had final authority.

Under the 1990 Act, Title I continues to provide for sale of U.S. agricultural commodities using long-term concessional credit. The 1990 act allows for repayment to be in dollars or local currencies. The Title also specifies various eligible uses for the acquired local currencies under this Title.

Title II continues as the primary foreign food donation component of P.L. 480. As before, this Title distinguishes between emergency and nonemergency assistance, with minimum annual tonnages specified through 1995. The act provides authority for maximum funding of $1 billion for Title II activities. However, the President can waive this limit if urgent humanitarian needs require greater funding. A Food Aid Consultative Group is established under this Title; it will meet regularly, and is to terminate Dec. 31, 1995. The Group will include representatives from AID, USDA, private voluntary organizations (PVOs), and African, Asian, and Latin American nongovernmental organizations.

A new provision in Title II requires that between $10 million and $13.5 million be made available to assist PVOs and cooperatives in administering the program and distributing the food.

Title III, Food for Development, is a government-to-government bilateral grant program. Donated food to least developed countries may be used for direct feeding programs, for developing emergency food reserves, or may be sold in the recipient country for local currency. The local currency then is to be used for specific economic development activities as agreed to by the AID Administrator and the recipient country government.

Title IV contains administrative and technical requirements, including definitions and consultation requirements. It cites ineligible commodities -- tobacco and alcoholic beverages (restricting tobacco only under Title II) -- and provides for multi-year commodity agreements under P.L. 480.

Title V, the Farmer-to-Farmer program, provides a minimum of 0.2% of total P.L. 480 funds annually from FY1991-95 to assist farmers and agribusiness operations in developing countries by transferring knowledge of farming technologies and methods from U.S. farmers, agriculturalists, land grant universities, private agribusinesses and nonprofit farm organizations to farm and agribusiness operations in developing countries, middle income countries, and emerging democracies. (A minimum of 0.1% of P.L. 480 funds is to be used for farmer-to-farmer activities in developing countries.)

Title VI authorizes certain activities for the reduction of Latin American and Caribbean country debts. This Title also extends Food for Progress through Dec. 31, 1995. It provides authority for the President to use an additional $10 million of CCC commodities or funds to enhance development of private sector agriculture in countries participating in the Food for Progress program.

The 1990 act also amends cargo preference law with respect to P.L. 480. Cargo preference, a law requiring a percentage of gross tonnage of government subsidized

exports be shipped on U.S. flag vessels, has been applied to P.L. 480 exports since 1954. Many in the Great Lakes area have argued that this requirement has favored Gulf and Coastal ports over Great Lakes ports. The 1990 farm Act attempts to address this criticism by authorizing that foreign-flag vessels can be designated (if certain criteria are met) as American Great Lakes vessels and can carry certain preference cargoes without having to wait the requisite 3 years. The act guarantees Great Lakes operators access to 50% of P.L. 480 cargoes on a lowest landed cost basis.

Current Issues. In the first half of 1991, P.L. 480, Title II, has been strained by the approximately 8 million people starving in Sudan, the widespread starvation that is a result of civil unrest in Liberia, and the plight of Kurdish refugees (approximately 2 million) after the Persian Gulf War. Administration officials believed the funding of the overall P.L. 480 program would be adequate, if given blanket authority to transfer funds from Titles I and III into Title II in order to meet the numerous emergencies around the world. This authority is provided only for FY1991 in the Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 (P.L. 102-45). In addition, President Bush authorized the use of up to 300,000 metric tons of wheat from the Food Security Wheat Reserve (FSWR). So far, an estimated 60,000 tons have been tapped for food needs in Ethiopia.

With respect to the Middle East refugee emergency, the Administration states that a total of $32 million worth of P.L. 480 Title II commodities have been provided to the World Food Programme (WFP) for distribution in the region. In addition, the Administration is considering tapping wheat from the FSWR.

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

November 27, 1991

1991 DEC -4 AM 9:56

Honorable Ted Stevens
United States Senate
Washington, D.C. 20510-6025

Dear Ted,

Thank you for your letter regarding the inclusion of canned pink salmon as an eligible commodity in the Public Law 480 (P.L. 480) Food For Peace Program.

We have concluded that a surplus of U.S. harvested and processed canned pink salmon exists. The necessary information is being sent to Secretary Madigan at the U.S. Department of Agriculture with our recommendation that canned pink salmon be placed on the P.L. 480 docket for FY 1992.

Sincerely,

Robert A. Mosbacher

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

December 12, 1991

The Honorable Edward R. Madigan
The Secretary of Agriculture
14th Street and Independence Avenue, S.W.
Washington, D.C. 20250

Dear Ed:

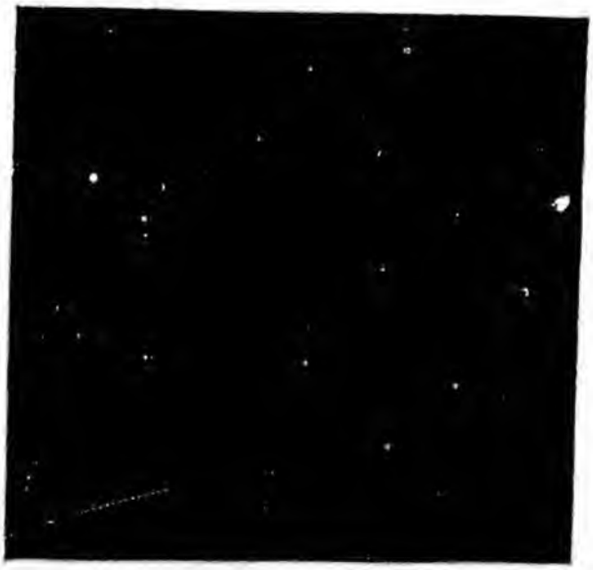
Secretary Mosbacher recently informed me that the Department of Commerce has determined canned pink salmon to be a surplus commodity and has recommended to the Department of Agriculture that it be placed on the Public Law 480, Food for Peace, docket for 1992.

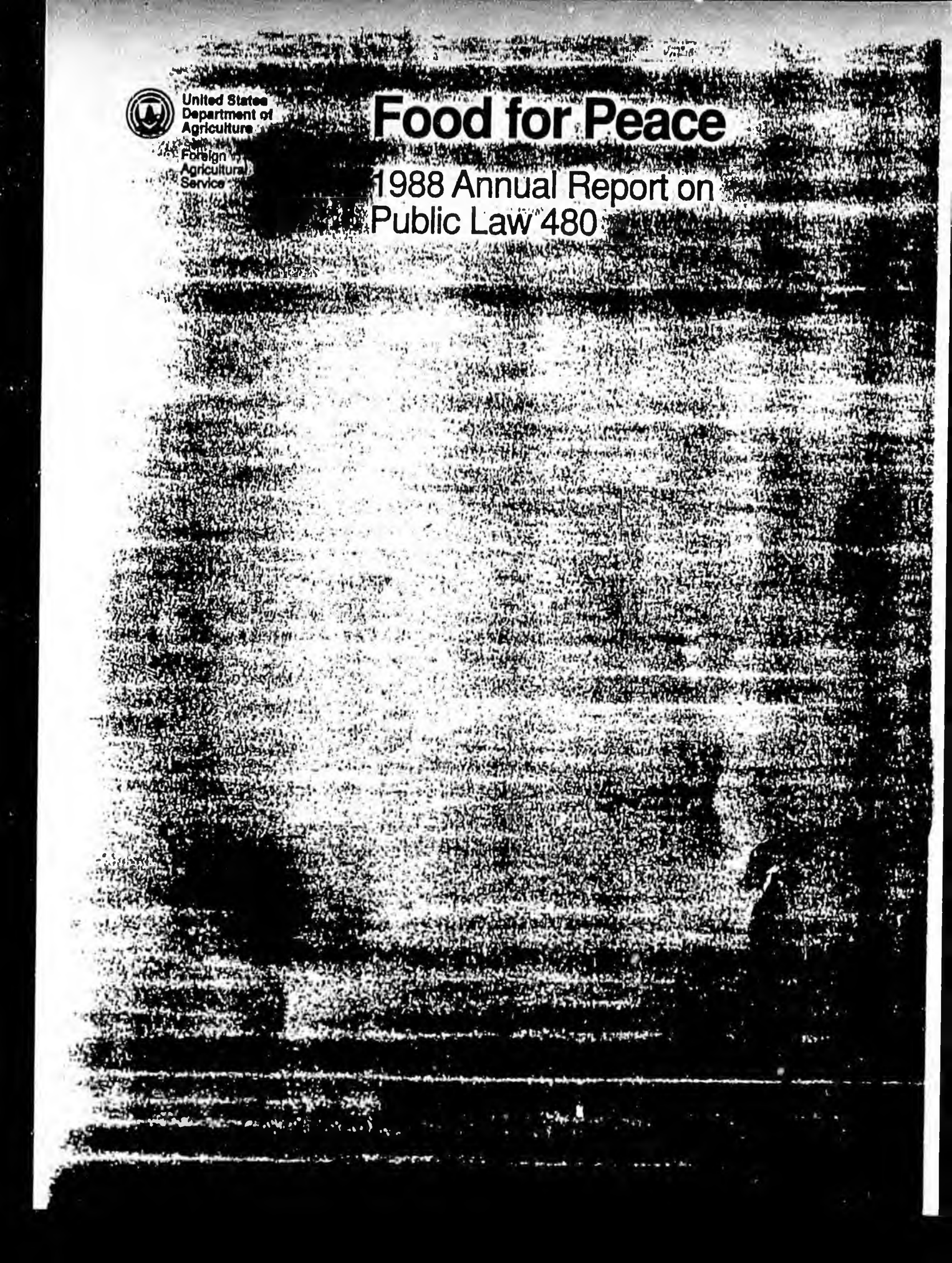
The salmon industry in Alaska is currently facing a great hardship. A worldwide glut of pink salmon has depressed prices being paid to Alaska fishermen to a ten-year low of twelve cents a pound. Last year's pink salmon run increased stocks by 27% and a run of this magnitude or greater is expected next year.

In an effort to help alleviate the economic distress that this has brought to many of Alaska's fishing communities, I urge you to implement Secretary Mosbacher's recommendation as soon as possible and place canned pink salmon on the P.L. 480 docket for 1992.

Thanks for your help.

With best wishes,





United States Department of Agriculture
Foreign Agricultural Service

Food for Peace

1988 Annual Report on Public Law 480

INTRODUCTION

The Food Security Act of 1985 (P.L. 99-198) and other legislation in the 99th and 100th Congresses significantly changed the foreign food aid programs of the Agricultural Trade Development Assistance Act of 1954 (P.L. 83-480), often referred to as P.L. 480. These changes provided for monetization (sale or barter) of donated commodities, for local currency sales, and for a new commodity donation program, Food for Progress, to promote agricultural policy reform and private sector development in receiving countries. More recently, Congress has authorized an expansion of monetization of donated food aid.

U.S. food aid programs serve multiple objectives: U.S. market development, recipient country economic development, humanitarian relief, and support of foreign policy goals. The programs are administered jointly by the Agency for International Development (AID) and the U.S. Department of Agriculture (USDA). The Office of Management and Budget, the U.S. Department of the Treasury, and the U.S. Department of State participate in the decision-making process for food aid.

In addition to reporting the status of the P.L. 480 program in fiscal 1988, this report highlights achievements in the Food for Progress Program and in the Local Currency Loan Initiative legislated by the Food Security Act of 1985 and amended by the Omnibus Trade and Competitiveness Act of 1988.

Under the Food for Progress Program, commodities financed under section 416(b) or from P.L. 480 title I resources can be programmed on a multiyear basis to countries that agree to promote free enterprise in their agricultural sector. A maximum of 500,000 tons of commodities were to be made available for each of the fiscal years 1986 through 1990.

The objective of the Local Currency Loan Initiative is to promote the development of private enterprise by authorizing U.S. Government sales of agricultural commodities for local currencies rather than for long-term dollars. Local currency obtained from the sale of title I commodities is loaned by the U.S. Government to private intermediate financial institutions in the recipient country. These institutions then lend to the private sector within the recipient P.L. 480

country. Under this program, the President is directed to enter into section 108 sales at a level of not less than 10 percent of the aggregate value of all title I agreements unless the total level of agricultural exports would be adversely affected. To the maximum extent practicable, the President is to use at least 5 percent of the local currencies to provide agricultural technical assistance, including the funding of market development activities.

PROGRAM SUMMARY

U.S. agricultural exports amounted to 148.4 million tons valued at $35.3 billion in fiscal 1988. The P.L. 480 program accounted for approximately $1.2 billion of this, or about 3 percent. Commodities under the program were shipped to 74 countries. The largest recipients of food under title I/III were Egypt and Bangladesh. They accounted for 37 percent of the total title I/III exports. Under title II, the Asia/Near East region was the largest recipient, with India the largest single recipient. This region accounted for 46 percent of the total title II exports.

Title I and Title III

The fiscal 1988 aggregate program value of title I/III agreements signed was $728.6 million. Title I agreements and amendments were signed with 26 countries. The objectives of the title III Food for Development Program were met through the signing of two agreements with Bolivia and Bangladesh, totaling $80 million.

Title II

Commodities were shipped under the title II program to approximately 59 million needy people in 72 countries in fiscal 1988. The Commodity Credit Corporation (CCC) valued these commodities at $458.3 million. Major commodities donated under title II were wheat and wheat products, including flour, blended foods, nonfat dry milk, and vegetable oil.

TITLE I--SALES PROGRAM

Summary

During fiscal 1988, 46 title I sales agreements and amendments were signed with an export market value of $728.6 million. The agreement actions were concluded with 26 countries considered to be friendly with the United States, in accordance with section 103(d) of P.L. 480.

In fiscal 1988, convertible local currency sales agreements (including title III) comprised 95 percent of the total value of agreements signed. The remainding 5 percent of the agreements signed were on section 108 local currency terms.

The five countries with the largest amounts programmed were: Egypt--$180 million; Pakistan--$80 million; Bangladesh--$60 million; El Salvador--$41.5 million; and the Sudan--$40 million.

Commodities programmed included wheat, wheat flour, corn, sorghum, rice, vegetable oil, tallow, and cotton. Wheat and wheat flour (3.2 million tons) were the major commodities. Other quantities were 381,000 tons of vegetable oil, 286,000 tons of feed grains (corn and sorghum), 208,000 tons of rice, 40,000 tons of tallow and 40,000 bales of cotton.

Allocation Requirements

Title I programming during fiscal 1988 met the requirement that at least 75 percent of food allocations go to countries with per capita incomes of less than $835. This 75:25 ratio is set forth in section 111 of the Agricultural Trade Development and Assistance Act of 1954, as amended. Tables 8 and 9 provide the initial and final country and commodity allocations for fiscal 1988.

Credit Terms

Title I of P.L. 480 provides for the concessional sale of agricultural commodities to friendly countries. Agreements under title I may be signed either for dollar credit with up to a 20-year repayment period or for convertible local currency credit with up to a 40-year repayment period. The grace period for dollar credit agreements may go up to 2 years, and for convertible local currency agreements it may be as long as 10 years.

Initial payments that are not part of long-term credit may be required under both types of agreements. Minimum interest rates under both types of financing are set by law at not less than 2 percent during the grace period and 3 percent thereafter. Terms for agreements are determined on a case-by-case basis.

Section 401

Section 401 of the Act requires that the Secretary of Agriculture determine the availability of commodities for inclusion in concessional sales agreements and donation programs. In determining this availability, the Secretary must consider U.S. productive capacity, domestic requirements, farm and consumer price levels, adequacy of carryover stocks, and anticipated exports for dollars.

Role of the CCC

Although the CCC finances the sale and export of commodities under title I, actual sales are made by private U.S. suppliers to foreign importers or government agencies. The CCC finances sales by paying suppliers directly through the U.S. banking system for their sale except for any portion not covered by a required initial payment. The CCC then collects the amount provided in the agreement with the importing country. These funds are used to support current title I programs.

Accounting for Title I Costs

The gross cost to the CCC of financing long-term credit sales for U.S. agricultural commodities from July 1, 1961, through September 30, 1988, totaled $34,777 million--$31,856 million of commodity and other costs, $2,669 million of ocean transportation costs (including $1,982 million for ocean freight differential), and $251 million of interest costs.

Through September 30, 1988, the CCC had been reimbursed for all costs by dollar payments under government-to-government and private trade entity agreements in the amount of $4,945 million, by $4,650 million in foreign currency funds used to finance long-term credit sales, and by appropriations of $24,934 million.

Self-Help Provisions

All P.L. 480 title I sales agreements since 1967 have contained self-help measures to which recipient countries have committed themselves. Examples of self-help provisions contained in agreements include the following:

- *Devoting land resources to production of needed food;*
- *Developing agricultural, chemical, farm machinery and equipment, transportation, and other necessary industries;*
- *Training farmers in agricultural techniques, and reducing illiteracy among the rural poor;*
- *Constructing adequate storage facilities;*
- *Improving marketing and distribution systems;*
- *Creating a favorable environment for private enterprise and investments;*
- *Adopting governmental policies that ensure adequate incentives for producers;*
- *Expanding institutions for adaptive agricultural research;*
- *Allocating sufficient national funds and foreign exchange resources for self-help provisions;*
- *Implementing health programs for the rural poor; and*
- *Carrying out voluntary programs to control population growth.*

TITLE II–FOREIGN DONATIONS

Summary

The title II food aid program is the U.S. Government's most direct effort to combat hunger and meet food shortages abroad. Food aid is best known historically for meeting emergency and short-term needs of the hungry. However, a considerable portion of title II food commodities are also used to promote long-term development to address the underlying issues that prevent developing countries from meeting their own food needs.

During fiscal 1988, about 2.3 million tons grain equivalent of title II commodities were shipped to approximately 58.6 million needy people in 72 countries. The CCC valued these commodities at $458.3 million.

Wheat and wheat products, including flour, comprised over half the commodities donated through title II in fiscal 1988. Feed grains and their products, rice, vegetable oil, and nonfat dry milk were also donated.

In both value and volume, the Asia/Near East region was the largest recipient of title II food aid. Approximately 41 percent of the total title II tonnage was distributed to Asia, with another 5 percent to the Near East. Distributions in Africa increased from 30 percent in fiscal 1987 to 42 percent in fiscal 1988, with Ethiopia, Mozambique and the Sudan receiving the largest amounts for famine relief.

Operations

One of the main objectives of the P.L. 480 title II food donation program is to alleviate hunger and malnutrition of people in the poorest countries of the world. The target recipients included 15.4 million women, infants, preschool children in maternal child and day-care centers; 9.3 million older children in school feeding programs; and 12.1 million adults and dependents through food-for-work projects. In addition, another estimated 16.2 million people, including 7.8 million refugees, were fed through emergency, general relief, and other self-help programs.

Administered jointly by the USDA and AID, title II activities are carried out by the following groups:

Private voluntary organizations

Adventist Development and Relief Agency (ADRA)
American Jewish Joint Distribution Committee (AJJDC)
American ORT Federation (ORT)
Catholic Relief Services (CRS)
Church World Service (CWS)
Cooperative for American Relief Everywhere (CARE)
Doulos Community
Ethiopian Orthodox Church (EOC)
Food for the Hungry (FHI)
Jamaica Agricultural Development Foundation (JADF)
Joint Relief Program (JRP)
League of Red Cross and Red Crescent Societies (LICROSS)
Lutheran World Relief (LWR)
National Cooperative Business Association (NCBA)
Oxford Famine Relief (OFR)
Projects in Agriculture, Rural Industry, Science and Medicine, Incorporated (PRISM)
Save the Children Federation (SCF)
World Vision Relief Organization (WVRO)

Intergovernmental organizations

International Committee of the Red Cross (ICRC)
League of International Red Cross and Red Crescent Societies (LICROSS)
World Food Program (WFP)
U.N. High Commissioner for Refugees (UNHCR)
U.N. International Children's Education Fund (UNICEF)

Recipient governments

Distribution

Private, voluntary agencies and international organizations distributed 52.7 percent of 2.0 million tons of commodities shipped (1.1 million tons, valued at $243.1 million); the World Food Program including the International Emergency Food Reserve, 24.3 percent (490,000 tons, valued at $108.3 million); and the bilateral government-to-government programs, 23 percent (465,000 tons, valued at $106.9 million). Of the total, nearly $201.2 million in commodities were channeled to meet emergency programs around the world.

Famine Prevention

Ethiopia was an outstanding example in fiscal 1988 of title II commodities being used to prevent a famine of major proportions. A number of nongovernmental organizations distributed food to millions of Ethiopians suffering from the drought and civil war which ravaged the country. In order to avoid a repetition of the 1984-85 starvation and massive shelter feeding programs, the U.S. Government and other donors prepositioned food stocks and began early distribution of food while the people were still strong enough to carry rations and return to their farms. The United States and other donors responded quickly and efficiently to meet the needs. By April 1988, confirmed food pledges totaled 1.04 million tons, of which the United States supplied 268,866 tons valued at $47.4 million. Port and logistical capacities were greatly improved, airlift operations were implemented where needed, and financial support for transport and management was granted to the nongovernmental organizations to avert massive starvation. The U.S. Government also supported an agricultural recovery program of some $19 million in Ethiopia, making the total value of the P.L. 480 contributions approximately $100 million.

Maximizing Development Potential

In recent years, there has been a growing recognition that food aid also can play a longer term development role in addressing problems which prevent developing countries from meeting their own food needs. Recurring drought in Africa highlights the need for developmental efforts to overcome the underlying causes of famine. AID continues to help develop mutually reinforcing approaches to strengthen the effectiveness and development impact of food aid.

Through two title II full monetization programs in Indonesia, sufficient initial capital and interest income are being provided for two private voluntary organizations to implement targeted development activities over the next 5 years. CARE's Community Self-Financing and Water and Sanitation Facilities project will support technical assistance for communities to develop and construct their own clean

water and sanitation systems, and to provide technical training while developing community self-help capacity and skills for undertaking loans and debt servicing.

Also in Indonesia, the National Cooperative Business Association is establishing the Indonesian Enterprise and Trade and Development Foundation. This foundation will provide both long-term lending and equity capitalization to high-priority, labor-intensive business ventures and promote viable Indonesian enterprises while developing and testing flexible private sector investment strategies. The project is intended to promote U.S. and Indonesian mutual trade interests.

World Food Program

The World Food Program (WFP), under the auspices of the United Nations and the Food and Agriculture Organization, had a $1.4-billion pledge target for the most recent biennial (calendar years 1987 and 1988). The United States, in turn, pledged $250 million for the same biennial as its share. The pledge authorized $175 million through title II and $75 million under section 416 for commodities and transportation, of which $2.9 million is for administrative support. Section 416(b) of the Agricultural Act of 1949 authorizes overseas donations from CCC surplus stocks.

The WFP also administers the International Emergency Food Reserve (IEFR), which has a 500,000-ton yearly target for emergency contributions. During fiscal 1988, the United States contributed over 230,000 tons of food, valued at $36.7 million, through the IEFR. Additional funds were provided by the U.S. Government to cover transportation costs.

The Food Aid Convention

The objective of the Food Aid Convention (FAC) of 1986 was to improve world food security by ensuring a minimum of 10 million tons of cereal aid annually to developing countries, a target first established by the World Food Conference of 1974. Signatories are obligated to pledge minimum annual amounts of cereal aid in wheat (or its equivalent) suitable for human consumption.

Ten countries and the European Community (EC) are members of the new FAC, with total pledges of 7.5 million tons. The United States is the largest donor, with a pledge of 4.47 million tons. All of the U.S. obligation is met by P.L. 480 shipments, including title I concessional sales and section 416 donations. Efforts are made to encourage the participation of other potential donors to reach the 10-million-ton target.

TITLE III - FOOD FOR DEVELOPMENT

Operations

Title III, known as Food for Development, was added to P.L. 480 in 1977. A country must be eligible for a title I agreement before a title III program can be approved. This allows low-income countries to purchase U.S. agricultural commodities on title I terms. It differs from title I in that as the proceeds from the sale of the commodities are used for developmental purposes, an equivalent dollar value of the title I loan is offset. When the offset occurs, the loan in effect becomes a grant of commodities.

Before a title III agreement may be approved and negotiated, the recipient country must submit a Food for Development Plan which describes how the commodities are to be used. The plan must describe the self-help projects to be financed by the sales proceeds. Projects and programs financed must increase food production, improve storage, transportation, and distribution of farm products, or improve the quality of rural life through health and nutrition or family planning programs. A joint evaluation of progress in the implementation of the Food for Development program is conducted each year.

Goals

The goals of title III are: "To increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country."

Special Provisions

A special provision of the Agricultural Trade Development and Assistance Act of 1954 provides for the negotiation of multiple- year commitments of up to 5 years, provided suitable commodities are available for programming through P.L. 480. A plan to use the commodities or the sales proceeds must be approved. Also, the recipient country must show it is making satisfactory progress in implementing the provisions of the agreement.

A second special provsion of the Agricultural Trade Development and Assistance Act of 1954 allows relatively least developed countries to apply the currency use offset to any P.L. 480 principal or interest payments falling due that fiscal year. This allows recipient countries to more easily meet their obligations of remaining current in the repayment of principal and interest from previously negotiated title I agreements using the food or sales proceeds in accordance with an approved Food for Development plan. Countries not considered to

be "relatively least developed" may reduce or offset the loan under which the commodities were purchased by an amount equivalent to the dollar value of the proceeds applied.

Requirements

The legislation established that, of the annual aggregate value of title I agreements, not less than 10 percent is to be under title III beginning in fiscal 1986 and each fiscal year thereafter.

Bellmon Amendment

As is the case for title I, no commodity will be exported unless at the time of exportation adequate storage facilities are available to prevent spoilage and waste, and the shipped commodities will not create a significant disincentive to domestic production in the recipient country.

Self-Help Measures

Each agreement or amendment, regardless of terms, must contain self-help measures which improve the production, storage, and distribution of agricultural commodities. They are to be implemented in such a way as to enable the poor to participate actively in increasing food production through small farm agriculture. In addition, the recipient government agrees to provide adequate financial, technical, and managerial resources for their implementation.

Self-help measures are to be additional to those which the recipient country would otherwise be able to undertake in the absence of the loan or grant and are to be described in specific and measurable terms. Other provisions require that the sales proceeds be used for financing the self-help measures set forth in the agreement.

Agreements

During fiscal 1988, title I/III agreements valued at $728.6 million were negotiated with 26 countries. Agreements with two of the countries--Bangladesh and Bolivia, totaling $80 million--contained currency use offset provisions as authorized under title III. This amounts to 10.9 percent of the aggregate total value of the program. Highlights from these two programs follow.

Highlights: 1988 Title III Food for Development Program

Bangladesh ($60 million, Title III)

In fiscal 1988, an amendment was negotiated to a title III agreement signed initially in 1987. Bangladesh falls into the "relatively least developed country" category. Self-help measures contained in the agreement included commitments to: (1) continue to reduce the costs of the Public Food Distribution System and to redirect all reduced

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SJR 45

Revision Date: _____ **Department Affected:** _____

Title: Urging the use of canned pink salmon in the "Public Law 480-Food for Peace" program **BRU:** _____

Component: _____

Sponsor: Senator Kertulla

Requestor: Senate Resources **COMPONENT SERIAL NO.** | | | | |

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-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senator Lloyd Jones,Chairman **Phone:** -3743

Division: Senate Resources Committee **Date:** ruary 26, 1992

Approved by Commissioner: Lloyd Jones

Agency: Senate Resources **Date:** February 26, 1

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

Rev 10/7/91

Page ___ of ___

SJR

46

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SJR 46

(S) Publish Date: 3-6-92

Revision Date: March 4, 1992

Department Affected: NONE

Title: Fishing vessel construction incentives

BRU:

Component:

Sponsor: Senator Ellason

Requestor:

COMPONENT SERIAL NO.

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-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senator Lloyd Jones, Chairman

Phone: 465-3743

Division: Senate Resources

Date: 3/4/92

Approved by Commissioner: Lloyd Jones

Agency:

Date: 3/4/92

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

Rev 10/7/91

ALASKA STATE LEGISLATURE SENATE
SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN, SPECIAL COMMITTEE ON DOMESTIC & INTERNATIONAL COMMERCIAL FISHERIES

P.O. BOX 143
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Feb. 7, 1992

COMMENTS OF PRIME SPONSOR, SEN. DICK ELIASON, ON SJR 46 RELATING TO VESSEL CONSTRUCTION INCENTIVES AND THE MERCHANT MARINE CAPITAL CONSTRUCTION FUND PROGRAM

The Capital Construction Fund program was established under the Merchant Marine Act for the purpose of improving the U.S. fishing fleet by encouraging the construction, reconstruction, or acquisition of fishing vessels with before-tax rather than after-tax dollars. (Section 607, Merchant Marine Act).

The program was designed to offer a tax incentive, essentially a form of advance or accelerated depreciation, to assist in the purchase of new vessels, and was intended to encourage the rehabilitation of the U.S. fishing fleet.

The Internal Revenue Service (in its publication 595 based on a Revenue Ruling), and the Tax Court in Eades v. Commissioner, 79 TC 985 (Dec. 8, 1982) have ruled that while the Merchant Marine Act provided that *taxable income* would be reduced by the amount deposited in the CCF, no provisions exist for earnir to be reduced in the determination of *self-employment tax.*

These rulings do not affect those who have entered into a CCF agreement as a corporation or a partnership, so it discriminates against those who have entered into the agreement as individual proprietors (or as married couples), and effectively penalizes them. The majority, roughly 70%, of CCF agreementholders are individuals, many of them Alaskans, and they represent only a fraction of the fishermen eligible to use the program.

The self-employment tax add-back provision by the IRS effectively withdraws the very incentive the CCF program was established to provide. It is very likely discouraging many fishermen from using the CCF program, and is thus thwarting the intent of the U. S. Congress.

Last November Senator Ted Stevens introduced legislation that would amend the Internal Revenue Code (sec. 1402) and the Social Security Act (sec. 211) to exclude deposits to a Merchant Marine Act Capital Construction Fund account from net earnings for the purposes of computing self-employment tax (social security tax on a self-employed individual). It is retroactive to the 1986 tax year. A similar measure, H.R. 1363 was introduced in the House by Congressman Al Swift (WA).

Sen. Stevens has stated he believes the omission his bill seeks to correct was unintentional. He has pointed out that it is unfair for the Tax Code to permit fishermen to use their depreciation to reduce self-employment taxes, but to deny this deduction simply because they have utilized a Capital Construction Fund. This undermines the whole purpose of the fund.

There is a good chance that the changes Sen. Stevens is proposing may be tacked on as an amendment to a tax simplification bill this year. This measure demonstrates our unified support for changes in IRS rules which will benefit many Alaskans.

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

March 22, 1991

Dr. William W. Fox, Jr.
Asst Administrator for Fisheries
National Oceanic and Atmospheric Administration
Metro One Building, Room 9334
1335 East-West Highway
Silver Spring, MD 20910

Dear Bill:

This spring I will introduce a bill in the Senate to permit participants in Merchant Marine Act Capital Construction Funds (CCF) to reduce their self-employment income by the amount of contributions to their CCF. As you know, under current law, an amount equal to the amount deposited for the taxable year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse Revenue Ruling 79-413 and the Tax Court ruling in Eades v. Commissioner, 79 TC 985 (Dec. 8, 1982).

In my view, the purpose of the CCF program is to improve the US fishing fleet by allowing fishermen rapid accumulation of funds with which to replace or improve their vessels. Under Section 607 of the Merchant Marine Act, earnings deposited into a CCF are not taxed--this enables fishermen to make large downpayments or periodic payments on a new fishing vessel. Essentially, this is a form of advance or accelerated depreciation to assist in the purchase of new vessels.

Depreciation on a commercial fishing vessel can normally be used to reduce both income tax and self-employment tax liability. However, the Internal Revenue Service and the Tax Court have ruled that although the Merchant Marine Act provided that *taxable income* should be reduced by the amount deposited in a CCF, no provisions exist for earnings to be reduced in the determination of *self-employment tax*.

I believe this omission was unintentional. It is unfair for the Tax Code to permit fishermen to use their depreciation to reduce self-employment taxes, but to deny this deduction simply because they have utilized the CCF program. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program.

In the preparation of my legislation, it would be most helpful to know the position of the Fishery Service. In particular, I would appreciate any published opinions or positions the Fishery Service has taken on this self-employment tax issue during the existence of the CCF program. You should be aware that I may make this information available to constituents who are seeking to resolve these questions through litigation.

My staff tells me that Dorothy Bostic, in your Capital Construction Fund Office, may also have background information which could assist me in resolving this problem. I would appreciate any information she may have, as well, including statistical data which would assist us in determining the revenue impact of changing the law.

If you have any questions about this inquiry, please contact Chuck Konigsberg at 202-224-3699. Thank you for your assistance.

With best wishes,

Cordially,

TED STEVENS

cc: Ms. Dorothy Bostic
NOAA/NMFS
Financial Service Division
Capital Construction Fund Program
1335 East-West Highway, 5th Floor

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 217. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 822. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (c)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 218. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 851(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 859(a) (42 U.S.C. 298b-6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Notwithstanding any other provision of law, in the case of any authority for the provision of a grant or contract that is terminated by any provision of this Act, the Secretary of Health and Human Services shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.●

By Mr. STEVENS:

S. 1934. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

EXCLUSION OF CERTAIN FUNDS DEPOSITED INTO CAPITAL CONSTRUCTION FUND ACCOUNTS

● Mr. STEVENS. Mr. President, today I am introducing a bill to permit participants in the Merchant Marine Capital Construction Fund—or CCF—Program to reduce their self-employment income by the amount of contributions to their CCF account. Under current law, an amount equal to the amount deposited for the year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse revenue ruling 79-413 and the Tax Court ruling in *Eades* v. *Commissioner*, 79 TC 985—December 8, 1982.

The purpose of the Capital Construction Fund Program, which was created by the Merchant Marine Act in 1936, is to improve the U.S.-flag merchant marine by providing fishermen a mechanism to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels—including processing and transporting vessels. This is accomplished by permitting any citizen owning or leasing an eligible vessel to enter into an agreement with the Secretary of Commerce to establish a Capital Construction Fund. Taxation of funds deposited into a CCF fund are deferred, in order to facilitate the accumulation of funds required for the acquisition, construction, or reconstruction of the specified vessel(s).

Essentially, this is a form of advance depreciation. Earnings which are placed into the CCF accounts are not subject to the income tax. However, when funds are taken from the CCF accounts to acquire, construct or reconstruct a vessel, the basis of the vessel is reduced to reflect the tax benefit received when the money was originally deposited.

The advance depreciation benefit does not, however, apply to self-employment income. The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited into a CCF, no provisions exist for earnings to be reduced in the determination of self-employment tax. Fishermen using the CCF program are therefore, in a sense, double-taxed with reference to self-employment income. They pay tax on their self-employment income at the time of the CCF deposit, and lose future depreciation deductions against self-employment income due to the basis reductions required by the program.

Despite this apparent double taxation, the Tax Court found it "unlikely that Congress ever considered whether deposits into a capital construction fund established pursuant to Section 607 of the Merchant Marine Act should be subject to the self-employment tax." Certainly, the court is correct as to the law setting up the CCF program because when Congress enacted the Merchant Marine Act in 1936, the self-employment tax did not exist. The court, however, went on to find that subsequent Merchant Marine Act amendments fail to indicate any congressional intent to apply the CCF deferrals to self-employment income.

Mr. President, there continue to be disputes and court actions regarding congressional intent on this matter. I believe the Congress should squarely address this issue and make clear that deposits into CCF accounts will reduce self-employment income. The current situation where individuals must lose future depreciation against their self-employment income in order to utilize the CCF program is inconsistent with that program's purpose. It simply doesn't make sense to provide reduction of taxable income as an incentive to use the CCF program, and at the same time have a disincentive on the self-employment income side. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program. I have, in fact, been told by administrators at the Fisheries Service that some fishermen are not using CCF because of the double taxation disincentive.

The bill I am introducing today makes clear that deposits into CCF accounts will reduce—in addition to taxable income—"net earnings from self employment." In addition, the bill provides for recapturing self-employment taxes for funds which are withdrawn from CCF accounts for nonqualified purposes, that is, purposes other than acquisition, construction, or reconstruction of qualified vessels. Finally, the bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide 1 year from the date of enactment during which time tax refunds pursuant to this legislation could be claimed.

I thank my colleagues for their attention and urge the Finance Committee to act on this legislation.●

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. BURNS, Mr.

Ted Stevens

United States Senator For Alaska

S. 1934

Contact: Press Office
(202) 224-5209

FOR IMMEDIATE RELEASE
Friday, November 15, 1991

STEVENS BILL WOULD BRING TAX RELIEF FOR FISHERMEN

Fishermen who make deposits into Capital Construction Funds (CCF) would no longer face a form of double taxation under a bill introduced by Senator Ted Stevens.

Under current law, taxation of funds deposited into a CCF are deferred, so that funds can accumulate more quickly in order to buy, construct or reconstruct a vessel.

Taxation of the deposited funds does not occur until the vessel is actually built or refurbished, at which time the permitted depreciation deductions are reduced in the amount of the CCF tax deferral.

This advance depreciation benefit does not, however, apply to self-employment income, according to Stevens. This distinction is important because most Alaska fisherman are self-employed.

The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited in a CCF, no provision exists for earnings to be reduced in the determination of self-employment tax.

Stevens' legislation would amend the Merchant Marine Act to make clear that deposits in a CCF could also be applied to reduce self-employment income, thereby reducing the self-employment tax.

"If we are going to defer income tax with deposits to CCFs, we should defer self-employment tax as well. Otherwise, we are defeating the purpose of the program," said Stevens.

Stevens' bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide one year from enactment of the bill for fishermen to apply for refunds.

Similar legislation has been co-sponsored in the House of Representatives by Congressman Don Young.

# # #

102D CONGRESS
1ST SESSION

S. 1934

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 7 (legislative day, OCTOBER 29), 1991

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEPOSITS IN CAPITAL CONSTRUCTION FUND ACCOUNT EXCLUDED FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Subparagraph (A) of section 607(d)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(d)(1)) is amended by striking "taxable income (determined without regard to this section and section 7518

of such Code) for the taxable year shall be reduced" and by inserting "taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without regard to this section and section 7518 of such Code) for the taxable year shall each be reduced".

(b) NONQUALIFIED WITHDRAWALS.—Section 607(h) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(h)) is amended by adding at the end thereof the following new paragraph:

"(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 of the Internal Revenue Code of 1986 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on de-

posits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under section 1401 of such Code for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 7518(c)(1) of the Internal Revenue Code of 1986 is amended by striking "taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall be reduced" and by inserting "taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall each be reduced".

(2) Section 7518(g) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under section 1401 for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).".

(3) Section 1403(b) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph:

"(3) For treatment of earnings of ship contractors deposited in special reserve funds, see subsections (d) and (h) of section 607 of the Merchant

Marine Act, 1936 (46 U.S.C. 1177) and subsections (c) and (g) of section 7518."

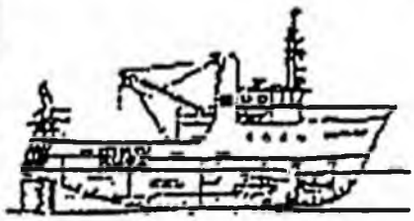
(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

O

Capital Construction Fund



1. What is the Capital Construction Fund [CCF] program?

The CCF program enables fishermen to construct, reconstruct, or acquire fishing vessels with before-tax, rather than after-tax dollars.

It allows fishermen to defer taxable income from their fishing vessels. This tax-deferred fishing income under the CCF program when used to help pay for a vessel project is, in effect, an interest-free loan from the Government.

The purpose of the CCF program is to improve the U.S. fishing fleet by allowing fishermen rapid accumulation of funds with which to replace or improve their vessels.

2. Who is eligible?

Eligibility is limited to U.S. citizens. Applicants must own or lease a U.S.-built fishing vessel of at least 2 net tons and have an acceptable program for constructing, reconstructing, or acquiring a fishing vessel of at least 2 net tons. Any vessel not U.S. constructed, but documented by Coast Guard or State registered on or before April 15, 1970, also qualify. The term fishing vessel includes vessels used commercially for catching, transporting, and processing fish. Also included are commercial passenger-carrying vessels used for fishing parties.

3. How do you get into the CCF program?

You must enter into a CCF Agreement with the Secretary of Commerce through the National Marine Fisheries Service (NMFS). An application kit can be obtained from NMFS. If you need any assistance or advice, please contact our Headquarters Office at the following location:

NOAA/NMFS Financial Services Division
Capital Construction Fund Program
1335 East-West Hwy., 5th Floor
Silver Spring, MD 20910
Telephone No.: (301) 427-2393.

You may apply at any time. But to be applicable in a given tax year, you must enter into a CCF Agreement on or before the due date (with extensions) for filing your Federal tax return.

If you decide to enter the CCF program, we urge you to submit your CCF application as soon as possible, or at least 45 days in advance of the tax due date, to ensure timely execution by NMFS.

4. How does the CCF program work after you get into it?

Your CCF Agreement will establish:

(a) Which of your fishing vessels will be

eligible for deferral of taxable income. These are called "Schedule A" vessels.

(b) What kind of vessels you will construct, reconstruct, or acquire with your CCF account. These are called "Schedule B" vessels or objectives.

(c) Where you will keep the tax-deferred income you will use to pay for your objectives. The place where you keep this money is called the "CCF depository," and the account in which you keep it is called the "CCF account."

You then decide what portion of your Schedule A vessels' taxable income you want to deposit into your CCF account for the tax year. (The CCF deferral cannot create a loss in your fishing income, but can reduce it to zero.)

You then deposit that income, on or before your tax due date, with extensions, into your CCF account. Thus, you have put it into your own account in your own depository and will have it available to help you pay for your Schedule B vessels.

5. How does the CCF program save me money? Show me an example for an individual fisherman.

Assume you want to build a new fishing vessel in 5 years and want to start saving for it now. Assume that in each of the next 5 years your taxable income from your present fishing operation is $100,000. Assume that you are married and need $40,000 a year for living expenses and taxes.

Figure 1: Five-Year Savings without CCF

Annual taxable income		$100,000
Living expenses	$(40,000)	
Federal taxes on $100,000	$(28,440)	(68,440)
Annual savings		$31,560
5 years' savings (5x$31,560)		$157,800
5 years' interest earned	$ 34,473	
5 years' Federal taxes on interest earned	$(12,914)	
Net interest saved		$ 21,559

Without the CCF program, 5-years savings would accumulate as shown in Figure 1

With the CCF program, 5-years savings would accumulate as shown in Figure 2. As you can see, use of the CCF program during those 5 years will give you an additional $119,772 to pay for your new vessel. This means that the amount you will need to borrow will be $119,772 less than it would be if you had not used the CCF program. You also save the interest which you would otherwise have had to pay to borrow this amount. This sum may well represent the required downpayment on your new vessel.

6. Show me another example, this time using a corporate owner.

Assume your corporation wants to build a new fishing vessel in 5 years and decides to set aside $30,000 a year for the downpayment. Your yearly taxable fishing income must be $35,300 in order to save the $30,000 per year. Without the CCF program, 5-years savings would accumulate as shown in Firgue 3:

With the CCF program, the corporation could deposit the full $35,300 and funds would be accumulated as shown in Firgure 4:

7. How do you notify the Internal Revenue Service?

When you prepare your Federal tax return, simply deduct from your taxable fishing income the eligible amounts you deposited to your CCF account during the tax year (list on Other Expenses/ Deductions line).

8. Do deposits in a CCF account also defer State income taxes?

This depends on the State in which you report your income. You should check with your State income tax office. If your State has adopted the CCF provisions of Federal law (or uses Federal tax statutes), then your State income tax will likewise be deferred.

Figure 2: Accumulation with CCF		
Annual taxable income		$100,000
Living expenses	$(40,000)	
Federal taxes on $50,900	$(10,900)	(50,900)
Annual CCF savings		$ 49,100
5 years' savings (5x$49,100)		$245,500
5 years' interest earned and deposited into CCF		$ 53,631
TOTAL ACCUMULATIONS WITH CCF		$299,131

Before making any CCF withdrawal you must obtain NMFS consent. Once consent is granted, you simply withdraw the money as you would from any other account. If you need to make a quick CCF withdrawal for a qualified purpose, a phone call will generally result in verbal consent. The necessary paper work can be completed later.

BEFORE MAKING A WITHDRAWAL, YOU MUST OBTAIN NMFS APPROVAL. Without NMFS approval, you may jeopardize the tax-deferral associated with any such withdrawal.

9. How do you establish the CCF account?

Your CCF account can be a regular checking or savings account established at your local bank, savings and loan, or other Federally insured institution. Your CCF account is in your own name. It must be separate from your general operating account or personal savings or checking account. It must not be used for any purpose other than CCF deposits and withdrawals.

You may use more than one depository if all are designated in the CCF Agreement. After entering a CCF, additional depositories may be added by submitting to NMFS the name, address, and date the account was opened.

10. How do you withdraw CCF deposits?

11. Can CCF program funds be used to pay off a mortgage?

Yes. Where you ... ce with a mortgage the cost of constructing, reconstructing, or acquiring a Schedule B vessel, you may use your CCF account to pay the principal of that mortgage.

NMFS consents to CCF withdrawals of an amount equal to the total cost of the completed Schedule B project (even though payment is to be made by a series of withdrawals over an extended period of time to meet installment payments as they come due). Thus, you will not have to request NMFS consent to each and every separate installment payment.

Figure 3: Corporate Savings without CCF		
Annual taxable income		$ 35,300
Federal taxes		$(5,300)
Annual Savings		$ 30,000
5 years' savings (5x$30,000)		$150,000
5 years' interest earned	$32,770	
5 years' Federal taxes on interest earned	(10,188)	
Net interest saved		$ 22,582
TOTAL SAVINGS WITHOUT CCF		$172,582

12. How much can be deposited into a CCF account each year?

The total amount you can deposit during any one tax year is equal to the total of the following for each Schedule A vessel you designate in your CCF Agreement:

(a) 100 percent of taxable income from vessel operation;

(b) 100 percent of vessel depreciation:

(c) 100 percent of the net proceeds from the sale or other disposition of vessels; and/or

(d) 100 percent of the earnings from investment or reinvestment of amounts deposited. (When you deposit into your CCF account the earnings of that CCF account, you may also defer the Federal tax which you would otherwise have paid on those earnings.)

Although you can deposit up to 100 percent of the amounts listed in (a) through (d) above, it is up to you to decide how much you actually can or want to deposit.

Whatever you decide to deposit cannot, of course, be more than the total amount needed to pay for the cost of all Schedule B projects.

Figure 4: Total Accumulation with CCF

Annual taxable income	$ 35,300
Federal taxes	-0-
Annual CCF savings	$ 35,300
5 years' savings (5x$35,300)	$176,500
5 years' interest earned and deposited into CCF	$ 38,558
TOTAL ACCUMULATIONS WITH CCF	$215,058

13. How much must be deposited into a CCF account each year?

The minimum annual deposit is 2 percent of the estimated cost of all Schedule B projects; or, if that 2 percent is more than half of your taxable income in any year, then half of your taxable income. Any earnings of the CCF account which are redeposited may be used to meet the minimum annual deposit.

If you plan to complete a Schedule B project more than 3 years in the future, you may meet the annual 2 percent test on a 3-year basis. In other words, you must deposit 6 percent every 3 years. You may make deposits in any amount, and in any year, provided that you deposit a total of 6 percent of the estimated cost of all Schedule B projects for each 3-year period. You may carry forward excess deposits (over the 2 percent in any one year) to meet the minimum deposit requirement for future years.

14. May you keep the investment income (earnings) of the CCF rather than redepositing it into the CCF account?

Yes, if you withdraw it within your taxable year. IF NOT, THESE EARNINGS BECOME AN ASSET OF YOUR CCF ACCOUNT. If withdrawn, however, the earnings will be taxable income to you. If the earnings are redeposited or left in your CCF account, taxation on those earnings is deferred and is available for payment of the cost of your Schedule B projects.

15. If you have already deposited 100 percent of your taxable income into a CCF account, why would you want to deposit any depreciation?

Although you do not get an additional deduction for the deposit of depreciation, you may redeposit CCF account earnings from your deposit of depreciation and defer taxation on those earnings. When you are saving money for the construction of a new vessel, this can considerably accelerate your ability to accumulate funds.

16. What benefit is derived from a CCF deposit of full net proceeds from the sale of a vessel?

If you sell a Schedule A vessel, tax on any gain may be deferred by depositing the full net proceeds in your CCF account. This applies to installment sales also, except that you must deposit the total gain in the year of sale. No deferment, not even a partial deferment, is allowed except with a deposit of full net proceeds. It's either all or nothing.

17. Why should you enter a CCF Agreement after the end of a tax year instead of doing so for the following tax year?

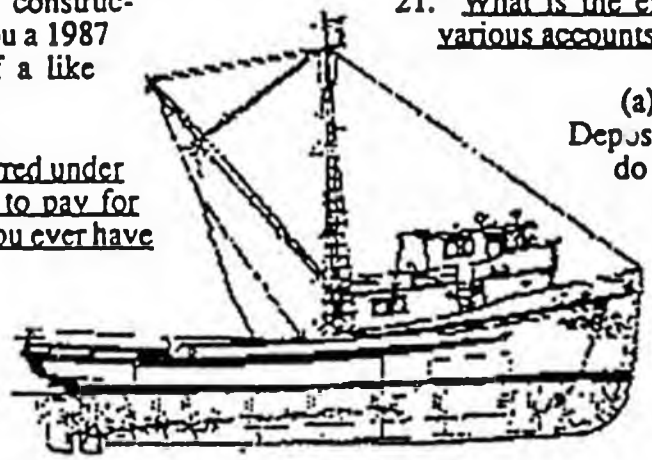
There are two advantages.

First, deposits into your CCF account made after the tax year's end, but before the due date of your Federal tax return, may be applied to the

previous tax year.

Second, if in the year before entering into a CCF Agreement, you make a downpayment on a vessel which would have qualified under the Agreement, NMFS will approve it as eligible. Any transaction (downpayment, mortgage payment, payment on reconstruction, etc.) must have been such that it would have qualified if the CCF Agreement existed.

For example, assume you built a vessel in 1987 and did not know of the CCF program until early 1988. You could enter the CCF program before your Federal tax due date, and NMFS would approve any amounts you paid on the vessel in 1987 as if they had been deposited to or withdrawn from your CCF account. These deposits and withdrawals are called "constructive." This would give you a 1987 income tax deduction of a like amount.



18. When income is deferred under the CCF, and you use it to pay for Schedule B projects, do you ever have to pay taxes somehow?

Yes, income deferred under the CCF program and used to pay for Schedule B projects is subject to future "recapture" by the IRS.

This "recapture" is accomplished by a reduction in the basis for depreciation of Schedule B vessels. In other words, future depreciation allowance for these vessels will be reduced to compensate for the income you deferred under your CCF Agreement.

"Recapture" of the deferred income occurs over the depreciable life of your Schedule B vessel. So the interest-free-loan aspect continues for as long as you have depreciation to claim on the vessel.

19. If you lose future vessel depreciation, why should you enter the CCF?

Although the future basis for depreciation of your Schedule B vessels is reduced, remember that you did receive a deduction of a like amount in the years in which you made your CCF deposits. Therefore, you really have not lost anything as a result of this future reduction. You have gained. You have gained a relatively quick accumulation of capital for vessel construction. You have gained by not having to borrow as much to pay construction cost, thus reducing your interest payments on borrowed funds. You have gained by having CCF funds available to you interest free.

20. If deposits and withdrawals associated with these different sources receive different treatment, how do you keep track of all of this?

Although you have only one CCF Agreement, it has three separate "bookkeeping accounts" as follows: (a) Capital account; (b) Capital Gain account; and (c) Ordinary Income account. These bookkeeping accounts must be maintained because the Tax Reform Act of 1986 requires taxpayers to distinguish between ordinary and capital gains.

21. What is the effect of deposits into the various accounts?

(a) The Capital Account. Deposits into the capital account do NOT generate a CCF tax deduction. These are principally deposits of vessel depreciation and proceeds from the sale of CCF Agreement vessels. Since you receive an income tax deduction for depreciation whether or not you have a CCF Agreement, you naturally do not receive another deduction when you make a deposit to your CCF account which is attributable to this depreciation. If, however, you have cash in excess of that which you want to, or may, deposit to the ordinary income account, you can deposit it to the capital account under the depreciation ceiling. Any interest earned by this deposit can be redeposited and the taxes thereon deferred.

(b) The Capital Gain Account. Deposits into the capital gain account are mainly from the sale of Agreement vessels. Insurance proceeds may also be deposited if your vessel sinks. Taxes on these deposits are deferred.

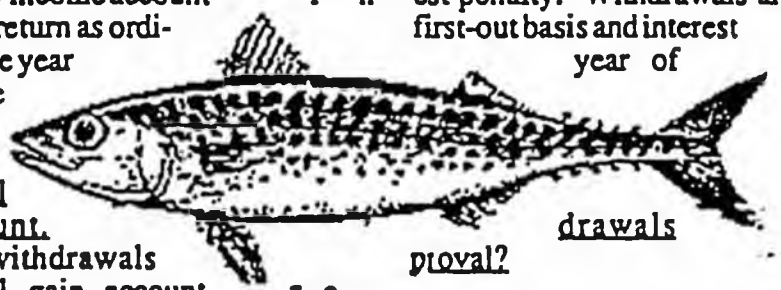
(c) The Ordinary Income Account. Deposits into the ordinary income account create an immediate income tax deduction. You deposit to this account your current year's earnings on which you wish to defer taxation. You also deposit to this account the ordinary income portion (depreciation recapture) from the sale or other disposition of Agreement vessels and the interest income of the CCF account itself.

22. What are the effects of withdrawals from the various accounts?

Remember that no income tax is paid on amounts deposited in the capital gain or ordinary income accounts. Instead, the deferred income tax is recaptured by decreasing the depreciable basis of your Schedule B project when you withdraw funds from your CCF account. The effect of withdrawals from the three accounts is as follows:

(a) The Ordinary Income Account. QUALIFIED withdrawals from the ordinary income account reduce the depreciable basis of your Schedule B project by an amount equal to the withdrawal.

You must include nonqualified withdrawals from the ordinary income account in your income tax return as ordinary income in the year you make the withdrawal.



(b) The Capital Gain Account. QUALIFIED withdrawals from the capital gain account reduce the depreciable basis of your Schedule B project in an amount equal to the applicable tax rate for an individual or corporation.

You must include nonqualified withdrawals from the capital gain account in your income tax return in the year you make the withdrawal.

(c) The Capital Account. You did not receive any income tax deduction at the time of the capital account deposit. So any withdrawal from the capital account is equivalent to a return of capital and, accordingly, has no effect on your taxable income or the depreciable basis of Schedule B vessels.

23. Can you choose the account from which a withdrawal will be made?

No. Qualified withdrawals come, first, from the capital account; second, from the capital gain account; and, last, from the ordinary income account.

Nonqualified withdrawals are made in the reverse order; first, ordinary income; second, capital gain; and last, capital.

Generally, withdrawals from a particular account are made on a first-in/first-out basis.

24. Will nonqualified withdrawals be approved regardless of reason?

No. Nonqualified withdrawals will only be approved for good cause. For instance, should you incur a net operating loss and need funds to continue operation, NMFS would approve a nonqualified withdrawal upon proof of the need.

25. Are there any Penalties for Nonqualified Withdrawals?

All nonqualified withdrawals for taxable years beginning after December 31, 1986, will be taxed at the maximum rate applicable in the year you make the withdrawal. Nonqualified withdrawals stand alone as income and cannot be used to offset net operating losses. The tax on nonqualified withdrawals is subject to a self-assessed interest penalty. Withdrawals are made on a first-in/first-out basis and interest is charged from the year of deposit to the year of withdrawal.

26. What happens if you make withdrawals without prior approval?

Without NMFS approval, the withdrawal may be considered nonqualified. In addition to the tax consequences of a nonqualified withdrawal, this is a breach of your CCF Agreement and could result in its termination.

27. What happens if your CCF Agreement is Terminated?

If it is terminated, voluntarily or involuntarily, any balance remaining in the CCF will be treated as a nonqualified withdrawal. The balance in your CCF account will be considered income for the year of termination, possibly causing you a substantial tax liability for that tax year.

28. What effect does basis reduction have on future sale of a vessel?

Upon the sale of a Schedule B vessel, any reduction in depreciable basis is treated the same as depreciation claimed. Thus, any gain on the sale would be reported as ordinary income. However, if the net proceeds from that sale are deposited in a CCF account, taxation of the gain can again be deferred.

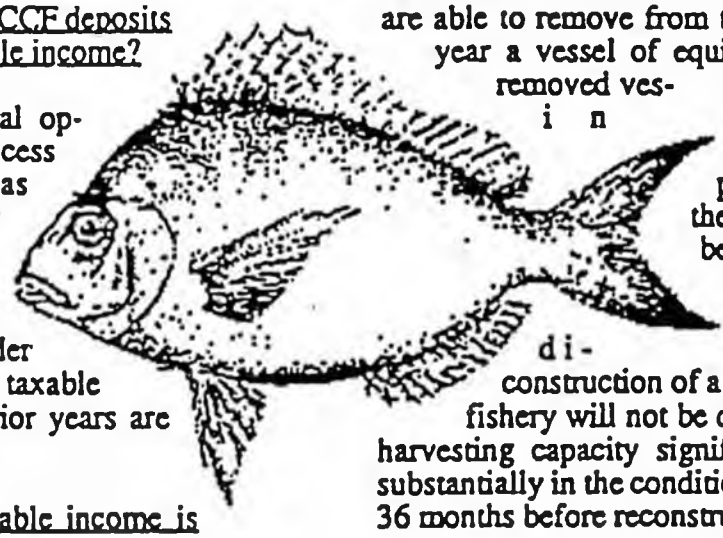
29. Are there penalties if you fail to complete the required second Schedule B objective?

Yes. In order to acquire a used vessel as a Schedule B objective, you must agree to a second Schedule B objective of either reconstructing that vessel or constructing another one at some time in the future. If you fail to do so, all previous withdrawals for acquisition of the used vessel may be considered nonqualified. At present, it is uncertain what will happen if the tax statute of limitations has expired in respect to any of the withdrawals.

If plans or circumstances change, however, the second Schedule B objective may be amended or revised with NMFS consent.

30. What if you make CCF deposits in excess of your taxable income?

You have several options available. The excess may: (a) be withdrawn, as if never deposited; or (b) be treated as a deposit under another ceiling, if available, and/or as a deposit under any ceiling for the next taxable year, if ceilings for prior years are filled.



31. What if your taxable income is changed by an IRS audit?

If an IRS audit results in an increase of your taxable income, you may make a deposit to your CCF equal to the increase if a ceiling from vessel operations is available. This deposit will be attributed to the year of the tax return which was audited. The deposit must be made within specified time limits.

If the audit results in a decrease in income, which reduces any ceilings below the amounts previously deposited in your CCF, you would have an overdeposit which could be treated as explained in No. 32.

32. Once you enter a CCF Agreement can Deposits or Withdrawals be considered as Constructive?

No, once you have entered into a CCF Agreement, all deposits and withdrawals must be physically made through your designated CCF account in order to qualify. If, however, you make an otherwise qualified payment outside of your CCF account, you may use your CCF account to reimburse yourself within 6 months from the date of the expenditure.

33. How many annual reports must be submitted to NMFS?

Only one. This is a "DEPOSIT/WITHDRAWAL REPORT" which you must submit not later than 30 days from the due date along with a copy of your "FEDERAL INCOME TAX RETURN" as filed with IRS.

34. How is the CCF program restricted in a Conditional Fishery?

You may enter a CCF Agreement to construct a new vessel for a conditional fishery if you are able to remove from that fishery within one year a vessel of equivalent capacity. The removed vessel must have operated in that conditional fishery for at least 18 months prior to construction of the new vessel, and must be removed from all fishing or placed permanently in a non-conditional fishery. Reconstruction of a vessel in a conditional fishery will not be deemed to increase the harvesting capacity significantly if it operated substantially in the conditional fishery for at least 36 months before reconstruction.

35. Can the CCF program and the Fisheries Obligation Guarantee (FOG) program be used together on the same vessel?

Yes. The FOG program provides private lenders a 100% U.S. Government guarantee of obligations financing up to 80% of the cost of constructing, reconstructing, or reconditioning fishing vessels of at least 5 net tons.

Long-term maturities (up to 20 years) can be obtained at very reasonable interest rates under the FOG program. If you cannot find a suitable lender, NMFS can help you find one.

An obligation guaranteed under the FOG program would finance the portion of your vessel project's cost which was not paid for from your CCF account at the time your vessel was delivered to you. You could, thereafter, continue to use the CCF program to pay off the obligation guaranteed under the FOG program.

If you are interested in applying under the FOG program, call or write a Regional Financial Services Branch of NMFS.

36. Are CCF Deposits a Tax-preference item to "C" Corporation Taxpayers?

Yes. This is the most significant change made by the Tax Reform Act of 1986. When tax-preference items reduce a "C" corporation's tax. Then it must calculate an alternative minimum tax. If the regular tax is greater than the alternative minimum tax, then the regular tax must be paid. Any alternative minimum tax in excess of the regular tax can be used as a tax credit in a later year when no alternative minimum tax is due.

Thus, a "C" corporation with a CCF must calculate an alternative minimum tax for any taxable year in which a CCF deposit is made after December 31, 1986.

The regular tax is calculated on taxable income, after subtracting tax-preference items. The alternative minimum tax of 20% is calculated on taxable income by: (a) adding back the tax-preference items, (b) subtracting depreciation allowances lost as a result of withdrawals of CCF deposits made after 12/31/86, and (c) subtracting a $40,000 exemption (phased out on income over $150,000).

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

NATIONAL MARINE FISHERIES SERVICE (NMFS)

FISHING VESSEL CAPITAL CONSTRUCTION FUND (CCF)

Swift's

Re: H. R. 1363 - Social Security Self-Employment Tax on CCF

The Internal Revenue Service (IRS), in their Publication 595 (which is based on a Revenue Ruling), instructs self-employed fishermen to add back their CCF deduction of taxable fishing income to refigure their Self-Employment Tax (S.E. Tax). In other words, they are being discriminated against because they entered into a CCF Agreement as an individual proprietor (husband and/or wife). If they had entered into a CCF Agreement as a different entity--Corporation or Partnership--their CCF deduction would not be subject to S.E. Tax.

MARAD has a CCF program also, but none of their Agreementholders are subject to S.E. Tax. MARAD's participants are all Corporations!

The CCF add-back for individuals (for S.E. Tax purpose) is DOUBLE TAXATION! When CCF monies are used to purchase a vessel and/or equipment, the Depreciable Basis of same must be reduced accordingly. For example, in 1988 a vessel was purchased for $500,000 using CCF monies of $100,000 as a down payment--in lieu of a $50,000 deduction for Depreciation on Schedule C (based on 10-year straight line depreciation) only $40,000 was allowed--thus creating more taxable income and more S.E. Tax, resulting in DOUBLE TAXATION. In 1989, the owner of this vessel worked on the Alaska oil spill and deducted $200,000 for CCF, all of the monies were paid on his vessel mortgage. His vessel basis is now reduced to $200,000, therefore, he can only claim $20,000, etc., etc.!

CCF Program Participation - 1970 thru 1990

			Individuals	Other
Total No. of CCF's	=	6,336	4,524	1,812
No. CCF's Terminated	=	2,236	1,524	712
Active No. of CCF's	=	4,100 1/	3,000	1,100

The majority of CCF Agreementholders are individuals (73%), as shown in the table above. This number is only a fraction of the fishermen eligible to use the CCF program. Over the years, I have been told many times that the S.E. Tax add-back provision by IRS is the major reason for many fishermen not using the CCF.

1/ As of March 22, 1991.

I did a sampling of the 1990 Federal tax returns for individuals with a CCF Agreement; i.e., 10% or 300 of the 3,000 total participants. The results are as follows:

1. 25% or 750 paid S.E. Tax on fishing income - no CCF deposit.

2. 20% or 600 paid maximum S.E. Tax - no CCF income deposit, deposited interest, sale proceeds of vessel, etc.

3. 20% or 600 paid maximum S.E. Tax - fishing income deposited.

4. 35% or 1,050 - half added back CCF deduction for S.E. Tax, the other half did not.

If that 35 percent (1,050) deducted $35,000 (high estimate) per year for CCF and did not have to add the amount back, the total would equal $36,750,000. The 1990 S.E. Tax schedule has you multiply that figure by .9235% to arrive at the amount subject to S.E. Tax, that amount would be $33,938,625, you then multiply that amount by .153% to arrive at the S.E. Tax amount owed. This amount would be approximately $5.2M per year in revenues, but they are allowed to add back one-half of that amount on Line 25 of their 1040. That amount would be $2.6M which reduces A.G.I. (Adjusted Gross Income).

I have run out of ideas today. Please call if there are any questions.

Dorothy J. Bostic

Dorothy J. Bostic
Financial Assistance Specialist
Financial Services Division
Phone: (301) 427-2393
Fax: (301) 589-2686

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ALASKA STATE LEGISLATURE
BOX V (MS 3100)
JUNEAU, ALASKA 998111

ART UNLIMITED® AMSTERDAM
POSTBUS 1760 1000 BT AMSTERDAM TEL: 020-851011

2/11/92

DEAR SENATOR ELIASON,

THIS WHAT I FEEL LIKE AFTER HAVING DONE MY TAXES.

I SUPPORT YOU IN YOUR EFFORTS IN SPONSORING A RESOLUTION IN THE SENATE TO URGE CONGRESS TO PASS SENATE BILL #S-19-34 MAYBE THIS WILL SOLVE THE PROBLEM OF THE SELF EMPLOYMENT TAX & THE CCF

[signature]

[redacted] [redacted]

February 12, 1992
HC1 Box 8330
Soldotna, AK. 99669

Senator Dick Eliason
State Capital
Juneau, Alaska 99801

Dear Senator Eliason:

I have been a commercial fisherman in Alaska for the last 14 years and currently have a Capital Construction Fund Account open.

The IRS incorrectly brought the CCF into the tax code in 1985 through Section 1 resulting in double taxation on the funds the sole proprietorship fisherman deposits into a CCF account.

I have just become aware of a resolution in the Alaska State Senate to be sent to Washington D.C. urging the U.S. Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment Tax issue when utilizing the Capital Construction Fund. I am in full support of this resolution.

Thank you for your help in the preparation and support of this resolution.

Sincerely,

Thomas M. Musgrove

Thomas M. Musgrove
Owner/Operator F/V SEAHAWK II

Retail Sales & Marketing

PaineWebber Incorporated
Suite 2400
1201 Third Avenue
Seattle, WA 98101-3070
206 447-2400

February 4, 1992

PaineWebber

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

I work for nearly 500 Alaskan Commercial Fishing Families. These families need your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

The fishermen are historically loosely organized and often unable to represent themselves properly when they spend most of their time out to sea pursuing their livlihood. They depend upon you for support!

The IRS incorrectly brought the CCF into the tax code in 1985 through Section 1 of the Code which has no provision for anything not susceptible to Self Employment taxation. Since use of the CCF structure eliminates depreciation of the fishermen's boat, self employment tax actually rises later on for the fishermen using the CCF structure. For him to have to pay additional Self Employment tax at the time of his CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Sub-chapter S corporation, CCF deductions are exempt from Self Employment tax which is further discrimnation against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution you are preparing for the Alaskan legislature. I would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,

Ken Horwitz
Senior Vice-President
Author: Financial Planning For Commercial Fishermen

F/V Lady Kimberly Inc.
P. O. Box 240102
Douglas, Alaska 99824

2/12/92

Dear Senator Eliason,

My husband & I own and operate 2 Fishing sites in Kodiak, & also own a 58' limit seiner. We have a Capital Construction Fund, which we used to build the Lady Kimberly. Please continue to support the resolution in the Alaska State Legislature #S-19-34. Thank-you for your interest in helping us fishermen. Also we live in Alaska year round & spend our money here.

Thank-you

Kimberly C. Petersen

Feb 11, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Honorable Senator Eliason,

We would like to Thank you for showing your support for Senate Bill # S-19-34. We support you & this bill 100%. Being a commercial Fisherman for the last 20 years and recently (last 5 years) taking advantage of the Capital Construction Fund, we feel we are being taxed twice since we cannot depreciate the vessel "when purchased" with monies used.

Respectfully yours,

Lyle Noreum
Brenda Noreum

L Noreum
Bx 635
Petersburg AK 99833

David Y. Nanney / FV Brown Sugar
Box 387, Haines, Alaska 99827

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Re: Capital Construction Fund
& Self Employment Tax

Dear Senator Eliason:

This letter is in support of your efforts to eliminate the self employment tax requirement on Capital Construction Fund (CCF) deposits.

As Alaska fishermen become more businesslike in their operations, the use of a CCF has increased within the Alaskan fleet. It is a very good program which greatly assists in planning for, and accomplishing, the purchase or improving of a fishing vessel.

Please continue to work for elimination of the self employment tax requirement in the Alaska Legislature and with our congressional delegation.

Sincerely,

David Y. Nanney, Jr.

Dear Senator Elisson:

Our family has fished in Alaska for 16 years as commercial setnetters. We need your support of the pending Resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

As a sole proprietor, we feel discrimination is created, since use of the CCF structure eliminates depreciation of the fishermen's boat and self employment tax actually is paid later on for the fishermen using the CCF structure. For us to have to pay additional Self-Employment tax at the time of our CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Sub-Chapter S corporation, CCF deductions are exempt from self-employment tax which is further discrimination against the Alaskan individual fishermen operating as a sole proprietor.

Please support our concern. Thank you!

Sincerely
Leo + Beth, Kourenotis
+ family

LEO AND BETH KOURENOTIS
BOX 424
KODIAK, ALASKA
99615

February 13, 1992

Senator Dick Eliason
State Senate
PO Box V
Juneau, Alaska 99811.

Already sent
written acknowledgement

Dear Senator Eliason:

My family and I have commerically trolled and longline in the northern SE waters now for almost 17 years. We are asking for your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34, pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

For us to have to pay an additional Self Employment tax at the time of our CCF deposit is actually resulting in a double taxation. Also by creating a Sub-chapter S corporation, CCF deductions are exempt from Self Employment tax which is further discrimnation against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution your are preparing for the Alaskan legislature, knowing that you yourself are in this business of commerical fishing, that you are able to understand what it is that we are up against. I would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,

Bruce & Laura Smith
Owners and Operators of the F/V No-Seeum

F/V NO-SEEUM
BRUCE & LAURA SMITH
P.O. BOX 45
GUSTAVUS, ALASKA 99826

March ..., ...

Senator Dick Eliason
State Senate
P.O. BOX V
Juneau, AK 99811.

Dear Senator Eliason:

I urge you to support #HR-13-63 pertaining to elimination of Self Employment Tax on the Commercial Fisherman's use of Capital Construction Fund.

The Capital Construction fund deduction is not a reduction of revenue to the U.S. Treasury because it is not an elimination of taxes. It is only a reworking of how Commercial Fisherman pay their taxes because they give up all claims to depreciation anyway when they use the CCF to help build a better economy and employ other individuals.

An error was made in 1985 when the CCF was merged with the IRS tax code, it was mistakenly brought in through section 1 which has no provision for any items not subject to Self Employment since forcing us to pay SE tax on the CCF deduction creates a situation whereby you'll pay higher SE at the back end when you don't take a deduction on depreciation.

Not only is this double taxation, but it also causes the "smaller operation" individual to pay higher taxes since Corporate CCFs don't pay Self Employment taxes anyway.

Another very clear example of those folks with the least money feeling this problem the most.

Thank you for your support in voting for #HR-13-63.

Sincerely,

Bruce D. Smith

Bruce A. Smith
Commercial Fisherman with a CCF Account.

(From Gustavus)

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: MEGAN PASTERNAK
TITLE:
ADDRESS: BOX 830
CITY: SITKA, AK ZIP: 99835
PHONE: 747-5943
BILL NO:
SUBJECT: CONGRESSIONAL SENATE BILL #1934
MESSAGE: WE ARE IN FAVOR OF YOUR SUPPORT OF SENATE BILL S 1934. PLEASE URGE OUR CONGRESSIONAL DELEGATION TO PURSUE SUPPORT. ALSO REGARDING YOUR PROPOSAL TO IMPLEMANT AN ADDITIONAL 1% TAX ON OUR FISHING PROCEEDS, COULD IT BE DESIGNATED TO PROMOTE ONLY THE FRESH AND FROZEN PRODUCTS, NOT THE CANNED SALMON INDUSTRY?

POMID: 12115052
DATE: 92/02/11
TIME: 11:50:52
LIONAME: SITKA LIO

2/14/92

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason,

I am a commercial fisherman in Alaska (and an Alaskan resident). I feel passage of Senate Bill #S-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund is vital for the Alaskan Fisherman. I appreciate your support in this matter

Sincerely,
Dennis Bickford
Box 1657
Valdez, Alaska
99686

Feb 13, 1992

Dear Senator Ellanor

My name is James P Odegaard and I own and operate a fishing vessel in Southeast Alaska. I am writing to ~~to~~ you because of your support on the Senate Bill #S-19-34, the bill pertaining to Self-employment tax when utilizing the Capital Construction fund.

As a fisherman I feel we are paying enough in taxes along with insurance, updating our vessels for safety and just general keeping the fishing industry ~~isn't~~ keeping good so having to pay more taxes on my CCF just isn't right. We may as well pay everything up front if we can't get a tax break sometime.

I am in favor of this bill and in full support of everything you are doing for the fishing industry and fishermen.

Sincerely

James P. Odegaard

James P. Odegaard
Box 162
Petersburg, Alaska
99833

JOSEPH BORDYNOSKI
CERTIFIED PUBLIC ACCOUNTANT
1684 CAMELLIA CIRCLE
WILLITS, CA 95490 • (707) 459-3053

February 18, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

I work for a number of Alaska commercial fishermen and their families. All involved urge the support of the State of Alaska in convincing the Federal Congress to pass Senate Bill #S-19-34 pertaining to the self employment issue of the Capital Construction Fund (CCF).

This bill will stop the double taxation on deposits into one's CCF made by commercial fishermen who are striving to become better equipped. The IRS has, in my opinion, incorrectly assessed the self employment tax on the CCF deposit while requiring that those deposits, when utilized, reduce the basis of the purchase for claiming depreciation. This double taxation was not the intent of Congress - they intended a deferral which aids all commercial fishermen in his quest to help the United States of America reduce its import/export deficit by catching fish and exporting that catch to foreign markets.

Your support is support for the benefits of the entire country.

Thank you for your assistance.

Yours truly,

JOSEPH F. BORDYNOSKI, CPA

JFB:pm

ALVIN & CORA COLPITTS
P.O. BOX 1126
DILLINGHAM, AK 99576

feb 11-92

Senator Dick Eliason
State Capitol
Juneau AK 99801

Dear Senator Eliason

I ask your support of our Federal Congress on Bill # S-19-34 regarding the Correction of the Self Employment Issue when utilizing the Capital Construction Fund.

Thank you for supporting the in the alaskan Legislature + would you send a personal note to the 2 alaskan Senators.

Al Colpitts

POWELL, SEILER & COMPANY, P.S.

A Professional Service Corporation
Certified Public Accountants

South Bend
912 West Robert Bush Dr.
P.O. Box 435
South Bend, WA 98586
(206) 875-6565

FAX: (206) 875-6568

John W. Powell, CPA
Martin F. Seiler, CPA
James A. Seiler, PhD
Nichola A. Goodin

Long Beach
9th So. & Hwy 103
P.O. Box 676
Long Beach, WA 98631
(206) 642-4425

FAX: (206) 642-4535

February 6, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

We work for many Alaskan Commercial Fishing families. These families need your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill No. S-19-34 pertaining to the correction of the self employment issue when utilizing the Capital Construction Fund.

The fishermen are historically loosely organized and often unable to represent themselves properly when they spend most of their time out to sea pursuing their livelihood. They depend upon you for support!

The I.R.S. incorrectly brought the CCF into the tax code in 1985 through Section 1 of the Code, which has no provision for anything not susceptible to self employment taxation. Since use of the CCF structure eliminates depreciation of the fisherman's boat, self employment tax actually rises later on for the fisherman using the CCF structure. For him to have to pay additional self employment tax at the time of his CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Subchapter S corporation, CCF deductions are exempt from self employment tax, which is further discrimination against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution you are preparing for the Alaskan Legislature. We would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,

Powell, Seiler & Co.

POWELL, SEILER & CO., P.S.

Lava

GOODING & EMKEN
CERTIFIED PUBLIC ACCOUNTANTS

242 TAYLOR STREET, PORT TOWNSEND, WASHINGTON 98368
(206) 385-1040

February 6, 1991

Senator Dick Ellason
State Capital
Juneau, AK 99801

Dear Senator:

Today I had the opportunity to read your working draft endorsement of S 1934. I have not seen the actual pending legislation.

Based on this draft, I support your efforts in excluding from self-employment tax, the amounts run through Capital Construction Fund Accounts.

I work with many fishermen operating in Alaska, Washington and California. I have seen many instances where the Capital Construction Fund deduction created a short term deferment of income tax and actually created additional self-employment tax (CCF usage vs. a non-CCF acquisition or repair).

The additional self-employment tax works as a penalty for those individuals using the Capital Construction Program. I do not believe this was the intent of the Merchant Marine Act as amended in 1936.

If there is anything I can do to further support your efforts in reducing self-employment tax on CCF program contributions, please let me know.

I appreciate your efforts in helping fishermen, and creating a more equitable tax structure.

Very truly yours,

David S. Gooding

JACK ANGOVE
CERTIFIED PUBLIC ACCOUNTANT

409 N. Tower Avenue
Centralia, Washington 98531
Phone (206) 736-2828
FAX # (206) 736-3170

February 5, 1992

Senator Dick Eliason
State Capitol
Juneau, AK 99801

Dear Senator Eliason:

I am pleased to take this opportunity to express my support for action being taken on behalf of many unincorporated fishermen. Having received copy of correspondence to you by Ken Horwitz of PaineWebber, I am very encouraged that progress is being made to eliminate the double tax problem of Self-Employment tax on the use of the Capital Construction Fund.

I am a CPA representing many Commercial Fishermen in the State of Alaska. Many of them have been or will be effected by the double tax. Having their best interest as a concern, I find it expedient to voice my support for legislative action being taken, such as Senate Bill #5-19-34 that would free commercial fishermen from the imposed double tax on the use of the Capital Construction Fund.

I further see action on this necessary in that I believe the intent by Congress in establishing the CCF program was to benefit the fishing industry, not to create an extra tax burden.

I sincerely appreciate your concern and efforts in this matter. Please advise me of supportive action I might take to be of assistance.

Sincerely,

Stephen Angove

Stephen Angove
Certified Public Accountant

CLOTHIER
&HEAD

February 6, 1992

Senator Dick Eliason
State Capital
Juneau, AK 99801

Dear Senator Eliason:

I am a certified public accountant practicing in Seattle, Washington. A number of my clients are commercial fishermen who fish in Alaskan waters. I am writing regarding the pending legislation concerning the capital construction fund and net earnings from self employment.

Fishermen who pay self employment tax on contributions to the capital construction fund will eventually be subject to double taxation since the vessels purchased with CCF funds do not have depreciable bases to deduct against future earnings. I support your effort to enact legislation which will eliminate the self employment tax which results in double taxation for commercial fishermen who currently contribute to the CCF.

Sincerely,

CLOTHIER & HEAD, P.S.

Ronald L. Sullivan

Ronald L. Sullivan, C.P.A.

RLS/em

Certified Public
Accountants
[illegible]
701 Fifth Avenue
Seattle, WA [illegible]
[illegible]
Fax [illegible]

letters out 2/25
Sent to Resolves

Marvin W. Miller
F/V JEAN M
P.O. BOX 195
Naknek, Alaska
99633

February 15,1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Elialson:

I am an Alaska resident commercial salmon fisherman in Bristol Bay, Self Employed, participating in the Capital Construction Fund program. I urge you to support the pending resolution of the Alaska Legislature to urge the Federal Congress for the passage of Senate Bill # S-19-34 to correct the Self Employment Tax issue.

The passage of the afore mentioned bill would correct the error in the 1985 tax code regarding CCF participants that taxes (FICA TAXES) TWICE for the same money in that there is not provision for depreciation.

It does seem that there should be a simpler mechanism to correct these kinds of situations in that they are not earth shaking but rather housekeeping items. Perhaps we have created our own monster and it controls us.

Thank you for your help in this matter and I would be appreciative fo your notification of the two Alaskan Senators also.

Sincerely,

Marvin W. Miller

Marvin W. Miller

Ltr 2nt 2/05
Sit to Kosart

Dear Senator Eliasen, 2-20-91

I am a full time Alaskan commercial fisherman, and would like to ask for your support of the pending resolution urging our federal congress to pass senate bill # S-1934.

I operate as a sole proprietor, as I own my own boat and have enrolled in the CCF program in order to upgrade that boat. But I am concerned that I am being forced to pay self-employment taxes twice, or more than twice since I am also a chapter S corporation. This situation discriminates against me, unduly robbing me of hard earned money. I hope you can help to right this situation.

Sincerely,
George Kirk
Box 2796
Kodiak, AK 99615

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 317. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 822. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (c)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 318. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 851(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 859(a) (42 U.S.C. 298b-6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Notwithstanding any other provision of law, in the case of any authority for the provision of a grant or contract that is terminated by any provision of this Act, the Secretary of Health and Human Services shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.●

By Mr. STEVENS:

S. 1934. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

EXCLUSION OF CERTAIN FUNDS DEPOSITED INTO CAPITAL CONSTRUCTION FUND ACCOUNTS

● Mr. STEVENS. Mr. President, today I am introducing a bill to permit participants in the Merchant Marine Capital Construction Fund—or CCF—Program to reduce their self-employment income by the amount of contributions to their CCF account. Under current law, an amount equal to the amount deposited for the year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse revenue ruling 79-413 and the Tax Court ruling in *Eades* v. *Commissioner*, 79 TC 985—December 8, 1982.

The purpose of the Capital Construction Fund Program, which was created by the Merchant Marine Act in 1936, is to improve the U.S.-flag merchant marine by providing fishermen a mechanism to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels—including processing and transporting vessels. This is accomplished by permitting any citizen owning or leasing an eligible vessel to enter into an agreement with the Secretary of Commerce to establish a Capital Construction Fund. Taxation of funds deposited into a CCF fund are deferred, in order to facilitate the accumulation of funds required for the acquisition, construction, or reconstruction of the specified vessel(s).

Essentially, this is a form of advance depreciation. Earnings which are placed into the CCF accounts are not subject to the income tax. However, when funds are taken from the CCF accounts to acquire, construct or reconstruct a vessel, the basis of the vessel is reduced to reflect the tax benefit received when the money was originally deposited.

The advance depreciation benefit does not, however, apply to self-employment income. The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited into a CCF, no provisions exist for earnings to be reduced in the determination of self-employment tax. Fishermen using the CCF program are therefore, in a sense, double-taxed with reference to self-employment income. They pay tax on their self-employment income at the time of the CCF deposit, and lose future depreciation deductions against self-employment income due to the basis reductions required by the program.

Despite this apparent double taxation, the Tax Court found it "unlikely that Congress ever considered whether deposits into a capital construction fund established pursuant to Section 607 of the Merchant Marine Act should be subject to the self-employment tax." Certainly, the court is correct as to the law setting up the CCF program because when Congress enacted the Merchant Marine Act in 1936, the self-employment tax did not exist. The court, however, went on to find that subsequent Merchant Marine Act amendments fail to indicate any congressional intent to apply the CCF deferrals to self-employment income.

Mr. President, there continue to be disputes and court actions regarding congressional intent on this matter. I believe the Congress should squarely address this issue and make clear that deposits into CCF accounts will reduce self-employment income. The current situation where individuals must lose future depreciation against their self-employment income in order to utilize the CCF program is inconsistent with that program's purpose. It simply doesn't make sense to provide reduction of taxable income as an incentive to use the CCF program, and at the same time have a disincentive on the self-employment income side. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program. I have, in fact, been told by administrators at the Fisheries Service that some fishermen are not using CCF because of the double taxation disincentive.

The bill I am introducing today makes clear that deposits into CCF accounts will reduce—in addition to taxable income—"net earnings from self employment." In addition, the bill provides for recapturing self-employment taxes for funds which are withdrawn from CCF accounts for nonqualified purposes, that is, purposes other than acquisition, construction, or reconstruction of qualified vessels. Finally, the bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide 1 year from the date of enactment during which time tax refunds pursuant to this legislation could be claimed.

I thank my colleagues for their attention and urge the Finance Committee to act on this legislation.●

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. BURNS, Mr.

Ted Stevens

United States Senator For Alaska

S. 1934

Contact: Press Office
(202) 224-5209

FOR IMMEDIATE RELEASE
Friday, November 15, 1991

STEVENS BILL WOULD BRING TAX RELIEF FOR FISHERMEN

Fishermen who make deposits into Capital Construction Funds (CCF) would no longer face a form of double taxation under a bill introduced by Senator Ted Stevens.

Under current law, taxation of funds deposited into a CCF are deferred, so that funds can accumulate more quickly in order to buy, construct or reconstruct a vessel.

Taxation of the deposited funds does not occur until the vessel is actually built or refurbished, at which time the permitted depreciation deductions are reduced in the amount of the CCF tax deferral.

This advance depreciation benefit does not, however, apply to self-employment income, according to Stevens. This distinction is important because most Alaska fisherman are self-employed.

The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited in a CCF, no provision exists for earnings to be reduced in the determination of self-employment tax.

Stevens' legislation would amend the Merchant Marine Act to make clear that deposits in a CCF could also be applied to reduce self-employment income, thereby reducing the self-employment tax.

"If we are going to defer income tax with deposits to CCFs, we should defer self-employment tax as well. Otherwise, we are defeating the purpose of the program," said Stevens.

Stevens' bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide one year from enactment of the bill for fishermen to apply for refunds.

Similar legislation has been co-sponsored in the House of Representatives by Congressman Don Young.

# # #

SJR

52

FISCAL NOTE No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

III Version: SJR 52
(S) Publish Date: 3-2-92

Revision Date: 2/28/92
Department Affected: None
Title: Inshore-offshore fisheries allocation plan
BRU:
Component:
Sponsor: Sen. Fred Zharoff
Requestor: Senate Resources Committee
COMPONENT SERIAL NO.

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-
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

This resolution is directed to the federal government and does not require a state appropriation.

Prepared By: Terry Otness TO
Phone: 465-4907
Division: ~~Senate Resources Committee~~
Date: 2/28/92
Approved by Commissioner: Senator Lloyd Jones Chairman, Senate Resources Committee
Agency:
Date: 2/28/92

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

Rev 10/7/91

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: March 2, 1992

RE: Senate Joint Resolution No. 52 - "Supporting the inshore-offshore fisheries allocation plans proposed by the North Pacific Fishery Management Council."

RESOLUTION SUMMARY: SJR 52 requests the Secretary of the U.S. Department of Commerce to approve the inshore-offshore fisheries allocation plan that was passed by the North Pacific Fishery Management Council in June, 1991.

The resolution describes the detrimental impacts the factory trawler fleet has had on Alaska. It summarizes the benefits to the state from the development of the inshore harvesting and processing industry.

FISCAL IMPACT: Zero fiscal note prepared by the Senate Resources Committee. SJR 52 is directed toward the federal government and requires no state appropriations.

PREVIOUS ACTION: Passed the Senate 17-0 on March 2. Hearing held in Senate Resources on Feb. 28. Moved out of committee with four "do pass" recommendations.

BACKGROUND INFORMATION: After years of study and debate, the North Pacific Fishery Management Council -- in June, 1991 -- recommended to the Secretary of Commerce that a plan be adopted that would allocate specific percentages of the fishery resources of the Gulf of Alaska and the Bering Sea to the inshore processing sector and to the offshore processing sector. A decision on this plan is expected this week.

The purpose of the plan is to settle the fisheries allocation question between the inshore and offshore (factory trawlers) components of the industry. Through their wasteful fishing practices and overbuilt processing capacity, the factory trawlers have created tremendous problems for the managers of the North Pacific fishery resource, including overfishing and potential resource depletion. In some cases, shore based

plants -- which pay Alaska taxes and support local economies -- were forced to shut down when the factory trawler fleet took all the available quota.

The factory trawler fleet strongly opposes the council's proposed plan and has launched an all out lobbying campaign in Washington, D.C. to convince the Secretary of Commerce to reject it.

ATTACHED BACKUP INFORMATION:

1. Fiscal note.

2. NPFMC Newsletter (July, 1991) containing description of council action and the proposed plan.

3. Letter from fourteen U.S. Senators to the Secretary of Commerce in support of the plan, Feb. 27, 1992.

4. Anchorage Times editorial in support of the inshore allocation, Feb. 20, 1992.

5. Anchorage Daily News article about efforts to have the plan rejected, Feb. 27, 1992.

6. Anchorage Times article about the fight in Washington, D.C. over the allocation plan, Feb. 22, 1992.

7. Anchorage Daily News article about conflicting opinions in Washington, D.C. over the allocation plan, Feb. 14, 1992.

8. Kodiak Daily Mirror article about destructive factory trawler fishing practices in Russian territorial waters, Jan. 23, 1992.

FISCAL NOTE (1.)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SJR 52

Revision Date: 2/28/92 **Department Affected:**

Title: Inshore-offshore fisheries allocation plan **BRU:**

Component:

Sponsor: Sen. Fred Zharoff

Requestor: Senate Resources Committee **COMPONENT SERIAL NO.**

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-
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

This resolution is directed to the federal government and does not require a state appropriation.

Prepared By: Terry Otness TO **Phone:** 465-4900

Division: ~~Senate Resources Committee~~ FA **Date:** 2/28/92

Approved by Commissioner: Senator Lloyd Jones Chairman, Senate Resources Committee

Agency: **Date:** 2/28/92

Distribution (by preparer): Leg. F & Impacted Agency(ies). 1 1

Rev 1/7/91 FISCAL NOTE Page ___ of ___

(2.)

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Pautzke, Executive Director

605 West 4th Avenue
Anchorage, Alaska 99501

Mailing Address: P.O. Box 103136
Anchorage, Alaska 99510

Telephone: (907) 271-2809
FAX: (907) 271-2817

3-91

7/2/91

NEWSLETTER

Council Recesses June Meeting until August

The North Pacific Fishery Management Council met in Anchorage June 24-29, 1991, but could not complete its agenda. Their decisions, mainly on the inshore-offshore issue, are reported in this newsletter, but most other agenda items remain to be decided when the Council reconvenes in August in Juneau, Alaska. They will meet at the Baranof Hotel, beginning at 10 a.m., Tuesday, August 13, and run through August 15 or possibly August 16, depending on how fast the meeting progresses.

Attached is an agenda for the August extension of the June meeting. Please note that public testimony has been completed and is closed on the following agenda items:

C-1 Sablefish Management
C-2 Inshore-Offshore
D-1(b) Groundfish Amendment 17/22
D-2(b) Bycatch Amendment Proposals

The last item, bycatch amendment proposals, will be the subject of a special open teleconference of the Council on Wednesday, July 3, at 1 p.m., Alaska Daylight Time. Anyone interested in the results of that teleconference should contact the Council office to receive a complete list of the bycatch proposals to be analyzed during 1991.

Concerning agenda item C-3, North Pacific Fisheries Research Plan, the deadline for written comments was June 14. Oral testimony (and simple transcripts of the testimony) will be taken at the August extension of the June meeting.

Inshore-Offshore Preferred Alternative Approved

After two years of analysis and consideration of the inshore-offshore issue, the Council has given final approval for Secretarial Review to the proposed groundfish amendment attached to this newsletter. The preferred alternative provides for allocations of Bering Sea and Aleutian Islands pollock between inshore and offshore components to be phased in over three years, beginning in 1992. A special operational area for harvesting vessels will be established south of 56° North latitude between 168° and 163° West longitude, though the offshore fleet will be allowed to harvest some of the roe fishery allotment there. The preferred alternative also provides for a special program to help Western Alaska communities. Gulf of Alaska pollock are allocated to the inshore component except for bycatch amounts, and Gulf of Alaska Pacific cod is allocated ninety percent to the inshore sector. The Council intends to develop and implement a moratorium, perhaps including emergency action, as soon as possible.

All that remains for the Council to consider for inshore-offshore are the proposed regulations that will implement the preferred alternative. Hopefully these will be available for Council review at the

August extension of the June meeting. As noted above, public comment is closed on this issue, but there will be further opportunity for public review during Secretarial Review, which is anticipated to commence in early September.

Sablefish and Halibut Management

The Council completed public testimony on the alternative sablefish individual fishing quota proposals but delayed final approval until the August extension of the June meeting. After the final decision is made, the Council's preferred alternative will be merged with that on halibut and forwarded for Secretarial Review sometime this fall. If IFQs are approved, they could be implemented by late 1993 or early 1994.

The Council approved draft halibut IFQ alternatives for public review. The amendment package will commence a 45-day public review around July 19. A final Council decision is scheduled for September 23-27, 1991. The proposed alternatives and options are attached to this newsletter.

Council Seeks Proposals for Rationalizing Groundfish and Crab Fisheries

The Council finds itself dealing more and more with problems that result from the enormous fishing capacity that has developed off Alaska. These include gear preemptions, bycatch problems, inshore-offshore issues, marine mammal - fisheries interactions, and many other contentious allocative issues that are aggravated by the fast-paced, high capacity nature of the fisheries. Therefore, as part of its deliberation on the inshore-offshore issue, the Council instructed staff to develop alternatives for the Council to consider to rationalize the groundfish and crab fisheries under its jurisdiction. The alternatives now include:

1. ITQs
2. License Limitation
3. Auction
4. Traditional Management Tools
   a. Trip Limits
   b. Area Registration
   c. Quarterly; Semi Annual or Tri-annual allocations
   d. Gear Quotas (hook and line, pots etc.)
   e. Time and area closures
   f. Seasons
   g. Daylight only fishing
5. Continuation of inshore/offshore allocation
6. Implementation of Community Development Quotas
7. No Action

However, the Council seeks additional proposals from all interested parties, including its Scientific and Statistical Committee and Advisory Panel. These should be received at the Council office by September 30, 1991, so they may be incorporated into a comprehensive proposal package for Council review this coming December. Preliminary discussions of this initiative also will be on the agenda for the September Council meeting.

July Bycatch Committee Meeting Cancelled

The Bycatch Committee will not meet on July 25 as previously announced. Instead, the Committee will schedule a teleconference to discuss salmon bycatch information and a salmon bycatch amendment. The date of the teleconference will be made available to the public as soon as it has been set.

COUNCIL'S PREFERRED ALTERNATIVE
AGENDA ITEM C-2: INSHORE/OFFSHORE
(Original motion introduced June 26, 1991; passed as amended June 28, 1991)

Motion for a Comprehensive Fishery Rationalization Program for the groundfish and crab resources in the Gulf of Alaska and the Bering Sea and Aleutian Islands:

I. MORATORIUM

The Council reiterates its intention to develop and implement as expeditiously as possible a moratorium, including implementation by emergency action at the soonest possible date.

II. DEFINITIONS, RULES, AND ALLOCATION

Relative to definitions, rules and allocations for inshore and offshore components of the Gulf of Alaska (GOA) pollock and Pacific cod fisheries and the Bering Sea and Aleutian Islands (BSAI) pollock fisheries:

A. DEFINITIONS

The following definitions shall apply:

Groundfish: The term "groundfish" means pollock and/or Pacific cod in the Gulf of Alaska and pollock in the Bering Sea/Aleutian Islands.

Offshore: The term "offshore" includes all catcher/processors not included in the inshore processing category and all motherships and floating processing vessels which process groundfish at any time during the calendar year in the Exclusive Economic Zone (from 3 to 200 nautical miles from the Baseline).

Inshore: The term "inshore" includes all shorebased processing plants, all trawl catcher/processors and fixed gear catcher/processors whose product is the equivalent of less than 18 metric tons round weight per day, and are less than 125 feet in length, and all motherships and floating processing vessels, which process groundfish at any time during the calendar year within 3 nautical miles of the Baseline.

Trawl Catcher/Processor: The term "trawl catcher/processor" includes any trawl vessel which has the capability to both harvest and process its catch, regardless of whether the vessel engages in both activities or not.

Mothership/Floating Processing Vessel: The term "mothership" or "floating processing vessel" includes any vessel which engages in the processing of groundfish, but which does not exercise the physical capability to harvest groundfish.

Harvesting Vessel: The term "harvesting vessel" includes any vessel which has the capability to harvest, but does not exercise the capability to process, its catch on a calendar year basis.

B. RULES

The following rules shall apply to both the Gulf of Alaska, and the Bering Sea and Aleutian Islands:

1. Each year, prior to the commencement of groundfish processing operations, each mothership, floating processing vessel, and catcher-processor vessel will declare whether it will operate in the inshore or offshore component of the industry. A mothership or floating processing vessel may not participate in both, and once processing operations have commenced, may not switch for the remainder of the calendar year. For the purpose of this rule, the Gulf of Alaska, the Bering Sea and the Aleutian Islands are viewed as one area, and groundfish applies to all of the species combined which have been allocated to one component or the other.

2. A mothership or floating processing vessel which participates in the inshore component of the industry shall be limited to conducting processing operations on pollock and Pacific cod, respectively, to one location within 3 nautical miles of the Baseline, but shall be allowed to process other species at locations of their choice.

3. If during the course of the fishing year it becomes apparent that a component will not process the entire amount, the amount which will not be processed shall be released to the other components for that year. This shall have no impact upon the allocation formula.

4. Harvesting vessels can choose to deliver their catch to either or both markets (e.g. inshore and offshore processors); however, once an allocation of the total allowable catch (TAC) has been reached, the applicable processing operations will be closed for the remainder of the year unless a surplus reapportionment is made.

5. Allocations between the inshore and offshore components of the industry shall not impact the United Sates obligations under the General Agreement on Tariffs and Trade.

6. Processing of reasonable amounts of bycatch shall be allowed.

7. The Secretary of Commerce would be authorized to suspend the definitions of catcher/processor and shoreside to allow for full implementation of the Community Development Quota program as outlined in Section III.

C. ALLOCATIONS

The following allocations shall apply:

a. Gulf of Alaska

Pollock: One hundred percent of the pollock TAC is allocated to harvesting vessels which deliver their catch to the inshore component. Trawl catcher/processors will be able to take pollock incidentally as bycatch.

Pacific cod: Ninety percent of the TAC is allocated to harvesting vessels which deliver to the inshore component and to inshore catcher/processors; the remaining ten percent is allocated to offshore catcher/processors and harvesting vessels which deliver to the offshore component. The percentage allocations are made subarea by subarea.

b. Bering Sea/Aleutian Islands

Pollock: The Bering Sea/Aleutian Islands pollock TAC shall be allocated as follows:

A phase-in period for the BSAI with an allocation of the pollock TAC in the BSAI as follows:

	Inshore	Offshore
Year 1	35%	65%
Year 2	40%	60%
Year 3	45%	55%

Bering Sea Harvesting Vessel Operational Area: For pollock harvesting and processing activities, a harvesting vessel operational area shall be defined as inside 168° through 163° West longitude, and 56° North latitude south to the Aleutian Islands. Any pollock taken in this area in the directed pollock fishery must be taken by harvesting vessels only, with the exception that 65% of the at-sea "A" season pollock allocation available to the offshore segment may be taken by the offshore segment in the operational area.

III. WESTERN ALASKA COMMUNITY QUOTA

For a Western Alaska Community Quota, the Council instructs the NMFS Regional Director to hold 50% of the BSAI pollock reserve as identified in the BSAI Groundfish Fishery Management Plan (FMP) until the end of the third quarter annually. This held reserve shall be released to communities on the Bering Sea Coast who submit a plan, approved by the Governor of Alaska, for the wise and appropriate use of the released reserve. Any of the held reserve not released by the end of the third quarter shall be released according to the inshore and offshore formula established in the BSAI FMP. Criteria for Community Development Plans shall be submitted to the Secretary of Commerce for approval as recommended by the State of Alaska after review by the North Pacific Fishery Management Council (NPFMC).

The Western Alaska Community Quota program will be structured such that the Governor of Alaska is authorized to recommend to the Secretary that a Bering Sea Rim community be designated as an eligible fishing community to receive a portion of the reserve. To be eligible a community must meet the specified criteria and have developed a fisheries development plan approved by the Governor of the requesting State. The Governor shall develop such recommendations in consultation with the NPFMC. The Governor shall forward any such recommendations to the Secretary, following consultation with the NPFMC. Upon receipt of such recommendations, the Secretary may designate a community as an eligible fishing community and, under the plan, may release appropriate portions of the reserve.

IV. OTHER ALTERNATIVES TO BE CONSIDERED

Commencing immediately, the Council instructs its staff and the GOA and BSAI plan teams, with the assistance of the Alaska Fisheries Science Center, the Alaska Regional Office of the National Marine Fisheries Service, the Scientific and Statistical Committee and Advisory Panel, to undertake the development of alternatives for the Council to consider to rationalize the GOA and BSAI groundfish and crab fisheries under the respective FMPs. The following alternatives shall be included but not limited to:

1. ITQs
2. License Limitation
3. Auction
4. Traditional Management Tools
   a. Trip Limits
   b. Area Registration
   c. Quarterly; Semi Annual or Tri-annual allocations
   d. Gear Quotas (hook and line, pots etc.)
   e. Time and area closures
   f. Seasons
   g. Daylight only fishing
5. Continuation of inshore/offshore allocation
6. Implementation of Community Development Quotas
7. No Action

The Executive Director of the Council, on behalf of the Council, shall immediately solicit from the Council family and other interested parties ideas in addition to those identified above for rationalization of these fisheries. This request should ask for ideas to be submitted by September 30, 1991.

V. DURATION

If by December 31, 1995, the Secretary of Commerce has not approved the FMP amendments developed under item IV above, the inshore/offshore and Western Alaska Community Development Quotas shall cease to be a part of the FMPs and the fisheries shall revert to the Olympic System.

United States Senate

WASHINGTON, DC 20510

(3)

February 27, 1992

The Honorable Rockwell Schnabel
Acting Secretary of Commerce
U.S. Department of Commerce
Washington, D.C. 20230

Dear Mr. Secretary,

We are writing in regard to a pair of fishery management plans which propose the allocation of pollock and Pacific whiting between sectors of the commercial fishing industry. These allocations were proposed by the North Pacific Fishery Management Council and the Pacific Fishery Management Council, respectively. These are two of the eight regional councils created by the Magnuson Fishery Conservation and Management Act (Magnuson Act) to craft management programs for their regional fisheries. The pollock allocation is currently awaiting Secretarial approval, while the whiting plan has been preliminarily rejected by the National Marine Fisheries Service (NMFS).

The purpose of this letter is to express our support for both allocations, and to raise questions about the manner in which NMFS is interpreting the Magnuson Act.

The Magnuson Act calls for fishery management plans which result in the greatest economic and social benefit to the nation. In both these cases, the Councils have chosen strategies which will result in a more efficient utilization of a publically owned resource. Both the quantity and total dollar value of fishery products available to consumers will increase. This increased food production will, in turn, provide greater employment, increased social stability, and a net increase in trade revenues.

Since these are the major goals of the Magnuson Act, we do not understand the apparent opposition of the agency to the proposals. We can only conclude that there is a policy dispute between the Councils and the hierarchy of NMFS. However, we must point out that Congress created the Councils as policy making bodies based upon the idea that it is better to have local citizens propose management strategies for their regions than to have this role performed in Washington, D.C. The Secretary, in reviewing Council proposals, must make sure they acted reasonably and in accordance with federal law. However, as the Secretary has noted in the past, it is not the intent of the Act for the agency to substitute its policy judgment for that of the Councils.