

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7603 SENATE RESOURCES

The commission has refused to take an activist attitude in fulfilling the law. If Statute 31 does not explicitly define environmental and safety concerns then those issues have certainly evolved over time. The oil companies have serious liability for unsafe practices and the regulations must reflect that. In the past the commission would not take a strong stance against violations unless forced to do so.

Representative Brown states there are other budget options than continuing to eliminate the inspector positions. Speaking to the House Finance Committee on April 22, 1989, Representative Brown explained the agency hires 11 people who make more than \$69,000 per year and three commissioners who make more than \$90,000, including benefits. She said the commission could make better use of its personnel and the commissioners themselves could become more involved in field activities.

FEDERAL AGENCIES

THE U.S. BUREAU OF LAND MANAGEMENT

The Division of Mineral Resources has oversight responsibility for approximately 150 wells on federal land in Alaska. There are approximately two new drilling operations a year and the bureau retains one full-time inspector who witnesses 100% of the federal BOP operations in Alaska. Aden Seidlitz, petroleum engineer, supervises the inspector:

A high visibility in the field is critical to continued safe operation. With any less than a 50% inspection rate, you don't stay on top of things and the operators get lax. The Bureau's goal nationally is to witness 85% of the BOP tests and 100% of all well plugging and abandonment operations. Safety valve tests are a third priority.

Each year the annual reports are reviewed and priorities for the next year are set: All fields are rated by production level, environmental concerns and prior operator compliance. One hundred percent of the tests are witnessed on initial tests, high producing wells or those previously not in compliance. Alaskan wells rate a very high priority because of the volume of pressure and production and the severe climatic conditions under which operation occurs.

U.S. MINERALS MANAGEMENT SERVICE

The service was instrumental in the recent investigation of a case in which Texaco agreed to pay \$750,000 of a maximum \$1-million dollar fine. The company pled guilty to failing to conduct a weekly test of blowout preventers and falsely showing that the test had been done. The drilling supervisor faces a maximum of 20 years in prison and \$500,000 in fines.

Barry Boudreau, deputy regional supervisor of Field Operations in Alaska asserts:

High visibility in the field by experienced, professional inspectors is the best assurance of safe operation. Respect for the knowledge and experience of the inspection staff is critical and the operators must

recognize the authority of the inspectors to shut the rig down if necessary.

Mr. Boudreau recommends the commission increase its inspection crew, but does not advocate the commission match the federal decision to have a full-time inspector on each offshore rig in Alaska:

The continuous presence of an inspector on each offshore rig is not the norm in other states. Offshore wells in the Beaufort Sea may only operate for 90 days each season due to the extremes of weather. The inspection crew remains continuously on the rig for two weeks at a time. It is dangerous to drop off or pick up crew members more often than that.

There are also many more natural resources; fish, marine mammals etc. that would be adversely affected by a blowout in the sea. The added danger of high winds and waves moving a spill quickly are additional considerations not found on land.

THE ENERGY RESOURCES CONSERVATION BOARD (ERCB), ALBERTA, CANADA

Canada's Oil and Gas industry shares many operational and climatic similarities with Alaska. For this reason inquiry into the function and procedure of the ERCB is particularly applicable to this investigation.

The ERCB was established to regulate the development of Alberta's energy resources. The board receives half its funding from the government and half from the oil companies. It operates as a separate independent body with full licensing and enforcement powers.

William G. Remmer, petroleum engineer, is manager of Field Operations. This is the largest department in the ERCB, with 92 inspectors working out of eight area offices located throughout the province. Mr. Remmer describes the ERCB inspection program as a key to ensuring that facilities are constructed and operated in a safe manner.

In 1989, the ERCB staff conducted 4,700 drilling and service rig inspections, 12,000 oil battery (facility) inspections and 2,500 gas facility inspections. The staff also conducts pipeline, environmental and general lease inspections.

Mr. Remmer described the current and future directions the ERCB is taking. Excerpts from his presentation to the 1990 Petroleum Industry Annual Safety Seminar are applicable to this discussion.

ERCB emphasis is on public safety, specifically blowout prevention, including equipment, procedures and training during drilling and servicing operations. Production requirements include equipment spacing and distances to flame type equipment to minimize the potential of explosions. The ERCB also requires that operators have emergency response plans in place. Mr. Remmer reports:

Following a catastrophic blowout eight years ago (the Lodgepole Blowout), the oil and gas division came under strong attack. Inspections were done informally

and the unsatisfactory level during inspection was as high as 43%.

During the resulting analysis, every drilling contractor's history and safety record was analyzed. Complete computer tracking and analysis of testing was established and the inspection process was formalized. The board instituted a quarterly report of all rig records and inspection results which was distributed to both the contractors and the oil companies.

Mr. Remmer cautions Alaska against extrapolating simple mathematical formulas to determine the number of inspectors needed. On average, 35-40% of all operations are inspected annually, however:

100% of critical, high flow, high pressure, or unusually deep wells are inspected and all critical tests witnessed. This criteria also applies to all wells in environmentally sensitive areas. A minimum of two inspections are done on new wells; one half way down the hole and another just before the point of critical entry.

In 4,186 spuds (start ups) on drilling rigs, inspections revealed the unsatisfactory test rate had dropped to 6.4% from the previous high of 43%. On service rigs the unsatisfactory rate was 7.7% of 919 inspections (historically 41%).

A test is considered unsatisfactory if any item is detected that does not meet ERCB requirements and includes both serious and non-serious items. A serious deficiency is defined as a deficiency which could impair the crew's ability to safely control a kick (prevent a blowout).

In 1989, only 2.7% of the inspection failures were serious. The most frequent failures were blowout preventer related; a failure to operate equipment from the driller's position or insufficient fluid to close the BOPs. On service rigs, 4.6% of the failures were serious:

All serious deficiencies result in a rig shutdown until the item is corrected. This correction must be evidenced by two consecutive satisfactory tests before normal activity is resumed.

Mr. Remmer stresses the importance of working cooperatively with industry to properly identify problems and jointly come up with solutions. Requirements must be reasonable and clearly understood. An inspection manual was developed by the ERCB, outlining all items checked by staff when conducting rig inspections. The operator's representative at the site is required to sign the inspection form to assure his awareness of any problems detected. Inspection results are then distributed to both the contractor and operator. The industry has reacted and has developed their own checksheets and conduct daily and weekly detailed inspections.

The ERCB summarizes the inspection results for industry on an annual basis and provides this information to the oil and gas associations. The information includes the most frequent deficiencies. The ERCB, in writing, request senior management to indicate why there are problems and what they plan to do to correct them.

Following findings of serious failure, a letter is sent to the operator asking why the item was allowed to go undetected and what measures are proposed to prevent future occurrences. Mr. Remmer stresses:

In cases where companies have not taken steps to correct problems, operations have been suspended until a meeting can be arranged on site with management to rectify the problem.

By 1988 only a small sector of industry remained that had not improved. The ERCB then generated an internal priority inspection list and notified the contractors that very frequent inspections would be conducted. This resulted in a further decrease in unsatisfactory inspections.

The ERCB exchanges their targeted contractor list with OH&S (Canada's equivalent of OSHA). OH&S has identified those companies above the industry standard for lost time accidents. These contractors receive more frequent inspections, and occasional joint inspections by both agencies.

The ERCB has initiated a similar approach in oil facility surveillance where test failures have been identified at 30%. A two-part inspection form has been developed and one copy is now being left at the facility following each inspection. An internal inspection manual has been developed and, after review by industry companies, will be available for industry use this fall.

Battery inspection results are now being entered into the computer and results are being analyzed to identify key problem areas. By 1991, summary reports should be available to management. Hopefully, the end result will be fewer unsatisfactory inspections and more operator initiated inspections to assure that ERCB requirements are being met.

The items emphasized by the ERCB are certainly applicable to Alaska's regulatory agency:

- (1) Work co-operatively with industry.
- (2) Increase industry understanding of requirements. This includes the development of manuals, recommended practices and other methods encouraging industry to conduct their own inspections.
- (3) Increase awareness through more distribution of inspection results and summaries. This also would include information exchange between the commission and other regulatory agencies in the gas and oil fields.
- (4) Place increased emphasis on problem operators and contractors.

Finally, the commission must develop the ability to effectively sanction those who seriously violate commission regulations.

DEPARTMENT OF CONSERVATION, STATE OF CALIFORNIA

In California the regulatory and enforcement authority over the oil and gas industry has been returned to the state. The Division of Oil and Gas is funded through an excise tax on a per barrel assessment. Petroleum Engineer Michael Stettner is a regulatory specialist for the division and provided the following information.

Permitting and most compliance functions are handled by six district offices. Each is staffed with at least three field inspectors. The inspector is responsible for following through with an operator on correcting deficiencies observed during inspection. Evaluation of field personnel is carried out by associate engineers and senior engineers who accompany the inspectors annually on tests and inspections. Central office personnel do not conduct field inspections or participate in evaluation of field performance.

Computer technology provides a powerful adjunct to the inspection program but is never used to reduce or replace it. Good industry compliance requires a strong on-site inspection program and a field office which supports its inspectors. The stronger the field presence, the more compliance you have and the less violation work you have to do.

Mr. Stettner states his division strongly believes a constant field presence is necessary to ensure that operators are in compliance with all division laws, regulations and requirements. Referring to drive by surveillance, he states:

'50 mph inspections' as they are referred to are ineffective and misleading. They provide the illusion of enforcement where none exists. Experience has shown operators will cut corners if inspection levels decline.

The division witnesses 100% of initial BOP tests and abandonment operations. A statistical summary by district is published quarterly. The summary identifies the type and number of tests performed, lists any tests waived and any backlog of unmade surface inspections. It also gives detailed information on overtime hours, field test hours including driving time and field test miles.

This level of supervision is maintained even though California is a depleted state where all wells involve artificial lifting of the gas and oil. Presently California has approximately 50,000 operating wells and 13,000 exploratory wells.

Like Alaska, California manages its Underground Injection Well program. California is a member of the Underground Injections Practices Council (UIPC) and received praise from the council.

The frequency of testing (annual) provides an excellent opportunity to detect failures before they have a chance to threaten protected waters. Even considering that the largest district is unable to test its wells more often than every 18 months, the schedule is substantially more frequent than the schedule set out in the EPA rules.

ADDITIONAL INFORMATION SPECIFIC TO ALLEGATION TWO

Allegation two states the commission was unfair in its reprimand of Mr. Minder for writing a memo critical of the inspection level.

Mr. Minder first gave the memo to his supervisor, Lonnie Smith, who did not dispute the truth of the report but stated it could not be typed or submitted. Mr. Minder asked to appeal the decision to Chat Chatterton. Mr. Minder's notes of Friday, January 19, conclude:

I told him I felt very strongly about the matter and pointed out it would possibly be a tool he could use to get legislators to appropriate funds so we could be

effective in the field. He just got madder and refused to return my report and seemed particularly upset at my giving a copy to the inspectors.

On January 22, Mr. Chatterton also refused to allow the report to be typed. Mr. Minder was told he was naive and had better become a team member or he would be relieved of his duties. He also claims Mr. Chatterton said field inspection was useless and served no purpose; that Mr. Minder worked for him and had better fall in place and not try to change things or be a whistleblower.

Mr. Minder asked if there was a higher appeal source. Mr. Chatterton said he could go to the governor, "if I could get him or anyone else to listen." Mr. Minder was then told that if he persisted he could have the report typed but it would be torn up. Mr. Minder states Mr. Chatterton concluded, "I don't get mad; I get even."

Mr. Minder states the report was a plea to the commission to, "Not just ok things on paper based on the companies reports, but to insure the work was actually being done in the field before something happened and not wait until after the fact."

Mr. Minder then told Mr. Johnston of the preceding conversation and of his fear for his job. He assured Mr. Johnston the report was true and very conservative. The actual percentages would be lower if all the diverter tests and unreported BOP tests were counted. Mr. Johnston said he would discuss the matter with the other commissioners.

On January 26, Mr. Smith told Mr. Minder there was no further appeal and to return all copies of the memo. Mr. Minder was described as being insubordinate for having spoken to Mr. Johnston and was told the commissioners were "not in disagreement," so he might as well give up.

All three commissioners then met with Mr. Minder and again demanded all copies of the report returned. Mr. Minder reports Mr. Smith and Mr. Johnston seemed in favor of improving the program but indicated because of the lack of funding, they were unable to do so. Mr. Minder states:

I tried to make it clear that I had no political aspirations nor an axe to grind, that I was merely reporting what was happening and I tried to explain the inherent dangers.

This was not Mr. Minder's first difficulty with the commissioners. Mr. Minder wrote many memos and reports expressing the results of his computer and field data and discussing areas he felt needed improvement or pointing out deficiencies.

Mr. Minder was advised repeatedly that his "personal accusations" and "unacceptable tone" must be eliminated. Eventually he was required to submit all reports in longhand and nothing could be typed without Mr. Smith's approval. On several occasions, Mr. Minder did not comply. He stated to Mr. Smith that he felt it was an attempt to censor his reports. In a January 1989 employee evaluation, Mr. Minder was found lacking in several areas. Overall he achieved an acceptable level.

The commission states in reply to the preliminary report:

Much of Mr. Minder's objectionable behavior stems from his refusal to refrain from making personal accusations or using an unacceptable tone in commission documents.

An example of Mr. Minder's reporting considered objectionable by the commission, together with the final approved version is attached to this report: Mr. Minder's initial 4th quarter 1988 report: MIT Part I, UIC Class II Injection Wells.

The initial report narrative describes that of 16 initial tests one was unwitnessed; and of 50 retests, 5 were unwitnessed. The original report also contained the following headings: Accomplishments for Fourth Quarter '88; Plans for First Quarter '89; in addition to a tabular report.

In the final report all narrative was eliminated including any reference to tests missed.

At the next interim evaluation in August of 1989, Mr. Minder was rated acceptable in all areas. He was following the directive not to have anything typed without permission, was writing objectively as requested and was achieving the goal to follow instructions. Mr. Smith concluded:

You appear at this point to be making an extra effort to achieve your goals and have definitely shown improvement in all areas. Keep up the good work.

The January 1990 performance evaluation rated Mr. Minder acceptable in all areas. Mr. Smith commented:

Mike has made a lot of progress this past year and has achieved an 'acceptable' level for the five goals set as a result of his 1-13-89 performance evaluation and subsequent memo of 2-21-89.

Mike should continue his cooperative attitude toward his coworkers and supervisors and strive to maintain this relationship.

The commission states they had cause to question that progress when the memo at issue was written and distributed without permission.

Mr. Minder submitted copies of personnel evaluations and a description of his duties and responsibilities to cite the appropriateness of his reporting procedures. His regular duties included the following:

Plan, schedule, direct, evaluate work of petroleum inspection staff: directly supervise inspectors.

Analyze, evaluate proposals and actual oilfield operations pertaining to drilling, production, and metering.

Prepare, compile pertinent engineering information in the form of reports and tables for the commission.

Advise the commissioners on administrative matters; recommend appropriate changes and additions to regulation and statute.

Mr. Minder admits he resented not being allowed to have his reports typed without permission and on several occasions did not comply with the directive. He states the issue was at first a suggestion. It gradually, and not always clearly, became an order.

In previous employment, Mr. Minder's efforts to bring negative information to the attention of his supervisors was commended. When Mr. Minder was employed by the State of Utah, Department of Natural Resources, Division of Oil, Gas and Mining, he received outstanding ratings in several areas. An evaluation done at that time stated:

Mr. Minder is a conscientious and hard working state employee who does an excellent job in the field. Through his efforts, this division has a good working relationship with the Department of Health.

In fact, several unauthorized salt water disposal pits have been discovered by Mr. Minder and brought to the attention of said department. He has also identified one or more retrograde condensate reservoirs which the companies are reluctant to admit to.

THE DEPARTMENT OF COMMERCE INQUIRY TO THE COMMISSION

During this investigation, a constituent of Senator Jay Kerttula wrote a letter to the senator strongly criticizing the commission's actions regarding its inspection program as described in a recent news article. The citizen suggested the state was "flirting with another oil disaster" if the program was not improved.

On April 11, 1990, Senator Kerttula forwarded the letter to Larry Mercurieff, commissioner of the Department of Commerce stating he "would appreciate a response to the concerns addressed in (the citizen's) letter."

Copies of the citizen's letter, Senator Kerttula's request and Mr. Mercurieff's response were forwarded to the ombudsman's office.

Mr. Mercurieff did not explain the relationship between his department and the commission in framing his response. The Department of Commerce provides budgetary oversight and guidance to the commission. It administratively supports several boards and commissions and disseminates the governor's budget directives to these agencies.

The commission is an independent body appointed by and answerable directly to the governor. The commission is not a line division of the Department of Commerce and the department has no authority over the commission's operations.

Except for the opening and closing paragraph, the response was written entirely by Commissioner Chat Chatterton over Mr. Mercurieff's signature. In closing, Mr. Mercurieff states:

I plan to keep close touch with the commission as it conducts its review of this important issue, and to carefully analyze the findings.

The implication that the Department of Commerce has operational involvement with the commission was furthered in a May 3, 1990, Anchorage Daily News article: "State says 3 rig spill inspectors plenty." Mr. Merculieff was quoted as saying:

... I had my own staff make an inquiry, we were convinced that the three inspectors we have now is adequate.

The article further states, "Merculieff reported the inquiry's conclusion to Sen. Jay Kerttula, D-Palmer, in an April 30 letter."

Mr. Merculieff's implication that he wrote the response or conducted an independent investigation is unfair to Senator Kerttula. The response misleads both the constituent and the public on an important safety and environmental issue.

When asked for comment Mr. Merculieff said he made an inquiry only of the commissioners, "it wasn't an investigation and I erred in not making that clear." He states he has now suggested to the governor's office that an investigation and "a look at environmental issues," may be in order.

Ron Clark, special assistant to the governor, said the idea had been briefly discussed. "It might be a good time to sit back and take a look at it (the commission), see what it is doing and if it is doing what we want it to." He suggested a performance audit by the Office of Management and Budget or by the Legislative Budget and Audit Committee might be considered.

Both Department of Commerce Commissioner Jane Angvik and the Alaska Oil and Gas commissioners objected to our including this section in the present report. Ms. Angvik stated:

I believe the report's discussion of the department's inquiry to the commission is not relevant to the investigation, and serves no purpose.

The investigation focus concerned the adequacy of the commission's inspection program. Prior to issuance of the ombudsman report, the media reported the subject was under investigation and a public debate ensued. The Department of Commerce entered that debate by publicly implying they had conducted an independent investigation. Those findings would be most germane to the investigation, and certainly would have been included in this report. To subsequently ignore information that such an investigation was not the prerogative of the Department of Commerce, or had not occurred, would have been irresponsible.

INVESTIGATIVE ANALYSIS

Mr. Chatterton had broad influence on the commission for many years. Knowledgeable and respected in the oil and gas industry, he was also a powerful chairman who allowed little argument or dissent. This raises serious concern regarding the potential power available to any commission chairman. Mandatory rotation of any chairmanship is suggested in the absence of limited terms for commissioners.

At present the commission is awaiting the appointment of a third commissioner. Appointment of a commissioner who contributes to effective

management by objective and team building is critical. The commissioner must be neither defensive of nor intimidated by recent commission policy.

Other valuable attributes would include recent experience with regulatory process and familiarity with advanced technology. A modern, dynamic commission could be of increased benefit to the state by assuming a significant role in inter-agency coordination and planning.

Any remaining question of the commission having only "tenuous authority" to regulate industry operations impacting human safety or environmental integrity should be removed by the governor in his or her appointment and by the legislature in its directives and funding.

The adequacy of current statutory and regulatory deterrents to willful violation by the oil and gas companies should be reviewed. The commission must also be willing to use the measures available to stop production temporarily when serious safety violations occur.

The commission should forthrightly describe its policy, goals and objectives for public and governmental consideration. An immediate evaluation of all present commission handouts and other descriptive material is needed. Public information provided by the commission should reflect honestly and accurately its actual policy and practice.

Through measurable criteria, the commission must be more accountable than it has been in the past. Quarterly and annual reports containing actual statistics and numerical standings would provide industry, government and the public with measurement tools which have been eliminated at present.

Representative Cliff Davidson's office recently confirmed that they have requested an investigation of the commission by the Legislative Budget and Audit Committee. This request has been granted.

ALLEGATION ONE: ANALYSIS AND FINDINGS

The first allegation is that the commission has acted unreasonably in progressively reducing the oil and gas well inspection program to a level which compromises the investigative and regulatory function of the commission.

The commission questioned the wording of the allegation and thus its merit:

Given the thoroughness of your investigation, we are somewhat surprised that the allegation was not rejected or, at the very least, reworded to reflect actual events. To state that the commission acted 'unreasonably' in reducing the inspection program implies that other viable options were available to us . . .

In actuality, the commission was forced to trim the inspection program because of budget reductions. These budget cutbacks not only affected a decrease in the commission's inspection program, but pared the entire commission staff to minimum levels . . . In addition to restructuring staff, funding for outside travel and training was cut, along with monies for contractual work, which hampered the commission's reservoir surveillance efforts.

The commission states it only targeted vacant positions and, "although all areas were hurt, none were disabled." The commission flow charts from 1981 to the present suggest personnel were transferred within the commission and some vacant positions were eventually refilled. In no instance did this occur in the inspector category, and once lost, no inspector positions were recovered.

Although budget reductions have been significant, the commission must assume responsibility for its failure to request new positions or equipment. The commission's failure to promulgate accurate statistics on the effect of budget reductions in the past has weakened its bargaining position. The commission has not previously documented either the need for, or the anticipated result of a larger budget.

The commission's denial of regulatory mandates, lack of critical information and elimination of statistical reports hampers close scrutiny. It is not presently possible to evaluate with certainty the exact number of inspectors needed. However, by the regulatory standards established in Canada, California and other states, Alaska falls far short of providing a viable regulatory presence in field safety. Because of these findings the area of revenue measurement is also suspect; although the issue was not reviewed in this report.

The commissioners are not soliciting adequate, consistent or current input from oil and gas field operations. The schedule of equipment tests by company and contractor, pass or fail rates, time and method of correction and other statistical data needed to prioritize field work is not systematically collected nor utilized to determine staffing needs or inspection priorities. When data is gathered, it is not readily accessible to the engineering and inspection staff.

It is evident that three inspectors is inadequate: the number of documented hours worked is excessive and imprudent; being neither safe nor cost effective.

The available inspectors are too few in number to cover emergencies or changes in scheduling. The inspectors receive inadequate direction in setting priorities or enforcing sanctions. Their field reports are, by necessity, cursory and lacking in critical analysis. Finally, there is too little time for training even though the field is rapidly changing. Those gains in industry compliance and cooperation achieved through a strong field presence are in danger of eroding with declining surveillance.

Following media exposure, further reducing the number of inspections in the face of program criticism was not a viable option. The existing list of work priority was not being followed and the most rudimentary goals were not being met. Less than 30% of many critical tests were witnessed and many types of inspections addressed in the regulations could not be done at all.

The commission response pointed to the federal EPA requirement and other sources suggesting 25% as a minimally acceptable inspection rate. Yet, throughout this report, those same sources have stated that figure is woefully inadequate for exploratory wells, wells being reactivated, high pressure wells or those wells located where climatic conditions warrant closer attention. Many Alaskan wells fall into one or more of these categories.

Regulatory bodies in other nations and states have established more certain and objective criteria for policy setting, operation goals and necessary staff levels than has Alaska. Canada in particular warrants study because of its approximation to so many of our own conditions.

The ERCB welcomes visitation or consultation with the commission. The board's staff training, computer programs, inspection manuals, establishment of priorities and effective concentration on reducing test failures might save the commission thousands of hours otherwise necessary to "reinvent the wheel."

It is strongly suggested Alaska take advantage of this offer as the commission's inspection program has slipped to the point of near non-existence. Only one inspector is presently fit to travel and there is inadequate artificial intelligence being employed to gather or analyze data in a systematic way.

Inherent risk in the field is increasingly being recognized in Alaska. The rapid spread of oil in ocean waters during the Exxon Valdez spill proved the catastrophic potential of oil rigs situated over water. There are well operations in Cook Inlet and other sensitive areas where the potential for human tragedy and environmental disaster rises in direct proportion to any error or omission.

The potential dangers of injection wells contaminating future drinking water or tillage is being addressed by a concerned public. Both the type of material injected and the pressure of injection is being questioned. Even drilling mud is now known to be a hazardous substance requiring careful handling and disposal.

As production declines, horizontal drilling which is even more dangerous and other new drilling methods will be increasingly utilized. This is particularly true if oil prices remain elevated.

The commission's position that it has unlimited discretionary latitude in reducing its inspection program is untenable. The evolution of public awareness and concern with human safety and environmental integrity must be reflected in its regulatory agencies. Increased vigilance over industry is needed even as increased self regulation is sought.

I find the allegation partially justified: the commission has acted unreasonably in progressively reducing the oil and gas well inspection program to a level which compromises the investigative and regulatory function of the commission. This finding acknowledges the importance of legislative funding to implement a strong inspection program. However, the commission must assume the responsibility to educate the legislature to the importance of its inspection program and continuously request adequate funding to fulfill its mission.

ALLEGATION TWO: ANALYSIS AND FINDINGS

The second allegation is that the commission acted unfairly in its reprimand of the inspection staff supervisor.

Investigation supports the conclusion that the commission has knowingly allowed both the level and kind of inspections to decline over an extended period of time.

Mr. Minder's annual report, and other reports and memos he wrote, objected to the decline and continued to bring the results to the commission's attention. He developed a computer tracking program, on his own initiative, which further detailed the number and types of tests being missed.

Mr. Minder indicated to the commission he hoped the information could be used to strengthen requests for budget increases. If Mr. Minder or others had accused the commission of deliberately acting irresponsibly, any one of them could have brought the matter to the direct attention of the governor or the ombudsman

under the Alaska Whistleblowers Act. Mr. Minder had not yet given up on working within his own agency for change. Mr. Minder approached the ombudsman office only when he concluded that he could not effect positive change and may have jeopardized his employment in the attempt.

Mr. Minder had a history of conflict with the commission's position that no negative information was to be written. Unfortunately, throughout this conflict, no in-house vehicle for candid written communication was developed.

Mr. Minder did act within his job description in writing the memo and was reasonable in expecting to have it typed and submitted to his immediate supervisor and the other commissioners for consideration.

Mr. Minder did show poor judgement in releasing the memo to the inspection staff without the authority to disseminate the report. There is no evidence that Mr. Minder circulated the report outside the agency.

There is no further evidence of wrongdoing on Mr. Minder's part. There is a conclusive pattern of the commission refusing to allow Mr. Minder to submit narrative information to the commission in written and permanent form even when his job description required him to do so.

Mr. Minder was placed in a difficult position of having responsibility for supervising and reporting on a program over which he had no real authority. Evidence supports the conclusion that Mr. Minder was placed in the position only to provide distance between Mr. Hawkins and the commissioners. Mr. Minder was given no supervisory training or support in assuming control. Good management practice would not predict that Mr. Minder could develop a program without more specific policy goals and objectives than presently exist.

At present the inspection program demands the immediate attention of a commissioner who also accepts full responsibility for its development and performance. Perhaps in the future, with additional supervisory training and commission support, a staff member might be appropriate in the position.

I find the allegation justified: the commission acted unfairly in its reprimand of the inspection staff supervisor.

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RECOMMENDATIONS

During the investigation, Mr. Johnston and Mr. Smith began identifying commission programs to be strengthened and began drafting written priorities and expectations for the inspection program. The commissioners were candid and cooperative during this investigation and agreed with all of the recommendations.

The recommendations and the agency response to each follows:

- (1) I recommend that the Alaska Gas and Oil Conservation Commission develop a comprehensive mission statement which defines the role and statutory responsibility of the agency.

Agency Response:

We believe such a mission statement is clearly articulated in the commission's budget submittal for

FY'92, as well as set out in the governing statutes and regulations of the commission. That statement follows:

"The Alaska Oil and Gas Conservation Commission is an independent quasi-judicial agency set up by the Legislature to enforce the Alaska Oil and Gas Conservation Act (AS 31.05). The commission oversees oil and gas drilling, development and production, reservoir depletion and metering operations on all lands subject to the state's police powers. The commission acts to prohibit the physical waste of crude oil and natural gas, to protect the correlative rights of mineral interest owners, and to obtain the maximum ultimate recovery of oil and gas that is prudently possible. The commission levies fines for violations of the statutes, regulations or orders of the commission, and will seek injunctive relief to stop continuing violations.

The commission also is responsible for administering the Underground Injection Control(UIC) program for oil and gas wells in Alaska. The UIC program is authorized by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, as amended. In addition, the commission acts as Alaska's jurisdictional agency to determine well categories for meeting the maximum lawful price for gas under the Natural Gas Policy Act of 1978, and to approve applications as meeting the requirements of the U.S. Treasury for a qualified tertiary recovery project. It also serves an adjudicatory forum for resolving disputes between the oil and gas industry."

- (2) I recommend that the Alaska Gas and Oil Conservation Commission establish measurable goals and objectives to assist the administration and the staff in fulfilling the mission statement and the agency's responsibilities.

Agency Response:

Again, we will turn to our FY'92 budget submittal to provide a basis for meeting this recommendations. The commission included nine objectives and performance measures in its budget. We will examine these standards in light of your report and make appropriate revisions, if necessary. At a minimum, extra detail will be provided to aid the staff in determining how these objectives and performance measures are to be achieved.

- (3) I recommend that the Alaska Gas and Oil Conservation Commission develop accurate internal standards to aid in measuring the performance of individual staff and the agency as a whole.

Agency Response:

Performance standards already exist for all staff. However, we will immediately commence a review of

the current standards for each employee, and make changes where needed. This review will be done in consultation with the employee. Each employee will be asked to review his or her standards, and will be encouraged to provide suggestions and comments or to seek clarification as appropriate. Our goal will be to provide each employee with realistic, understandable and achievable standards within six months. These standards will then be used to gauge employee performance for annual evaluation or disciplinary purposes.

- (4) I recommend that the Alaska Gas and Oil Conservation Commission promote personnel policies which encourage all staff to provide constructive criticism and suggestions to improve agency functioning.

Agency Response:

Informally, this is already being done, and positive results are being obtained. For example, as we move closer to computer automation, all staff are being encouraged to consider ways to improve their office functions through computerization; training will be provided where appropriate. Also, the petroleum inspection staff have already made recommendations for ways to improve the program, and they will be further consulted as we progress.

This openness policy will extend to staff meetings, which will be held more frequently to explain commission activities and policy decisions. Staff will also be encouraged to put suggestions in writing and to provide background information along with their analysis of the problem. The commissioners will reply in kind as appropriate. This policy will be formalized at the conclusion of this investigation.

- (5) I recommend that the Alaska Gas and Oil Conservation Commission provide a formalized grievance process in which staff may receive an impartial review of any negative personnel action by an objective third party within the agency.

Agency Response:

This vehicle is already in place for our general government bargaining unit employees. Our exempt staff, on the other hand, are covered by the state's personnel rules.

To the extent that it is possible, however, we will use our existing structure to achieve an objective third party. We will issue an internal written policy that states if an employee has a grievance he or she will be asked to deal directly with the immediate supervisor. If the problem is not resolved at that level, then the employee will be encouraged to bring the problem to the attention of the commissioners. If the immediate supervisor is

one of the commissioners, then the other two commissioners will be asked to address the problem.

- (6) I recommend that the Alaska Gas and Oil Conservation Commission revise the FY'92 budget request using "Zero Based" budget techniques to determine the agency's actual needs as defined by the mission statement, state law and current regulations. Use that information to finalize the budget submitted for the governor's consideration and discussions with the legislature.

Agency Response:

The commission submitted its FY'92 budget to the Department of Commerce per the department's instructions and policies prior to receiving this report. In that budget, the commission requested two increments. The first increment is for \$242,600. It will allow the commission [to] hire an additional two inspectors, provide another vehicle for their use on the North Slope, and pay for travel, per diem and training costs. The second increment is for \$30,000. It will fund necessary building maintenance, such as provide new paint and carpeting and sewer and heating repair. Money will also be directed toward securing a ground maintenance contract.

Over the course of the coming year, as we examine each program implemented by the commission, we will also examine funding requirements. Revisions to the budget will be requested when and where appropriate.

- (7) I recommend that the Alaska Gas and Oil Conservation Commission re-examine the agency's actions toward Mr. Minder in light of the findings and recommendations of this investigation.

Agency Response:

The commission relies heavily on its supervisory staff to structure as good a program as possible given its limited funding. It is now clear that Mr. Minder should have received additional supervisory training before being given program responsibility. Unfortunately this was not done, and the commission must assume responsibility for this failure. But, returning Mr. Minder to supervisory capacity at this time is not an appropriate remedy to this problem.

Instead the commission will give Mr. Minder expanded responsibility to develop a computer tracking program to use in the petroleum inspection program. In addition, he will be targeted for supervisory training, as well as program development and communication instruction.

Moreover, the entire staff will be set up on a training schedule, which will allow all employees to have some training in those areas where a need exists. The

commission will also contact the Energy Resources Conservation Board in Alberta to obtain additional information about their inspection program. We also plan to become more involved with the Interstate Oil Compact Commission (IOCC), and have already attended a recent meeting of the IOCC executive committee.

The findings and recommendations cited above will now remain the findings and recommendations of record in this case.

The Alaska Oil and Gas Conservation Commission has agreed to implement the recommendations to varying degrees. Additional changes and measurable standards applicable to the inspection program have yet to be fully identified and implemented. Further, additional funding is a prerequisite to achieving full implementation. Based on the commission's commitment to strengthen the inspection program and improve its personnel management system, I find the disposition of this case to be partially rectified at this time.

DMS:bjc
Attachments

SUMMARY OF INSPECTION PROGRAM

The primary concern of the Commission is to insure that the inspection program is implemented consistent with its statutory authority. That authority is outlined in AS 31.05.030(b), which states, in part: "(t)he Commission shall investigate to determine whether or not waste exists or is imminent..." Additionally, under AS 31.05.030(h), the Commission is charged with implementing the Underground Injection Control (UIC) program for Class II wells in Alaska.

The Commission believes the inspection program should reflect the following parameters in order of priority.

1. Visual inspection and function testing of equipment and examination of daily operating records.

The inspectors will routinely visit drill rigs and workover rigs to visually inspect equipment, including blowout prevention equipment, diverter system, mud system, actuator system and other appropriate auxiliary equipment used to prevent waste. The visual inspection will determine if the equipment has been properly installed and maintained. At the Commission's discretion the operator may be requested to function test the equipment to demonstrate its workability.

The inspector will also examine the operator's records of daily operation to determine if equipment testing has been conducted in conformance with Commission regulations or conservation orders, and reporting requirements are in compliance with regulations.

2. Witnessing of BOPE tests.

The Commission will advise the operator and inspectors of those BOPE tests it wishes to witness by 10-401 cover letters and 10-403 check-offs. As a general matter, inspectors will witness testing of the BOPE installations on all exploratory drill rigs and rigs that have been stacked for an extended period of time. The initial test of the BOPE installed prior to drilling below the shoe of the surface casing is the preferred test to be witnessed. If time or operational constraints prevent witnessing the initial test, a subsequent test of the BOPE installation may be witnessed, instead.

The inspectors will also witness testing of the BOPE installations on all functioning workover rigs at least twice per year. The Commission will determine which test it wishes to witness.

3. Witnessing of mechanical integrity tests under the UIC program.

The Commission will advise the operator and inspectors of those

mechanical integrity tests it wishes to witness. At a minimum, the inspectors will witness at least 25% of the required mechanical integrity tests for injection wells each year. This total will include the mechanical integrity test for all new injection wells. At the Commission's discretion, additional MIT tests will be witnessed on a case-by-case basis. The operator must keep the Commission advised of their testing schedule as required by the UIC orders and report their test data to the Commission.

4. Safety valve testing and witnessing.

The Commission will require operators to schedule, report and test the safety valve system (ie., SSSV, SSV and pilots) of production wells on a routine basis. The frequency of testing will be each 6 months with retest of failed valves within 7 days and repeat failures shut-in until satisfactory test are obtained. Inspectors will then witness the testing of the safety valve system on individual production wells on a random basis. The Commission will prescribe the intervals and times that random witnessing by the inspectors will occur.

As a routine matter, inspectors will check the operator's testing schedules and records to determine if routine testing of the safety valve system is being conducted. From time to time, the inspectors may also visually inspect and function test the safety valve system on individual wells.

5. Wellbore plugging.

The Commission will advise the operator and inspectors of those wells in which it wishes to verify the location and integrity of cement plugs prior to abandonment. Emphasis will be placed on verifying the location and integrity of the cement plug immediately above the hydrocarbon zone, if applicable. If time or operation constraints prevent verification of this plug, then the placement of the surface plug may be verified, instead.

6. Location abandonments.

As time and opportunity allows, the inspectors will check abandoned wells to verify that a proper wellbore marker has been installed and to determine if further action by the Commission is required.

7. Metering.

On a weekly basis the inspectors will pick up the meter log summaries Pump Station #1. At that time, a visual inspection of the facilities may be conducted. From time to time, the inspectors will witness the proving of meters or provers, as required by the Commission.

MEMORANDUM

State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: C V Chatterton
Chairman

DATE: January 10, 1989

FILE NO: A.MTM.012

TELEPHONE NO:

THRU: Lonnie C Smith
Commissioner

SUBJECT: 4th Quarter Report
MIT Part I
UIC Class II Inj Wells

FROM: Michael T Minder
Sr Petroleum Engineer

Of the 66 MITs performed this quarter, 16 were initial tests, one of which was unwitnessed (1F-2). The remaining 50 MITs were retests, with 5 wells unwitnessed (1F-4, 10, 13, 15, & 1R-13). Only one of the 66 wells tested failed (DS 4-13).

Accomplishments for Fourth Quarter '88:

1. P&A of AAI OWDW-NE disposal well 12/28/88.
2. Resolution of Swanson River wells shut in prior to state primacy. Received notice 12/28/88 confirming AAI's intention to convert these wells to producers.
3. Requested and received test results and log for SRU 41-33WD RTS on 12/21/88.
4. Requested and witnessed initial tests on McArthur River G-36 DPN, Trading Bay A-19RD, and Middle Ground Shoal A-23-1RD; and retest of A-34-11).
5. Worked with Brenda to update WAG & water injection well status in Kuparuk River Field.

Plans for First Quarter '89:

1. Concentrate on development of a computer program to identify and flag MIT Part I wells not in compliance.
2. Continue to concentrate on Inlet wells in an attempt to have all untested wells tested; and to have Shell indicate how and when Middle Ground Shoal wells will be tested (RTS or conventional).

4th Quarter Report - MIT Part I
January 10, 1989
Page 2

Recommendations:

There appears to be confusion among operators using RTS as to when injection may begin or be resumed. I believe this could be clarified if we were to write a letter of approval after RTS are reviewed and the wells are shown to be mechanically sound.

I would like to be informed when policy is made on testing or test procedures; and, if possible, to attend meetings where such matters are discussed.

Attachment

STATUS CLASS II WELLS
DECEMBER 31, 1988

| | <u>Wells</u> | <u>MTs This Quarter</u> | <u>Not Tested</u> | <u>Passed</u> | <u>Failed</u> | <u>Of those failed</u> | |
|---------------|--------------|-----------------------------|-----------------------|---------------|---------------|------------------------|-----------|
| | | | | | | <u>Inj</u> | <u>SI</u> |
| Beaver Crk | 1 | | | 1 | | | |
| Beluga Rv | 1 | | | 1 | | | |
| Endicott | 11 | 2 | | 11 | | | |
| Granite Pt | 21 | | | 19 | 2 | 1 | 1 |
| Kenai | 2 | | | 2 | | | |
| Kuparuk Rv | 253 | 30 | | 251 | 2 | 1 | 1 |
| Lisburne | 8 | 1 | | 8 | | | |
| McArthur Rv | 22 | 1 | 1 | 11 | 10 | 6 | 4 |
| Mid Crd Shoal | 23 | 2 | 7 | 6 | 10 | 5 | 5 |
| Milne Pt | 16 | | | 15 | 1 | | 1 |
| Prudhoe Bay | 164 | 29 | 1 | 153 | 7 | 5 | 2 |
| Swanson Rv | 12 | | | 12 | | | |
| Trading Bay | 10 | 1 | 5 | 3 | 2 | | 2 |
| | 541 | 66 | 14 | 493 | 34 | 18 | 16 |

MEMORANDUM

State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Lonnie C Smith *JCS*
Commissioner

DATE: January 26, 1989

FILE NO: A.MTM.013

TELEPHONE NO:

THRU:

SUBJECT: 4th Quarter tabulation
MIT Part I

FROM: Michael T Minder *M.T.M.*
Sr Petr Engineer

MIT Part I
UIC Class II Wells
as of December 31, 1988

| | Statewide | | | | | | MITs this yr | |
|---------------|------------|------------|------------|-----------|-----------------|-----------|--------------|----------|
| | # Wells | Not Tested | Passed | Failed | Of those failed | | P | F |
| | | | | | INJ | SI | | |
| Beaver Crk | 1 | | 1 | | | | | |
| Beluga Rv | 1 | | 1 | | | | | |
| Endicott | 11 | | 11 | | | | 2 | |
| Granite Pt | 21 | | 19 | 2 | 1 | 1 | | |
| Kenai | 2 | | 2 | | | | | |
| Kuparuk Rv | 253 | | 251 | 2 | 1 | 1 | 30 | |
| Lisburne | 8 | | 8 | | | | 1 | |
| McArthur Rv | 22 | 1 | 11 | 10 | 6 | 4 | 1 | |
| Mid Grd Shoal | 23 | 7 | 6 | 10 | 5 | 5 | 2 | |
| Milne Pt | 16 | | 15 | 1 | | 1 | | |
| Prukhoe Bay | 164 | 1 | 153 | 7 | 5 | 2 | 28 | 1 |
| Swanson Rv | 12 | | 12 | | | | | |
| Trading Bay | 10 | 5 | 3 | 2 | | 2 | 1 | |
| TOTALS | 541 | 14 | 493 | 34 | 18 | 16 | 65 | 1 |

Confirm. '91

Wardell

Brd. of Fish

April 8, 1991

The Honorable Dick Eliason
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

In accordance with AS 39.05.080, the Senate Resources Committee reviewed the following with regard to confirmation of the Governor's appointments:

Board of Fisheries

Carlisle, Irving - Soldotna
Term began 2/20/91 expires 1/31/94
Wardwell, Ken - Anchorage
Term began 2/19/91 expires 1/31/94

There were no stated objections to the confirmation of any of the named individuals by committee members. This does not reflect an intent by any of the members to vote for or against the individuals during any further sessions for the purpose of consideration.

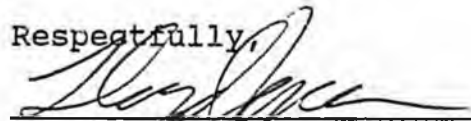


Senator Cotten, Vice-Chair

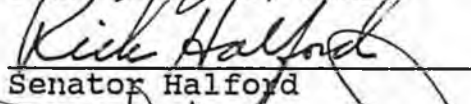
(Signed original)
Senator Eliason

Senator Frank

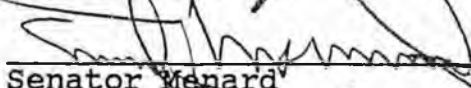
Respectfully,



Senator Jones, Chair



Senator Halford



Senator Menard



Senator Zharoff

Ken Wardwell (Kenneth L. Wardwell
1444 Hillcrest Dr.
Anchorage, Alaska 99503
907-272-4772 (h)
907-272-7925 (w)

Occupation: Real Estate Broker, State of Alaska since 1974. Practiced real estate sales in Alaska since 1969. Owner/broker of Wardwell Realty, 1444 Hillcrest Dr., Anchorage, Alaska 99503.

Family: Married to Liz, 3 children; Tony 21 (sophomore at University of California at Sant Barbara), Lani 19 (senior at West High Anchorage), Nathan 14 (3th grade at Romig Junior High). Children were all born in Alaska.

Born: July 31, 1943, Burbank, California; age 47

Business and Community involvement:

Anchorage Rotary East, Past president, past State Chairman of Rotary Youth Exchange, current member.

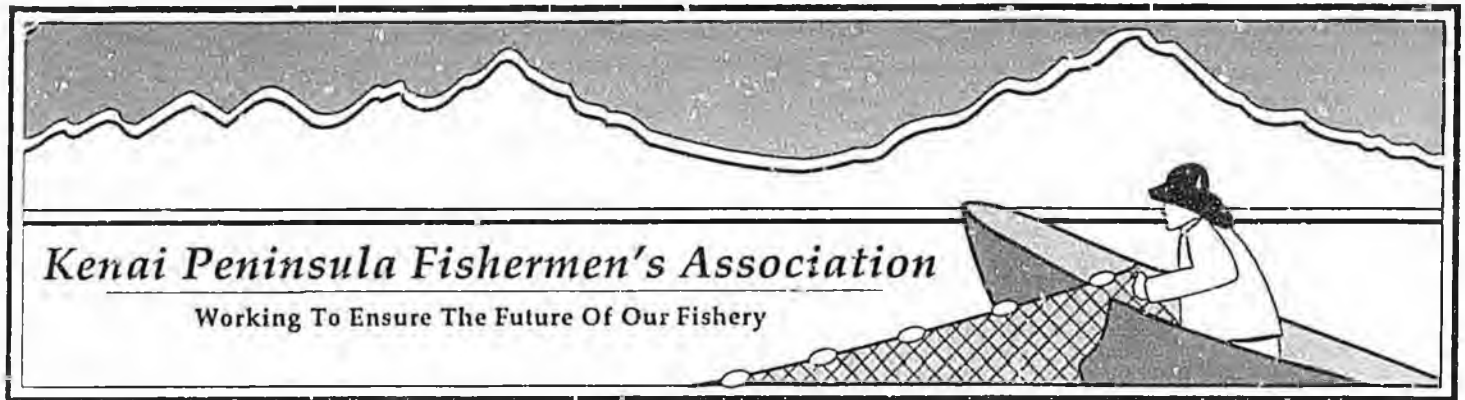
Anchorage Multiple Listing Service, past president, member.

Anchorage Independent Brokers Association, chairman.

General: Came to Alaska originally with the U.S. Army in 1966 from Los Angeles, California. Completed duty in 1969 and has resided in Anchorage since.

Has both commercial fished and sport fished as a "long line" halibut fisherman for 3 years and sport fished many of Alaska's water systems.

" I understand the particular importance that subsistence, commercial, and sport fishing together have on the State of Alaska and it's residents and visitors. I am interested in finding solutions to allocation issues between the many user groups. Whether a troller, a gill netter, a subsistence user, a sportfisherman, a seiner, a trawler, a set netter, a long liner, a crab fisherman, a diver, a charter boat operator, a sportfishing guide, or a personal use fisherman I pledge to be available to all. I will be prepared to make the tough decisions after tough deliberations and testimony on issues affecting Alaska's bountiful fish resource."



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492

OBSERVATIONS OF THE HOUSE RESOURCES CONFIRMATION HEARINGS FOR MR. KEN WARDWELL

1. QUESTION: As far as allocation issues are concerned would you be coming in with any preconceived notions - and that applies to problems on the Kenai River - or anywhere else?

RESPONSE: "If it is a large change to anything it might be, could be and probably is wrong. I'm going to look carefully to find out if, ah, to make as gentle adjustments as possible come through."

KPFA COMMENT: *Mr. Wardwell's promotion of Project US, which proposed the total elimination of the Cook Inlet eastside setnet fishery, (hardly a gentle adjustment) is contradictory to his testimony. Moreover, Mr. Wardwell still believes in the merits of the Project. In his conclusion, Mr. Wardwell states, "Project US was simply the Ultimate Solution. In my mind, the true beneficiaries of Project US were the setnetters. I believed it then, and I believe it now, that the commercial folks could basically ticket take as far as earning their income."*

2. QUESTION: Is the Kenai River King Salmon Management Plan, passed at the 1988 Board of Fish hearings and amended at the 1990 hearings, adequate to protect the king salmon stocks?

RESPONSE: "I'm not, I would beg a lack of knowledge of the plan. I'm familiar there are yellow zones, I guess, green zones, and you know there gonna manage for escapement, I guess, into the river. But, frankly, I don't know the end results of that zoning proposal."

KPFA COMMENT: *Mr. Wardwell, as President of the Kenai River Sportfishing Association, (founded presumably to do something for the Kenai River) should have a working knowledge of this Plan as it is the Plan being used to ensure escapement of king salmon into the Kenai River.*

3. QUESTION: What are your feelings regarding the political independence of the Board of Fish in regards to coming up with a slate of

candidates to recommend to the Governor for appointment as
Commissioner of Fish and Game?

RESPONSE: "I was not aware that the Department, I mean the Board of
Fish, would have to make recommendations regarding the Commissioner.
I thought we would have to review the selection by the Governor."

KPFA COMMENT: *Mr. Wardwell, as Board of Fish candidate, should be
abreast of recent controversial issues that have faced the Board and he
should have a working knowledge of the Board's responsibilities.*

In conclusion, we ask that Mr. Wardwell's confirmation not be tied into a
question of Board composition, direction of fish and game management, or
political ideologies. Our objectives are based solely on Mr. Wardwell's
qualification to serve the State as a Board of Fish member.

QUESTIONS FOR MR. WARDWELL - CONFIRMATION HEARINGS 1991

1. What in your opinion is the job of the Alaska Board of Fisheries? What is the role of the general public in the Board of Fisheries process.

2. What qualifications and experience do you bring with you to the Board, or what attributes do you have that you think make you qualified to serve the State of Alaska in the capacity of a Board of Fisheries member.

3. Clem Tillion, Special Fisheries Assistant to Governor Hickel, has stated that offshore setnets in Cook Inlet must be reduced. Do you believe that the offshore setnets in Cook Inlet constitute a biological problem for Kenai River king salmon. Have you discussed this issue with Mr. Tillion, Governor Hickel, or anyone else in the Hickel administration. If so what was the nature of your discussion. Were any commitments made regarding offshore setnets or other fisheries issues in Cook Inlet.

4. What are the goals of the Kenai River Sportfishing Association. What are the membership eligibility requirements for belonging to KRSA. How many people are members of KRSA.

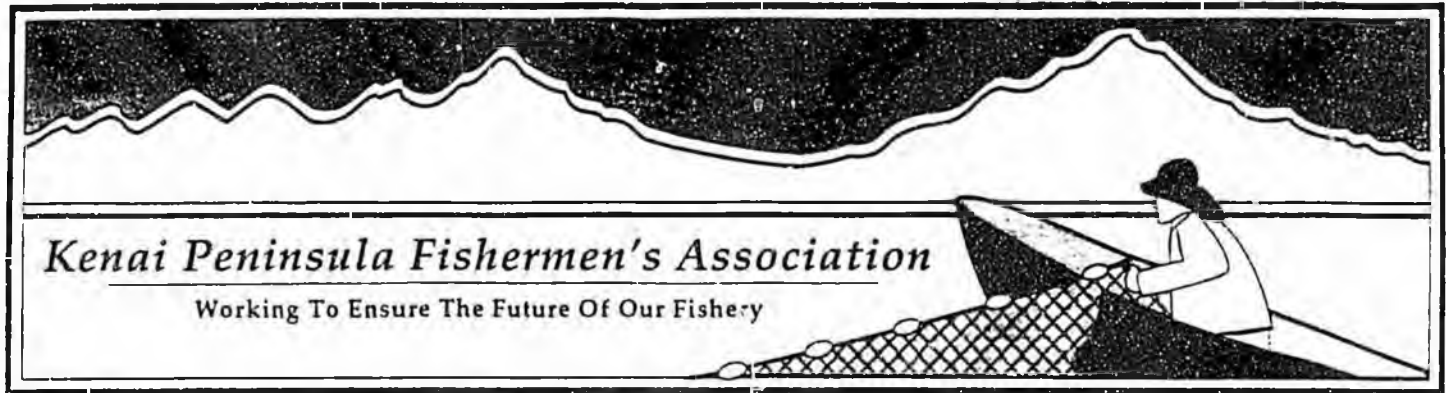
5. What is your relationship with Bob Penny. Regarding Project US, do you still feel that eastside setnet fishermen should be eliminated. Do you still feel there is an "Ultimate Solution" to the Cook Inlet commercial/sport controversies. While promoting Project US, you were quoted in the Homer News (Appendix Page xi) as saying, "Kenai River stocks may provide more overall benefit to the people of Alaska if their primary purpose is for use in the sport fishery." Do you still believe this.

6. Do you think the Kenai River King Salmon Management Plan developed in December of 1988 and amended in December of 1990 will help protect king salmon. How do you feel about this plan in relationship to the sport and commercial conflicts. Do you think any additional changes in the plan are needed. If so, what changes.

7. Do you feel the unknown potential economic values of an undeveloped fishery are more important than the known economic values of an existing fishery. If so, why.

8. What mechanisms do you intend to use when you evaluate various fisheries relative to allocation decisions. Is history of a fishery an important mechanism to you. Is the number of local participants in a fishery an important consideration.

RECEIVED APR 1 1991



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492
March 25, 1991

Representative Cliff Davidson
Chairman, House Resources Committee
P.O. Box V
Juneau, Alaska 99811

Subject: Board of Fisheries Confirmation Hearings

Dear Rep. Davidson:

The Kenai Peninsula Fishermen's Association (KPFA) requests that the legislature not confirm Ken Wardwell to an appointment on the Alaska Board of Fisheries.

The KPFA is a group made up of about 400 commercial fishermen who fish primarily with set nets for salmon on the east side of Cook Inlet. This fishery is highly "political" and well publicized and has been the subject of a number of controversial Board of Fish court actions. As a result of our past experience with the Board we have acquired a keen awareness of the impact that decisions by the Board can have on the lives and livelihoods of our members as well as on other users of the State's fish resources.

Accompanying this letter are materials describing and documenting some of our experiences and concerns with Ken Wardwell, his conduct as President of the Kenai River Sport Fishing Association and his association with Bob Penny, a perennial persistent antagonist of the commercial fishing industry in Cook Inlet. Our purpose in presenting this information is to offer a perspective on the Board of Fisheries and the role individuals from different backgrounds and groups have on the Board. We are quite concerned over the potential ill and divisive effects an appointment of an individual like Mr. Wardwell could have on that process.

We hope to convince you that Ken Wardwell should not be confirmed as a member of the Board of Fisheries because he has demonstrated in the past an inability to understand the large scope of fisheries issues that the Board deals with and an unwillingness to grapple with complexity. Rather he, and the Kenai River Sportfishing Association, have shown a propensity for advancing reckless, simplistic and ill conceived solutions to allocation conflicts that either ignore or

distort the best available information. We question his ability to be fair. The chance that he could be effective in getting the Board of Fisheries to act in a similar manner doesn't bode well for us or the many other fish resource users in the state.

Thank you for taking the time to review these materials.

Sincerely,

Brent Johnson

Brent Johnson
President

Enclosures

cc: House Resource Committee Members
Rep. Mike Navarre
Rep. Gail Phillips
Senator Paul Fischer

JUSTIFICATION FOR REJECTING MR. KEN WARDWELL'S APPOINTMENT TO THE
ALASKA BOARD OF FISHERIES

The Board of Fisheries sets the policies and regulations that govern Alaska's largest renewable resource. The Alaskan seafood industry is the largest private sector employer in the State. Decisions made by this Board affect the livelihood and lifestyles of Alaskans more directly than perhaps any other Board in the state. It is accepted, even mandated, that various user groups' concerns need to be represented on the Board to ensure informed debate on all the issues. However, no Board member should represent a single user group.

Board members must have the ability and inclination to determine what is best for everyone involved. They must make decisions on what is best for the resource and the users overall and must represent and consider all Alaskans when making decisions as a Board of Fisheries member. The Board's success and credibility depends on *fair* and *impartial* members with the aptitude and motivation to deal with and comprehend a variety of statewide issues. The United Fishermen of Alaska passed a resolution to the effect at their annual meeting in February. (Appendix Page i). This resolution demonstrates the importance of due process within the framework of the Board of Fisheries to commercial fishermen across the entire state. Our government, including the Kenai Peninsula Borough Assembly and the Kenai and Soldotna City Councils also passed similar resolutions. (Appendix Pages ii - ix). We ask you to look at Mr. Wardwell's credentials to determine if he should (can) be considered an acceptable Board member.

The Kenai River Sportfishing Association (KRSA) was formed by a few anglers, notably Bob Penney, as a response to their frustration over what they felt was a skewed fisheries management system that, in their view, favored the relative small numbers of commercial fishermen over the large numbers of sport fishermen. The imbalance, they said, resulted in far too many fish (king salmon primarily) being harvested by those few commercial fishermen, again at the expense of the larger number of sport fishermen. The argument, while having superficial merit, does not hold up well when considered against the history of fish allocation in Cook Inlet, the major losses to the commercial fishery by further restrictive regulations, and the importance of both fisheries to the economic and social viability of the

Kenai Peninsula and the rest of the State.

From the beginning KRSA has advocated either the complete elimination of the east side set net (ESSN) commercial fishery or at the very least a drastic curtailment of it. Though Bob Penney, an Anchorage businessman and avid trophy king salmon angler has been and continues to be the primary spokesman for the KRSA, Ken Wardwell as President, has been active as well in the efforts of this group to restrict the ESSN.

In 1988, Mr. Wardwell took on a lead role in advancing Project US. This plan proposed the elimination of the set net fishery on the eastern shores of Cook Inlet. The fishery was to be replaced by fish traps in the Kenai and Kasilof Rivers. Proceeds from these fish traps would have been distributed in part to the displaced or eliminated ESSN. After a wide public airing and debate the plan was given little credibility by the commercial fishing industry, other sport fishing groups, the general public, management biologists, the Board of Fisheries, local government and legislators. Mr. Wardwell's advocacy of this plan hardly shows a working knowledge of fisheries issues. The "US" in Project US stood for "ultimate solution". The fact that Mr. Wardwell thinks ultimate solutions are possible in sensitive allocation issues and his willingness to eliminate an entire user group betrays a lack of understanding and sensitivity to other users' concerns.

We have enclosed newspaper clippings that attest to Mr. Wardwell's support for Project US and demonstrate his perception of the issues. We have also enclosed a list of questions we would like Mr. Wardwell to address for the public record. (Page 7).

During the 1988 Board of Fisheries deliberations on Cook Inlet Ken Wardwell, while testifying as President of KRSA, was accompanied to the microphone by Bob Penny, who literally took the microphone out of Mr. Wardwell's hands to answer questions he felt "needed" a more appropriate response. This incident may seem innocent enough to some but to us it raises serious questions about Mr. Wardwell's autonomy and ability to be an independent voice on the Board.

KPFA cannot forget what happened to the Board process when Bix Bonney, a

founding member of the KRSA and a close associate of Bob Penny, served on the board of Fisheries. In 1983 the Board of Fisheries, after intense ex officio lobbying by Mr. Bonney, "unexpectedly" reconsidered an earlier vote to maintain the status quo for the commercial fishing season and voted to set back its opening a week.

In 1987, the Board again voted in a split vote to impose a 7000 fish king quota on the ESSN. Amid allegations of vote trading that Board later in the year disintegrated. Bix Bonney, was deeply involved in the dissolution of the Board and was later forced to resign. During deliberations Mr. Bonney openly consulted with Mr. Penny by meeting with him during recesses in an adjoining suite and by accepting notes from him during deliberations. Mr. Bonney didn't even make any pretense of representing all users. He often declared his allegiance to the sport fishing industry and even broke from ongoing deliberations to conduct interviews with the TV media explaining the sport fishing point of view.

While Mr. Bonney is not at issue here, the role of KRSA and Mr. Penny is. It is not at all clear to us that Ken Wardwell is capable of being his own man on the board. In the past he's always played a subservient role to Mr. Penny and at this point there is no real indication that this will not continue. Mr. Wardwell's behavior and demeanor at the recent Board of Fisheries hearings in Juneau ring a familiar "Bonney" theme. At one point the Board had to go into a special executive session to bring Mr. Wardwell in line. (Appendix Page x). Rather we feel there is evidence to suggest that Mr. Wardwell is mainly a player delivering on a campaign promise made in person by Governor Hickel to.....you guessed it,.... Bob Penny.

Governor Hickel promised in his campaign that he would appoint members to the Board of Fisheries who not only understood the sport fish perspective but would advance it. KPFA has had a number of meetings with Governor Hickel's special assistant on fisheries, Clem Tillion. He has told us that Governor Hickel had made the decision that politically a major restriction to the ESSN was in his best interest. Mr. Tillion told us that Governor Hickel would appoint *his* people to the Board of Fisheries to accomplish this goal. He went on to state further that if the Board members did not accomplish this agenda they would be fired and replaced with people who would. We believe the appointment of Mr. Wardwell is the start of fulfilling of a campaign promise.

The role of politics in fisheries allocation has been debated for a long time. It is unlikely that politics can ever be completely excluded from fisheries decisions. After all, politics at its roots are concerned with the people and the decisions and laws that govern them. However, from a practical standpoint and even a legal one, it seems to us that the less involvement by politics the better. Clem Tillion, in an interview with the *The Alaska Commercial Fisherman*, said that it was a mistake to put people with different interests and philosophies on the Board of Fisheries because it tended to hamstring the Board. Rather, he said, it was the Governor's responsibility to set fisheries policy and the Board's responsibility to determine the mechanics of that policy. We heartedly and earnestly disagree. If Mr. Tillion is correct then why didn't the framers of the State's constitution just make fish allocation the responsibility of the Department of Fish and Game itself? It seems obvious to us that the mechanism for fish allocation is meant to be a diffuse one, with the powers more than an arm's length from the governor. If there is any area of the state where policies need to be developed through a consensus from people of various backgrounds it is that of fish and game management.

Of all Boards, the Board of Fisheries should be free of political interference. This board regulates the lives of thousands of Alaskans. It is no place for appointments made in response to political promises.

KPFA is not opposed to the appointment of individuals with sport fishing backgrounds to the Board of Fisheries. Bud Hodson and Mike Chihuly, both who served recently, had such backgrounds and in our opinion served conscientiously and competently. Our experience and knowledge of Irv Carlisle suggest that his appointment to the Board is also a good one. We have always stated that it is not an individual's background which determines whether or not he/she can be a good Board member but rather personal qualities of competence and integrity. Ken Wardwell may fit those criteria, but his past actions, statements and associations suggest otherwise.

Again, we ask that you do not confirm Mr. Ken Wardwell to a seat on the Board of Fisheries.

QUESTIONS FOR MR. WARDWELL - CONFIRMATION HEARINGS 1991

1. What in your opinion is the job of the Alaska Board of Fisheries. What is the role of the general public in the Board of Fisheries process.
2. What qualifications and experience do you bring with you to the Board or what attributes do you have that you think make you qualified to serve the State of Alaska in the capacity of a Board of Fisheries member.
3. Clem Tillion, Special Fisheries Assistant to Governor Hickel, has stated that offshore setnets in Cook Inlet must be reduced. Do you believe that the offshore setnets in Cook Inlet constitute a biological problem for Kenai River king salmon. Have you discussed this issue with Mr. Tillion, Governor Hickel, or anyone else in the Hickel administration. If so what was the nature of your discussion. Were any commitments made regarding offshore setnets or other fisheries issues in Cook Inlet.
4. What are the goals of the Kenai River Sportfishing Association. What are the membership eligibility requirements for belonging to KRSA. How many people are members of KRSA.
5. What is your relationship with Bob Penny. Regarding Project US, do you still feel that eastside setnet fishermen should be eliminated. Do you still feel there is an "Ultimate Solution" to the Cook Inlet commercial/sport controversies. While promoting Project US, you were quoted in the Homer News (Appendix Page xi) as saying, "Kenai River stocks may provide more overall benefit to the people of Alaska if their primary purpose is for use in the sport fishery." Do you still believe this.
6. Do you think the Kenai River King Salmon Management Plan developed in December of 1988 and amended in December of 1990 will help protect king salmon. How do you feel about this plan in relationship to the sport and commercial conflicts. Do you think any additional changes in the plan are needed. If so, what changes.
7. Do you feel the unknown potential economic values of an undeveloped fishery are more important than the known economic values of an existing fishery. If so, why.
8. What mechanisms do you intend to use when you evaluate various fisheries relative to allocation decisions. Is history of a fishery an important mechanism to you. Is the number of local participants in a fishery an important consideration.



UNITED FISHERMEN OF ALASKA

211 4th Street, Suit 112
Juneau, AK 99801
907-586-2820
Fax# 907-463-2545

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Iordova District Fishermen United
Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Salmers Association
Seafood Producers Cooperative
Southeast Alaska Salmers
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

Resolution 91-2

A Resolution in Support of the Board of Fish Process

BE IT RESOLVED BY THE UNITED FISHERMEN OF ALASKA:

WHEREAS commercial fisheries are renewable resources, a major employer of Alaska residents, significantly benefit the State as a whole, and that individual fisheries are extremely important to local economies; and

WHEREAS the public input process of the Board of Fisheries ensures that affected user groups and communities are able to voice concerns and support for proposed regulations; and

WHEREAS fair and impartial members able to deal with a variety of statewide issues are the basis for the success and credibility of the Board of Fisheries; and

WHEREAS regulations generated by the Board of Fisheries should be based on the Alaska Department of Fish and Game's statistics, biological data, and public input and not political considerations; and

WHEREAS the Board of Fisheries has proven it can develop suitable management plans for mixed stock fisheries having multiple user groups.

BE IT RESOLVED by the United Fishermen of Alaska that the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Board of Fisheries without political interference;

BE IT FURTHER RESOLVED by the United Fishermen of Alaska that the Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues without political interference;

BE IT FURTHER RESOLVED by the United Fishermen of Alaska that new Board of Fisheries members be appointed as seats become available and that those who are appointed are honest, informed, and impartial, and do not have preconceived agendas to carry out on any fisheries issues.

COPIES of this resolution shall be sent to the Honorable Walter J. Hickel, Governor of the State of Alaska; Mr. Ron Smerville, Acting Commissioner of Fish and Game; and the members of the Alaska State Legislature House and Senate Resources Committees.

APPROVED BY UNITED FISHERMEN OF ALASKA'S
BOARD OF DIRECTORS

February 8, 1991

Kenai Peninsula Fishermen's Association
Board of Fisheries Confirmation Hearings

Appendix Page ii

Introduced by: Glick,
O'Connell, McLane, Walli
Date: February 5, 1991
Vote: UNANIMOUS
Action: ADOPTED AS AMENDED

KENAI PENINSULA BOROUGH

RESOLUTION 91-14

A RESOLUTION IN SUPPORT OF THE EASTSIDE COOK INLET SETNET FISHERY

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over thirty years; and

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and

WHEREAS, the vast majority (87%) of Cook Inlet setnet permit holders are Alaska residents with over two-thirds being residents of the central Kenai Peninsula; and

WHEREAS, the eastside setnet fishery is a major economic factor within the Kenai Peninsula Borough, with an annual ex-vessel catch value for the past five years averaging \$27.9 million, employing many people in the fishery, processing and transportation industry, and directly contributing to the Kenai Peninsula Borough through real and personal property, sales and raw fish taxation; and

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed and implemented a biologically based management plan providing protection reduced interception of king salmon by establishing both minimum and optimum escapement goals; and

WHEREAS, the eastside setnet fishery targets the red salmon run and has taken measures to reduce the catch of king salmon, significantly reducing the incidental harvest in recent years and plans to institute a voluntary program dedicating the revenues from incidental catch of king salmon to improvement of Kenai River habitat;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Assembly of the Kenai Peninsula Borough urge Governor Walter J. Hickel, the Alaska Board of Fisheries, and the Alaska State Legislature to fully examine the biological,

Kenai Peninsula Borough
Resolution 91-14
Page 1 of 2 Pages

social, and economic impacts of any proposed action to limit setnets along the eastside of Cook Inlet.

Section 2. That the Alaska Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues based upon biological considerations.

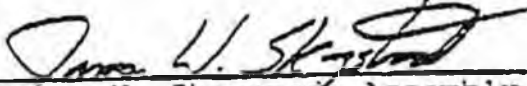
Section 3. We respectfully request that new and continuing members of the Alaska Board of Fisheries exhibit a high degree of integrity and an ability to be fair and impartial in arriving at their decisions.

Section 4. That the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries without interference.

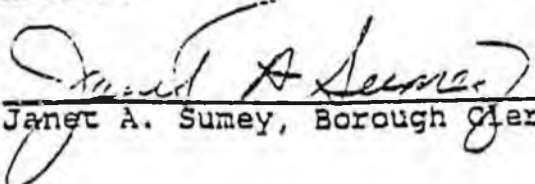
Section 5. That copies of this resolution be sent to Governor Walter J. Hickel, members of the House and Senate Resources Committees, and members of the Kenai Peninsula delegation.

Section 6. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
5th DAY OF February, 1991.


James W. Skogstad, Assembly President

ATTEST:


Janet A. Sumey, Borough Clerk

Kenai Peninsula Borough
Resolution 91-14
Page 2 of 2 Pages

SUBSTITUTE

Suggested By: Councilwoman Monfor

CITY OF KENAI

RESOLUTION 91-2

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, IN SUPPORT OF THE EASTSIDE COOK INLET SETNET FISHERY.

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over thirty years; and,

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and,

WHEREAS, the vast majority (87%) of Cook Inlet setnet permit holders are Alaska residents with over two-thirds being residents of the central Kenai Peninsula; and,

WHEREAS, the eastside setnet fishery is a major economic factor within the Kenai Peninsula Borough, with an annual ex-vessel catch value for the past five years averaging \$27.9 million, employing many people in the fishery, processing and transportation industry, and directly contributing to the Kenai Peninsula Borough through real and personal property, sales and raw fish taxation; and,

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed and implemented a biologically based management plan providing protection reduced interception of king salmon by establishing both minimum and optimum escapement goals; and,

WHEREAS, the eastside setnet fishery targets the red salmon run and has taken measures to reduce the catch of king salmon, significantly reducing the incidental harvest in recent years and plans to institute a voluntary program dedicating the revenues from incidental catch of king salmon to improvement of Kenai River habitat;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1: That the Council of the City of Kenai urge Governor Walter J. Hickel, the Alaska Board of Fisheries, and the Alaska State Legislature to fully examine the biological, social, and economic impacts of any proposed action to limit setnets along the eastside of Cook Inlet.

Section 2: That the Alaska Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues based on biological considerations.


Section 3: We respectfully request that all new and continuing members of the Alaska Board of Fisheries exhibit a high degree of integrity and an ability to be fair and impartial in arriving at their decisions.

Section 4: That the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries without interference.

Section 5: That copies of this resolution be sent to Governor Walter J. Hickel, members of the House and Senate Resources Committees, and members of the Kenai Peninsula delegation.

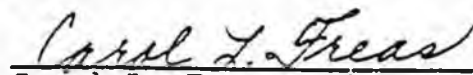
Section 6: That this resolution shall take effect immediately upon its adoption.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, the sixth day of February 1991.



John G. Williams, Mayor

ATTEST:



Carol L. Freas, City Clerk

(2/6/91)

CITY OF SOLDOTNA

RESOLUTION 91-3
(Proposed by Mayor Davis)

A RESOLUTION CONCERNING THE COOK INLET EASTSIDE SETNET FISHERY

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over 30 years; and

WHEREAS, the target species for the Cook Inlet setnet industry is sockeye salmon; and

WHEREAS, 87% of all Cook Inlet setnet permit holders are residents of the State of Alaska and 69% are residents of the central Kenai Peninsula Borough; and

WHEREAS, the annual ex-vessel value of the eastside setnet fishery averaged \$27.9 million (1985-1990); and

WHEREAS, studies indicate eastside setnet fishermen who are Kenai Peninsula Borough residents earned an average of \$19.3 million per year between 1985 and 1990 of which 67% is spent within the Kenai Peninsula Borough; and

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and

WHEREAS, the increase of nets within these legal areas was the result of increased wild sockeye salmon returns to the Kenai River; and

WHEREAS, Alaska Department of Fish and Game data indicates the increase in setnets has not resulted in an increased proportion of king salmon catch by commercial setnetters; and

WHEREAS, Governor Hickel's Special Assistant on Fisheries, Clem Tillion, has stated that the offshore nets in Cook Inlet do not constitute a biological problem; and

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed a Kenai River Late Run King Salmon Management Plan that provides adequate protection to late run king stocks; and

WHEREAS, during the 1990 season the minimum late run Kenai River king salmon escapement goal was exceeded by over 10,000 fish, while the optimum goal was exceeded by nearly 3,500 king salmon; and

WHEREAS, eastside setnet fishermen have been releasing the majority of live king salmon from their nets since 1987 in an effort to allow additional kings to enter the Kenai River; and

WHEREAS, since inception of the Kenai River King Salmon Management Plan in 1988, the percentage of the late Kenai River king catch in the commercial fishery has declined from 26% to 19%; and

WHEREAS, during the 1990 season the eastside setnet incidental catch of king salmon declined to an all time low of 11% of the Kenai River king salmon total return; and

WHEREAS, the amended Kenai River King Salmon Management Plan now requires the commercial fishermen to share the burden of obtaining the optimum king salmon escapement goal; and

WHEREAS, during the 1991 season many eastside setnet fishermen plan to donate the proceeds of their king salmon catch to a fund to benefit king salmon habitat and support king salmon research needs; and

WHEREAS, Governor Hickel's Special Assistant on Fisheries, Clem Tillion, has stated publicly the intention of the Hickel administration to drastically reduce the number of setnets along the eastside of Cook Inlet and has told the Kenai Peninsula Fishermen's Association Board of Directors that there will be no compensation for those fishermen eliminated from the fishery; now, therefore,

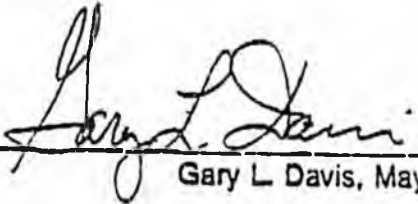
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA ALASKA AS FOLLOWS:

Section 1. That the City Council of the City of Soldotna hereby requests the Governor of the State of Alaska, Walter J. Hickel, to:

- A. Examine fully the biological, social and economic impacts of any proposed action to limit setnets along the eastside of Cook Inlet;
- B. Allow the Board of Fisheries to promulgate regulations regarding fisheries management and allocation issues utilizing biological data;
- C. Allow the Alaska Department of Fish and Game to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries;
- D. Appoint new Board of Fisheries members as seats become available and who are informed, impartial, and who do not have a preconceived agenda to carry out on any fisheries issue.


Section 2. The City Clerk is requested to send a copy of this Resolution to Governor Walter Hickel, all State Senators and Representatives who represent the Kenai Peninsula Borough, Clem Tillion, Special Assistant to the Governor on Fisheries Issues, and the Acting Commissioner, Alaska Department of Fish & Game.

ADOPTED this 6th day of February, 1991.



Gary L. Davis, Mayor

ATTEST:



Patricia C. Burdick, CMC, City Clerk

Learning the ropes:

Leadership, but whose?

by BOB FKACZ

The Board of Fisheries meeting on Southeast finfish proposals was the first for new board members Ken Wardwell, an Anchorage real estate broker, and Soldotna accountant Irv Carlisle, appointed by Gov. Walter J. Hickel to fill vacancies created by the voluntary departures of Bud Hodson and Mike Chibuly in January.

Technically, the changes only replaced experienced sport fishing advocates with less seasoned sport fishing advocates in board make-up.

Politically charged atmosphere

However, the politicized atmosphere generated by Hickel minions and what many perceive as their blind guy with a sledge hammer approach to state board appointments in general and the already touchy subsistence controversy in particular left commercial fishermen nervous and board members skittish during the meeting in Juneau.

With 13 years experience on the Kenai/Soldotna local advisory committee, Carlisle started his state board tenure conservatively.

But Wardwell took a running leap into board life on several commercial proposals with little more than a passing nod to the board's semi-formal traditions. After twice failing even

to muster seconds to allow his motions to land, he displayed his political acumen with a quick "you don't like me cause I'm a sport fisherman" while.

Personality conflicts

Later that same day personality conflicts erupted again and the board began the next meeting with a 90-minute closed session. Even Ladd Jones, Division of Boards director and Fish Board chief of staff, was invited to leave and a "get here, and now" call was made to fish and game commissioner Carl Rosier to fulfill his formal role of ex officio secretary to the board.

While outside the Baranof Hotel meeting room speculation among board observers kicked out of the executive session ran toward the idea that Wardwell is the governor's sport fishing enforcer disguised as the Pillsbury doughboy and other board members might be experimenting with sliced bread, the secret discussion was apparently a straight talking "This is how we do things around here" lesson.

In any event, everyone emerged smiling from the very private meeting. Rosier hotfooted it for the governor's office and the board session continued at a noticeably more relaxed pace. The single marks were barely noticeable by the time the meeting ended.

Date SEP 08 1988

Inner News

Radical plan may eliminate e. side setnets

by Joel Gay 0420
Managing Editor

Setnetters on the east side of Cook Inlet would fish through the summer of 1990, then shut down forever under a plan by Anchorage anglers to put more kings and reds into the Kenal and Kaslof Rivers.

"Project US" is the pet of the Kenal River Sportfishing Association, headed by Anchorage businessman Bob Penney. The proposal, the group maintains, would end the long-standing dispute between sport and commercial fishermen over who should harvest the Kenal River kings.

Setnetters call the idea ridiculous.

It would eliminate all commercial fishing within three miles of shore from Ninilchik to the East Foreland, which would dramatically increase the number of kings and reds in the rivers available to anglers. Any fish not hooked and not needed for escapement would be herded into a pen about 40 miles upriver and harvested.

Everyone wins, according to the proposal. Sport fishermen would have more fish and therefore better fishing. Setnetters could either collect a percentage of the fish trap proceeds without working or keep their permit and fish elsewhere in Cook Inlet. And biologists would have better control over escapement.

It would require the Alaska Legislature to radically change some existing state law, including to approve the use of fish traps. But if they don't act, the angling group is prepared to put it on the ballot and have state voters decide the idea.

See "Setnetters," Page 21

... Setnetters would be shut down

0420

Cont. from Page 1

"We've got both short and long-term game plans to address this," said Ken Wardwell, president of the sportman's group. "We're very serious about it. And even though we're sportmen, we feel it's beneficial to Cook Inlet setnetters."

Economics is the bottom line of their argument. In late 1987, the Dept. of Fish and Game released an economic analysis of sportfishing in Southcentral Alaska. The exhaustive study, done by a Sacramento, Calif. economics consultant considered to be among the best in the field, surveyed thousands of resident and visiting anglers and determined how much they spend on fishing — \$127 million in 1988.

The Kenal River is the major attraction in Southcentral and over \$38 million was spent that year on fishing the river's salmon and trout. Included in that figure is the cost of flying to Alaska from Outside, rental cars, lodging, eating and drinking, guides, boat repairs, salmon eggs, waders and all other goods and services.

Compare that to the ex-vessel value of the setnetters' catch, \$19 million, and it becomes the heart of the anglers' argument. They say it would make more sense, economically, to manage upper Cook Inlet salmon stocks for the benefit of anglers, and ditch the current plan that gives priority to commercial fishermen.

In short, Project US says, "Kenal River stocks may provide more overall benefit to the people of Alaska if their primary purpose is for use in the sport fishery."

But setnetters say the Kenal River group is missing the point. "I don't agree with their premise," said Gene Palm, a board member of the Cook Inlet Fishermen's Association. The anglers can talk about economic justification, but "what it comes down to is they don't like to see us catch those fish," he said.

The setnetters have caught up to 20,000 kings in a year, but average closer to 12,000. Mr. Palm contends that closing down the east side of Cook Inlet is too radical a move to get a few thousand more kings up the river.

His family has been fishing on the Salamafol beaches north of the Kenal River for nearly 30 years. Now it is a three-family operation, he said, with five permits — 15 nets in all.

"If (our families) were shut down, the Kenal River would have gotten another 50 kings this year. Of those, 20 would have been caught. That's seven kings per family and we don't think that's a fair cost."

And the idea of being paid not to fish reeks, he said. "It doesn't take into account the other reasons why people do this for a living. We fish because we want to fish. Contrary to what a lot of people think, money is not the reason. My family works together; there is a lot of teamwork, camaraderie, planning — those are values that don't come just from money."

Project US would build, at a cost of about \$9 million, a fish trap roughly 40 miles upstream on the Kenal River. They hired former Fish and Game biologist Dave Dalry to help design the trap. All kings and reds would enter the trap; those necessary for escapement would be released and all others would be harvested.

Processors would be waiting for the fish, which would be in mint condition, Mr. Wardwell said. Some setnetters say the fish would be in terrible condition after swimming 40 miles upstream, but the sportfishermen contend they would not. Reds taken even further, at the the Russian River, are usually bright and some still have sea lice, he said.

However, the anglers have already been warned that their proposal could bog down in a bureaucratic nightmare. Mr. Dalry wrote the group in January that environmentalists could have a field day with the idea of flooding the Kenal and Kaslof rivers with reds, which would overcrowd the banks and the water with fishermen. It will require numerous state and federal permits, and getting them may be tough, he said.

But the first hurdle comes this winter. The sportfishing association has sent a copy of their proposal to the Board of Fisheries and hope to win the board's concurrence. The final say lies with the Alaska Legislature, which would have to amend existing law for Project US to become a reality.

If the legislature balks, Mr. Wardwell said the group is already working on the process to put the plan to Alaskan voters.

However, if the legislature buys Project US and everything else works out as planned, setnetters would fish the summer of 1990 and then be done.

Opinion

Project US is a proposal by one sport-fishing group for an ambitious program aimed at enhancing sport fishing by buying the set netters off the beaches. It is offered as a way to provide fairly for conflicting interests in a limited resource — the salmon of the Kenai and Kaslof rivers.

The proposal is built on the premise that something is radically wrong, and it therefore suggests a radical solution. This is where it runs into problems both practical and political, for it proposes an unprecedented fish-trapping program to replace a system that has worked effectively, if not perfectly, for almost two decades.

Up a busy river

What is radically wrong? According to Project US, there is "an inequity in the current allocation scheme for Kenai River salmon" in that a few hundred commercial set netters who work the eastside Cook Inlet beach sites from July 1 to Aug. 15 catch more king salmon each

year than an estimated 100,000 rod-and-reel anglers on the Kenai River.

This premise is underscored, in the Project US view, by a study that sportfishermen believe proves the sport-caught king is much more valuable to the local economy than the commercial-caught king, and the belief that it could be even more so if more salmon were allowed to reach the river.

This emphasis is promoted by Bob Penney and Ken Wardwell of Anchorage, the leaders of Project US and of the Kenai River Sportfishing Association. In their 67-page Project US proposal, they admit to working from a bias, but they also earnestly beseech others to consider the potential they offer for solving longstanding differences. Their idea: let the salmon enter the river and provide for the set netters' incomes and the processing industry's salmon supply by trapping the red salmon at Mile 40 up the Kenai River.

Here are some of the problems:

1. The study Project US cites for the value of the sport-caught fish adds to that value all related economic factors (buying groceries or meals or gas in Soldotna or Kenai or Ninilchik, and so on) vs. considering the value of the commercially caught fish on the basis of its sales price at the dock alone. Failure to roll in the factors of employment on beach sites or drift boats, of cannery sales and cannery jobs, and the degree of local residents hired (as opposed to Anchorage fishermen who take their money home) distorts the data.

Kenai Peninsula Fishermen's Association
Board of Fisheries Confirmation Hearings

2. Regardless of the actual king salmon catch (12,250 estimated by rod and reel in 1987), the evidence is that 53,000 kings got into the Kenai River that same year, and there is reason to doubt that (a.) the sport catch will increase significantly by having more fish in the river or (b.) that the river can bear much more traffic without grossly multiplying adverse environmental effects and the risk of actually killing off the habitat that makes the king salmon fishery possible to begin with.

3. Project US proposes private financing for the fish-trap operation, yet does not spell out how this could be done consistent with governmental responsibilities or how the removal of the free market could improve, or at least not hurt, the economy.

4. Project US postulates that the 40-Mile red salmon is as edible and commercially desirable as the beach-caught salmon, but the set netters counter that the deterioration of the important salmon oils and the natural changes proceeding within the salmon after he enters the river make the 40-Mile fish a significantly inferior product. They further claim that the beach-caught fish, not subject to being crushed in the bottom of a drift boat's hold for up to 24 hours, is the highest quality commercial catch available from wild stocks.

5. Set netters like their work, subscribe to the work ethic, and do not wish to sit at home collecting checks from Bob Penney & Co. Furthermore, the removal of their work would remove the jobs of all their employees, and replace them with nothing.

Project US is being proposed to the state Board of Fisheries early this winter. Now is not too soon for the public to review and debate its merits.

Quotable

Catching a trophy size Kenai king in a set net is the same as cutting down a redwood tree for firewood.

Ken Wardwell, president, Kenai River Sportfishing Assoc.

'Project US' hot topic at chamber

A capacity crowd showed up to hear the Kenai Peninsula Fishermen's Association debate "Project US" with its supporters Tuesday at the Soldotna Chamber of Commerce luncheon.

Each side discussed the issue for 20 minutes, then fielded questions for 20 minutes.

Ken Wardwell, president of the Kenai River Sport Fishermen's Association, and David Daisy, Project US fisheries consultant, defended the proposal to eliminate eastside set netting in favor of a fish trap located upriver from prime sport fishing spots.

Ninilchik resident Cheryl Sutton, set netter Gene Palm and their fishermen's cooperative's new executive director Loren Flagg spoke out against the plan.

"Project US, we believe, is a solution to the long-term conflict between commercial fishermen and sport fishermen," Wardwell said. "We are a strong and biased advocate for sport fishing."

"We believe that everybody wins," he said.

The plan calls for a fish trap at

Mile 40 on the Kenai River. Commercial fishermen could harvest more efficiently, escapement could be better controlled, and sport fishermen could take more fish, he said.

Daisy said the plan is needed because he expects sockeye salmon runs to average 2 million fish in the future. He also predicts falling prices due to ocean ranching and Atlantic salmon farming, and increasing sport fishing pressure on the Kenai.

"It spells change," Daisy said, adding, this is where Project US makes sense. He invited the audience to do its own research and reach its own conclusions, instead of just agreeing with one side or the other.

Sutton said eastside set netters are willing to risk lower fish returns, but not the risks of letting Project US ban set netting. She said no set netter supports the plan, which she called socialism.

"We (set netters) love what we do and that's why we do it," she said. "We're people who have been

involved in a heritage we're very proud of."

Sutton also used an economic approach. She said set netters employ thousands of workers directly and thousands more indirectly.

Palm, a set netter, also called Project US socialistic. He said there is no reason to predict smaller runs, and denied claims that set netting takes too much of the king salmon return.

"The best use of our fisheries is multiple use," Palm said. "It's unreal to expect final and complete solutions."

Flagg, who also guides on the Kenai River, said both commercial and sport fishermen deserve a place on the Kenai. Almost every hand went up when Flagg asked if the audience agreed.

Flagg said Project US is environmentally dangerous. The proposed fish trap site is one of the more important juvenile salmon habitats, he said. Increasing the sport catch will mean more damage to banks from fishermen walking the shore.

Date OCT 14 1988

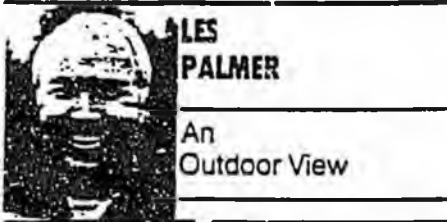
Peninsula Clarion

Client No. 0460

A fine kettle of fish: News and views, Project US to a 'gender bender'

When the Eastside set netters and the Project US guys eat lunch in the same restaurant, you can bet their food is a long time digesting.

And they weren't the only ones who felt the tension at last week's Soldotna Chamber of Commerce noon meeting. The controversy brought a "standing-room-only" crowd to watch the two adversaries argue about a plan that would put fish traps back in the Kenai River and kick the set netters off the Eastside beach. "I haven't seen this many people at a chamber meeting since Sam McDowell was here," Irv Carlisle said, remembering an earlier king salmon war.



LES PALMER

An Outdoor View

The set netters were there, looking prosperous after record year on Eastside beaches. Project US threatens their way of life, so they were on the edges of their chairs.

The fishing guides were there, looking prosperous after a record year on the river. Project US offers them hope, so they, too, were on the edges of their chairs.

Most of the rest of the crowd were chamber members, who showed up like the Riverside was church and it was Easter Sunday.

And it might well have been, given the silence that befell the crowd when chamber president-elect Phil Turkington called the meeting to order. Following the introductions of Team Setnet on his right, and Team Project US on his left, Turkington referred to the chamber's so-called neutral stance on the Project US issue, saying, "We don't take a stand one way or the other."

Then, trying to lighten the obvious strain, he said, "Frankly, as a businessman, I love them both." The crowd laughed politely.

Ken Wardwell, a Project US spokesman, was first to speak, and his nervous attempts at humor in his opening remarks were met by a silence I'd thought impossible in such a crowded room.

The "US" in Project US stands for "Ultimate Solution," Wardwell said, meaning it would resolve the conflict between Kenai River king salmon anglers and Eastside set netters. "We believe that everybody wins," he said.

But he obviously hasn't had a heart-to-heart chat with set netter Cheryl Sutton, who said, "If anyone thinks Project US is a good idea, I want to see you after this meeting."

The set netters, scarred from many battles, had their nets well fixed up, and very little got by them. The Project US group, on the other hand, seemed to be fishing with a half-empty tackle box.

Wardwell went in over his head at least twice.

'We don't want to come across as glamorous. We're just fishermen. We believe in the idea, and we're going to get the word out, whether we stumble or not.'

Ken Wardwell, Project US

Several people challenged him when he said, "Eastside set netters catch two-thirds of the kings." Even his own team couldn't pull him out of that one.

A woman sitting at a table jammed with set netters stood and said that, although Project US is aimed at Eastside set netters, it would also displace the drift fleet, which had been moved close to Eastside beaches in 1987 and 1988 to protect Susitna salmon. Her remark was answered with silence.

I expected better from the Project US folks. Too bad. If this was the opening battle in a new fish war, the set netters won it hands down, as they have won so many in the past.

I talked to Ken Wardwell after the meeting. When I asked him if he thought he had been adequately prepared, he said, "We don't want to come across as glamorous. We're just fishermen. We believe in the idea, and we're going to get the word out, whether we stumble or not."

The supporters of Project US didn't ask for my opinion, but here it is anyway: When you're proposing something that jeopardizes the livelihoods of every commercial fisherman in Cook Inlet, there's damn little difference between stumbling and falling flat on your face.

Fish and politics don't mix. Or do they? Former governor Jay Hammond thinks they should — at least when salmon are being intercepted in large numbers before they reach traditional fisheries. Hammond says most fishermen have reached the conclusion that the legislature, not the Board of Fisheries or the Department of Fish & Game, should set policy when it comes to interception.

The idea makes sense. Interception of salmon is politics, whether on the high seas, or off Egegik in Bristol Bay. But the thought of the legislature being involved at all is enough to make you shudder.

Also on the subject of fish and politics is a column by Tom Elias, president of the Alaska Sportfishing Association, in that group's latest newsletter. The ASA was badly disappointed by Gov. Steve Cowper's recent appointment of Mike Chihuly to the Board of Fisheries. Why?

In a letter to Cowper, the ASA complained that Chihuly has had nothing to do with sportfishing organizations and has not been involved in the issues of importance to sport fishermen. Worse, the

ASA complained, Chihuly lives in Ninilchik, a small community with commercial fishing, not sportfishing, as its base. They asked that Cowper reconsider and appoint Joe Skrna, of Kenai, instead.

Cowper's response? He didn't even answer, Elias said.

Summarizing his column, Elias writes, "A lot of us believe the only way to get sport fishing representatives appointed to the Board of Fisheries by Governor Cowper is to nominate someone acceptable to the Eastside set net fishermen. Welcome to another chapter of Alaskan politics."

Only time will tell about Cowper's choice for the board. But neglecting to respond to a group of his constituents as large as the ASA might just prove a serious error, come next election.

I know some of you may think otherwise, but I try to keep this column relatively free from sexist language. You know the kind: "That trail up Bearbreath Mountain really separates the men from the boys." Stuff like that.

Oh, sure. I kid around at times, but you gals can take a little joke. Right?

I have limits, though, and the word *fisherman* is one. I've seen this word abused several times, lately, and it's time to put a stop to it.

What abuse? I refer to the use of such non-words as *fisherpersons* and *fisherwoman*. I won't even waste words on these, because there's one more deserving of scorn.

Just the other day, in this very newspaper, an editor (who will not be named) wrote *fisher* in reference to a fisherman of the female persuasion.

Object! Yes, the dictionary says that a fisher is one who fishes. But a fisher is also a flesh-eating animal of the weasel family, while the word *fisherman* has but a single meaning, and one that is universally understood and respected.

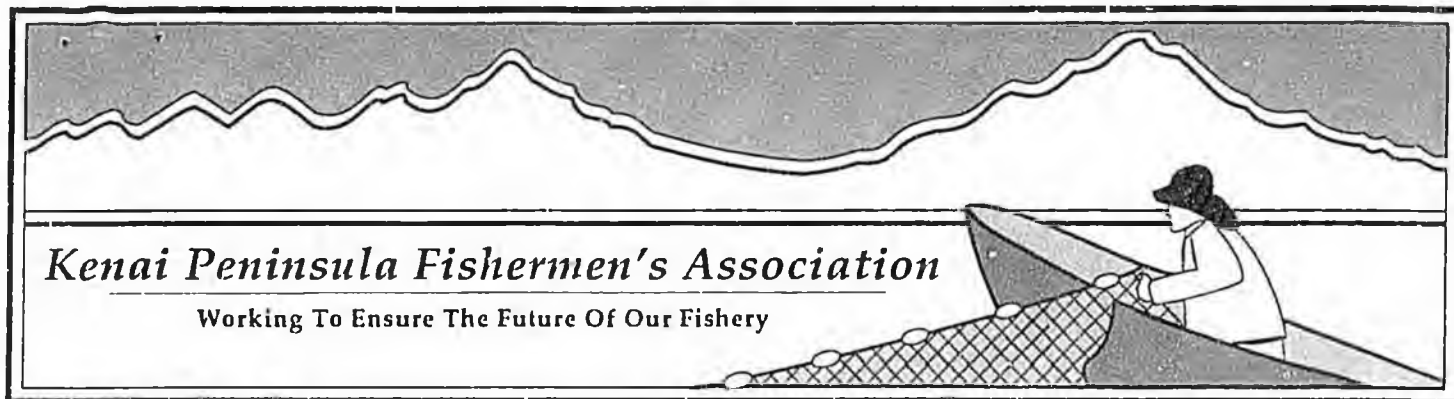
Need more reason? Back in 1979, when Juanita Kreps was the U.S. Secretary of Commerce, she attempted to pacify the militant feminists of her time by decreeing that *fishermen* would from that time forward be officially called *fishers*.

She should have asked the women fishermen first. The Pacific Coast Fishermen's Wives Coalition quirkily told Ms. Kreps what they thought of her *fisher*. Men were *fishermen*, by gawd, and so were women, and that was that!

And that was that. Somewhere, deep in the bowels of a musty file room in Washington, D.C., moulders a memo from J. Kreps to Staff, which puts the abominable *fisher* in its rightful place, which is under said memo. I believe that I speak for all fishermen — be they man or woman, sport or commercial, fin or shellfish — when I say it should stay there.

Any of you gals man enough to argue about it?

LES PALMER is a freelance writer who lives in Sterling, writes An Outdoor View for The Idea.



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492

April 4, 1991

Senator Lloyd Jones
Chairman, Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Jones:

The Kenai Peninsula Fishermen's Association (KPFA) requests that the legislature not confirm Ken Wardwell to an appointment on the Alaska Board of Fisheries.

KPFA is a group made up of about 400 commercial fishermen who fish primarily with set nets for salmon on the east side of Cook Inlet. This fishery is highly "political" and well publicized and has been the subject of a number of controversial Board of Fish hearings and court actions. As a result of our past experience with the Board we have acquired a keen awareness of the impact that decisions by the Board can have on the lives and livelihoods of our members as well as on other users of the State's fish resources.

Accompanying this letter are materials describing and documenting some of our experiences and concerns with Ken Wardwell, his conduct as President of the Kenai River Sport Fishing Association and his association with Bob Penny, a perennial and persistent antagonist of the commercial fishing industry in Cook Inlet. Our purpose in presenting this information is to offer a perspective on the Board of Fisheries and the role individuals from different backgrounds and groups have on the Board. We are quite concerned over the potential ill and divisive effects an appointment of an individual like Mr. Wardwell could have on that process.

We hope to convince you that Ken Wardwell should not be confirmed as a member of the Board of Fisheries because he has demonstrated in the past an inability to understand the large scope of fisheries issues that the Board deals with and an unwillingness to grapple with complexity. Rather he, and the Kenai River Sportfishing Association, have shown a propensity for advancing reckless, simplistic and ill conceived solutions to allocation conflicts that either ignore or

distort the best available information. We question his ability to be fair. The chance that he could be effective in getting the Board of Fisheries to act in a similar manner doesn't bode well for us or the many other fish resource users in the state.

Thank you for taking the time to review these materials.

Sincerely,

Brent Johnson

Brent Johnson
President

Enclosures

cc: House Resource Committee Members
Rep. Mike Navarre
Rep. Gail Phillips
Senator Paul Fischer

JUSTIFICATION FOR REJECTING MR. KEN WARDWELL'S APPOINTMENT TO THE
ALASKA BOARD OF FISHERIES

The Board of Fisheries sets the policies and regulations that govern Alaska's largest renewable resource. The Alaskan seafood industry is the largest private sector employer in the State. Decisions made by this Board affect the livelihood and lifestyles of Alaskans more directly than perhaps any other Board in the state. It is accepted, even mandated, that various user groups' concerns need to be represented on the Board to ensure informed debate on all the issues. However, no Board member should represent a single user group.

Board members must have the ability and inclination to determine what is best for everyone involved. They must make decisions on what is best for the resource and the users overall and must represent and consider all Alaskans when making decisions as a Board of Fisheries member. The Board's success and credibility depends on *fair* and *impartial* members with the aptitude and motivation to deal with and comprehend a variety of statewide issues. The United Fishermen of Alaska passed a resolution to the effect at their annual meeting in February. (Appendix Page i). This resolution demonstrates the importance of due process within the framework of the Board of Fisheries to commercial fishermen across the entire state. Our government, including the Kenai Peninsula Borough Assembly and the Kenai and Soldotna City Councils also passed similar resolutions. (Appendix Pages ii - ix). We ask you to look at Mr. Wardwell's credentials to determine if he should (can) be considered an acceptable Board member.

The Kenai River Sportfishing Association (KRSA) was formed by a few anglers, notably Bob Penney, as a response to their frustration over what they felt was a skewed fisheries management system that, in their view, favored the relative small numbers of commercial fishermen over the large numbers of sport fishermen. The imbalance, they said, resulted in far too many fish (king salmon primarily) being harvested by those few commercial fishermen, again at the expense of the larger number of sport fishermen. The argument, while having superficial merit, does not hold up well when considered against the history of fish allocation in Cook Inlet, the major losses to the commercial fishery by further restrictive regulations, and the importance of both fisheries to the economic and social viability of the

Kenai Peninsula and the rest of the State.

From the beginning KRSA has advocated either the complete elimination of the east side set net (ESSN) commercial fishery or at the very least a drastic curtailment of it. Though Bob Penney, an Anchorage businessman and avid trophy king salmon angler has been and continues to be the primary spokesman for the KRSA, Ken Wardwell as President, has been active as well in the efforts of this group to restrict the ESSN.

In 1988, Mr. Wardwell took on a lead role in advancing Project US. This plan proposed the elimination of the set net fishery on the eastern shores of Cook Inlet. The fishery was to be replaced by fish traps in the Kenai and Kasilof Rivers. Proceeds from these fish traps would have been distributed in part to the displaced or eliminated ESSN. After a wide public airing and debate the plan was given little credibility by the commercial fishing industry, other sport fishing groups, the general public, management biologists, the Board of Fisheries, local government and legislators. Mr. Wardwell's advocacy of this plan hardly shows a working knowledge of fisheries issues. The "US" in Project US stood for "ultimate solution". The fact that Mr. Wardwell thinks ultimate solutions are possible in sensitive allocation issues and his willingness to eliminate an entire user group betrays a lack of understanding and sensitivity to other users' concerns.

We have enclosed newspaper clippings that attest to Mr. Wardwell's support for Project US and demonstrate his perception of the issues. We have also enclosed a list of questions we would like Mr. Wardwell to address for the public record. (Page 7).

During the 1988 Board of Fisheries deliberations on Cook Inlet Ken Wardwell, while testifying as President of KRSA, was accompanied to the microphone by Bob Penny, who literally took the microphone out of Mr. Wardwell's hands to answer questions he felt "needed" a more appropriate response. This incident may seem innocent enough to some but to us it raises serious questions about Mr. Wardwell's autonomy and ability to be an independent voice on the Board.

KPFA cannot forget what happened to the Board process when Bix Bonney, a

founding member of the KRSA and a close associate of Bob Penny, served on the board of Fisheries. In 1983 the Board of Fisheries, after intense exofficio lobbying by Mr. Bonney, "unexpectedly" reconsidered an earlier vote to maintain the status quo for the commercial fishing season and voted to set back its opening a week.

In 1987, the Board again voted in a split vote to impose a 7000 fish king quota on the ESSN. Amid allegations of vote trading that Board later in the year disintegrated. Bix Bonney, was deeply involved in the dissolution of the Board and was later forced to resign. During deliberations Mr. Bonney openly consulted with Mr. Penney by meeting with him during recesses in an adjoining suite and by accepting notes from him during deliberations. Mr. Bonny didn't even make any pretense of representing all users. He often declared his allegiance to the sport fishing industry and even broke from ongoing deliberations to conduct interviews with the TV media explaining the sport fishing point of view.

While Mr. Bonney is not at issue here, the role of KRSA and Mr. Penny is. It is not at all clear to us that Ken Wardwell is capable of being his own man on the board. In the past he's always played a subservient role to Mr. Penny and at this point there is no real indication that this will not continue. Mr. Wardwell's behavior and demeanor at the recent Board of Fisheries hearings in Juneau ring a familiar "Bonney" theme. At one point the Board had to go into a special executive session to bring Mr. Wardwell in line. (Appendix Page x). Rather we feel there is evidence to suggest that Mr. Wardwell is mainly a player delivering on a campaign promise made in person by Governor Hickel to.....you guessed it,.... Bob Penny.

Governor Hickel promised in his campaign that he would appoint members to the Board of Fisheries who not only understood the sport fish perspective but would advance it. KPFA has had a number of meetings with Governor Hickel's special assistant on fisheries, Clem Tillion. He has told us that Governor Hickel had made the decision that politically a major restriction to the ESSN was in his best interest. Mr. Tillion told us that Governor Hickel would appoint *his* people to the Board of Fisheries to accomplish this goal. He went on to state further that if the Board members did not accomplish this agenda they would be fired and replaced with people who would. We believe the appointment of Mr. Wardwell is the start of fulfilling of a campaign promise.

The role of politics in fisheries allocation has been debated for a long time. It is unlikely that politics can ever be completely excluded from fisheries decisions. After all, politics at its roots are concerned with the people and the decisions and laws that govern them. However, from a practical standpoint and even a legal one, it seems to us that the less involvement by politics the better. Clem Tillion, in an interview with the *The Alaska Commercial Fisherman*, said that it was a mistake to put people with different interests and philosophies on the Board of Fisheries because it tended to hamstring the Board. Rather, he said, it was the Governor's responsibility to set fisheries policy and the Board's responsibility to determine the mechanics of that policy. We heartedly and earnestly disagree. If Mr. Tillion is correct then why didn't the framers of the State's constitution just make fish allocation the responsibility of the Department of Fish and Game itself? It seems obvious to us that the mechanism for fish allocation is meant to be a diffuse one, with the powers more than an arm's length from the governor. If there is any area of the state where policies need to be developed through a consensus from people of various backgrounds it is that of fish and game management.

Of all Boards, the Board of Fisheries should be free of political interference. This board regulates the lives of thousands of Alaskans. It is no place for appointments made in response to political promises.

KPFA is not opposed to the appointment of individuals with sport fishing backgrounds to the Board of Fisheries. Bud Hodson and Mike Chihuly, both who served recently, had such backgrounds and in our opinion served conscientiously and competently. Our experience and knowledge of Irv Carlisle suggest that his appointment to the Board is also a good one. We have always stated that it is not an individual's background which determines whether or not he/she can be a good Board member but rather personal qualities of competence and integrity. Ken Wardwell may fit those criteria, but his past actions, statements and associations suggest otherwise.

Again, we ask that you do not confirm Mr. Ken Wardwell to a seat on the Board of Fisheries.

QUESTIONS FOR MR. WARDWELL - CONFIRMATION HEARINGS 1991

1. What in your opinion is the job of the Alaska Board of Fisheries. What is the role of the general public in the Board of Fisheries process.
2. What qualifications and experience do you bring with you to the Board or what attributes do you have that you think make you qualified to serve the State of Alaska in the capacity of a Board of Fisheries member.
3. Clem Tillion, Special Fisheries Assistant to Governor Hickel, has stated that offshore setnets in Cook Inlet must be reduced. Do you believe that the offshore setnets in Cook Inlet constitute a biological problem for Kenai River king salmon. Have you discussed this issue with Mr. Tillion, Governor Hickel, or anyone else in the Hickel administration. If so what was the nature of your discussion. Were any commitments made regarding offshore setnets or other fisheries issues in Cook Inlet.
4. What are the goals of the Kenai River Sportfishing Association. What are the membership eligibility requirements for belonging to KRSA. How many people are members of KRSA.
5. What is your relationship with Bob Penny. Regarding Project US, do you still feel that eastside setnet fishermen should be eliminated. Do you still feel there is an "Ultimate Solution" to the Cook Inlet commercial/sport controversies. While promoting Project US, you were quoted in the Homer News (Appendix Page xi) as saying, "Kenai River stocks may provide more overall benefit to the people of Alaska if their primary purpose is for use in the sport fishery." Do you still believe this.
6. Do you think the Kenai River King Salmon Management Plan developed in December of 1988 and amended in December of 1990 will help protect king salmon. How do you feel about this plan in relationship to the sport and commercial conflicts. Do you think any additional changes in the plan are needed. If so, what changes.
7. Do you feel the unknown potential economic values of an undeveloped fishery are more important than the known economic values of an existing fishery. If so, why.
8. What mechanisms do you intend to use when you evaluate various fisheries relative to allocation decisions. Is history of a fishery an important mechanism to you. Is the number of local participants in a fishery an important consideration.

APPENDIX



UNITED FISHERMEN OF ALASKA

211 4th Street, Suit 112
Juneau, AK 99801
907-586-2820
Fax# 907-463-2545

Resolution 91-2

A Resolution in Support of the Board of Fish Process

BE IT RESOLVED BY THE UNITED FISHERMEN OF ALASKA:

WHEREAS commercial fisheries are renewable resources, a major employer of Alaska residents, significantly benefit the State as a whole, and that individual fisheries are extremely important to local economies; and

WHEREAS the public input process of the Board of Fisheries ensures that affected user groups and communities are able to voice concerns and support for proposed regulations; and

WHEREAS fair and impartial members able to deal with a variety of statewide issues are the basis for the success and credibility of the Board of Fisheries; and

WHEREAS regulations generated by the Board of Fisheries should be based on the Alaska Department of Fish and Game's statistics, biological data, and public input and not political considerations; and

WHEREAS the Board of Fisheries has proven it can develop suitable management plans for mixed stock fisheries having multiple user groups.

BE IT RESOLVED by the United Fishermen of Alaska that the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Board of Fisheries without political interference;

BE IT FURTHER RESOLVED by the United Fishermen of Alaska that the Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues without political interference;

BE IT FURTHER RESOLVED by the United Fishermen of Alaska that new Board of Fisheries members be appointed as seats become available and that those who are appointed are honest, informed, and impartial, and do not have preconceived agendas to carry out on any fisheries issues.

COPIES of this resolution shall be sent to the Honorable Walter J. Hickel, Governor of the State of Alaska; Mr. Ron Somerville, Acting Commissioner of Fish and Game; and the members of the Alaska State Legislature House and Senate Resources Committees.

APPROVED BY UNITED FISHERMEN OF ALASKA'S
BOARD OF DIRECTORS

February 6, 1991

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Alering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fisherman
Cook Inlet Aquaculture Association
Copper River Fisherman's Cooperative
Kordova District Fisherman United
Kenai Peninsula Fisherman's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prin William Sound Selnere Association
Sea. Producers Cooperative
Southeast Alaska Selnere
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

Kenai Peninsula Fishermen's Association
Board of Fisheries Confirmation Hearings

Appendix Page ii

Introduced by: Glick,
O'Connell, McLane, Walli
Date: February 5, 1991
Vote: UNANIMOUS
Action: ADOPTED AS AMENDED

KENAI PENINSULA BOROUGH

RESOLUTION 91-14

A RESOLUTION IN SUPPORT OF THE EASTSIDE COOK INLET SETNET FISHERY

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over thirty years; and

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and

WHEREAS, the vast majority (87%) of Cook Inlet setnet permit holders are Alaska residents with over two-thirds being residents of the central Kenai Peninsula; and

WHEREAS, the eastside setnet fishery is a major economic factor within the Kenai Peninsula Borough, with an annual ex-vessel catch value for the past five years averaging \$27.9 million, employing many people in the fishery, processing and transportation industry, and directly contributing to the Kenai Peninsula Borough through real and personal property, sales and raw fish taxation; and

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed and implemented a biologically based management plan providing protection reduced interception of king salmon by establishing both minimum and optimum escapement goals; and

WHEREAS, the eastside setnet fishery targets the red salmon run and has taken measures to reduce the catch of king salmon, significantly reducing the incidental harvest in recent years and plans to institute a voluntary program dedicating the revenues from incidental catch of king salmon to improvement of Kenai River habitat;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Assembly of the Kenai Peninsula Borough urge Governor Walter J. Hickel, the Alaska Board of Fisheries, and the Alaska State Legislature to fully examine the biological,

Kenai Peninsula Borough
Resolution 91-14
Page 1 of 2 Pages

social, and economic impacts of any proposed action to limit seynets along the eastside of Cook Inlet.

Section 2. That the Alaska Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues based upon biological considerations.

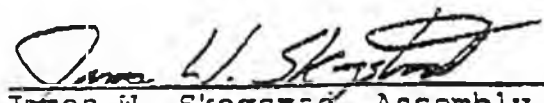
Section 3. We respectfully request that new and continuing members of the Alaska Board of Fisheries exhibit a high degree of integrity and an ability to be fair and impartial in arriving at their decisions.

Section 4. That the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries without interference.

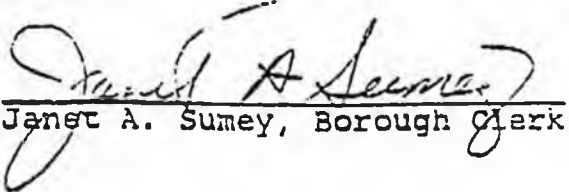
Section 5. That copies of this resolution be sent to Governor Walter J. Hickel, members of the House and Senate Resources Committees, and members of the Kenai Peninsula delegation.

Section 6. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 5th DAY OF February, 1991.


James W. Skogstad, Assembly President

ATTEST:


Janet A. Sumey, Borough Clerk

SUBSTITUTE

Suggested By: Councilwoman Monfor

CITY OF KENAI

RESOLUTION 91-2

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, IN SUPPORT OF THE EASTSIDE COOK INLET SETNET FISHERY.

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over thirty years; and,

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and,

WHEREAS, the vast majority (87%) of Cook Inlet setnet permit holders are Alaska residents with over two-thirds being residents of the central Kenai Peninsula; and,

WHEREAS, the eastside setnet fishery is a major economic factor within the Kenai Peninsula Borough, with an annual ex-vessel catch value for the past five years averaging \$27.9 million, employing many people in the fishery, processing and transportation industry, and directly contributing to the Kenai Peninsula Borough through real and personal property, sales and raw fish taxation; and,

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed and implemented a biologically based management plan providing protection reduced interception of king salmon by establishing both minimum and optimum escapement goals; and,

WHEREAS, the eastside setnet fishery targets the red salmon run and has taken measures to reduce the catch of king salmon, significantly reducing the incidental harvest in recent years and plans to institute a voluntary program dedicating the revenues from incidental catch of king salmon to improvement of Kenai River habitat;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1: That the Council of the City of Kenai urge Governor Walter J. Hickel, the Alaska Board of Fisheries, and the Alaska State Legislature to fully examine the biological, social, and economic impacts of any proposed action to limit setnets along the eastside of Cook Inlet.

Section 2: That the Alaska Board of Fisheries be allowed to promulgate regulations regarding fisheries management and allocation issues based on biological considerations.


Section 3: We respectfully request that all new and continuing members of the Alaska Board of Fisheries exhibit a high degree of integrity and an ability to be fair and impartial in arriving at their decisions.

Section 4: That the Alaska Department of Fish and Game be allowed to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries without interference.

Section 5: That copies of this resolution be sent to Governor Walter J. Hickel, members of the House and Senate Resources Committees, and members of the Kenai Peninsula delegation.

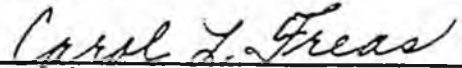
Section 6: That this resolution shall take effect immediately upon its adoption.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, the sixth day of February 1991.



John J. Williams, Mayor

ATTEST:



Carol L. Freas, City Clerk

(2/6/91)

CITY OF SOLDOTNA

RESOLUTION 91-3
(Proposed by Mayor Davis)

A RESOLUTION CONCERNING THE COOK INLET EASTSIDE SETNET FISHERY

WHEREAS, the offshore setnet fishery in Cook Inlet has been a legal and accepted method of fishing for over 30 years; and

WHEREAS, the target species for the Cook Inlet setnet industry is sockeye salmon; and

WHEREAS, 87% of all Cook Inlet setnet permit holders are residents of the State of Alaska and 69% are residents of the central Kenai Peninsula Borough; and

WHEREAS, the annual ex-vessel value of the eastside setnet fishery averaged \$27.9 million (1985-1990); and

WHEREAS, studies indicate eastside setnet fishermen who are Kenai Peninsula Borough residents earned an average of \$19.3 million per year between 1985 and 1990 of which 67% is spent within the Kenai Peninsula Borough; and

WHEREAS, the Alaska Board of Fisheries established boundaries on this fishery in 1978 of one and one-half miles offshore south of the Kenai River and one mile offshore north of the Kenai River; and

WHEREAS, the increase of nets within these legal areas was the result of increased wild sockeye salmon returns to the Kenai River; and

WHEREAS, Alaska Department of Fish and Game data indicates the increase in setnets has not resulted in an increased proportion of king salmon catch by commercial setnetters; and

WHEREAS, Governor Hickel's Special Assistant on Fisheries, Clem Tillion, has stated that the offshore nets in Cook Inlet do not constitute a biological problem; and

WHEREAS, the Alaska Department of Fish and Game and the Alaska Board of Fisheries have developed a Kenai River Late Run King Salmon Management Plan that provides adequate protection to late run king stocks; and

WHEREAS, during the 1990 season the minimum late run Kenai River king salmon escapement goal was exceeded by over 10,000 fish, while the optimum goal was exceeded by nearly 3,500 king salmon; and

WHEREAS, eastside setnet fishermen have been releasing the majority of live king salmon from their nets since 1987 in an effort to allow additional kings to enter the Kenai River; and

WHEREAS, since inception of the Kenai River King Salmon Management Plan in 1988, the percentage of the late Kenai River king catch in the commercial fishery has declined from 26% to 19%; and

WHEREAS, during the 1990 season the eastside setnet incidental catch of king salmon declined to an all time low of 11% of the Kenai River king salmon total return; and

WHEREAS, the amended Kenai River King Salmon Management Plan now requires the commercial fishermen to share the burden of obtaining the optimum king salmon escapement goal; and

WHEREAS, during the 1991 season many eastside setnet fishermen plan to donate the proceeds of their king salmon catch to a fund to benefit king salmon habitat and support king salmon research needs; and

WHEREAS, Governor Hickel's Special Assistant on Fisheries, Clem Tillion, has stated publicly the intention of the Hickel administration to drastically reduce the number of setnets along the eastside of Cook Inlet and has told the Kenai Peninsula Fishermen's Association Board of Directors that there will be no compensation for those fishermen eliminated from the fishery; now, therefore,

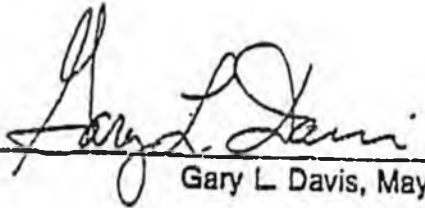
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA ALASKA AS FOLLOWS:

Section 1. That the City Council of the City of Soldotna hereby requests the Governor of the State of Alaska, Walter J. Hickel, to:

- A. Examine fully the biological, social and economic impacts of any proposed action to limit setnets along the eastside of Cook Inlet;
- B. Allow the Board of Fisheries to promulgate regulations regarding fisheries management and allocation issues utilizing biological data;
- C. Allow the Alaska Department of Fish and Game to manage fisheries according to the management plans and regulations established by the Alaska Board of Fisheries;
- D. Appoint new Board of Fisheries members as seats become available and who are informed, impartial, and who do not have a preconceived agenda to carry out on any fisheries issue.

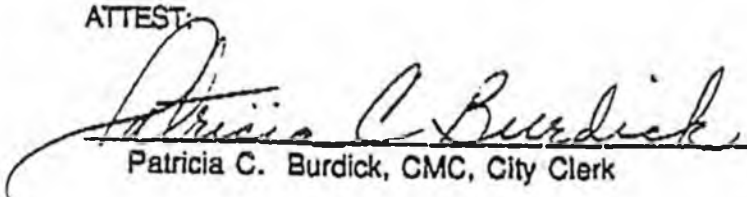
Section 2. The City Clerk is requested to send a copy of this Resolution to Governor Walter Hickel, all State Senators and Representatives who represent the Kenai Peninsula Borough, Clem Tillion, Special Assistant to Governor on Fisheries Issues, and the Acting Commissioner, Alaska Department of Fish

ADOPTED this 6th February, 1991.



Gary L. Davis, Mayor

ATTEST:



Patricia C. Burdick, CMC, City Clerk

Learning the ropes:

Leadership, but whose?

by BOB TKACZ

The Board of Fisheries meeting on Southeast finfish proposals was the first for new board members Ken Wardwell, an Anchorage real estate broker, and Soldotna accountant Irv Carlisle, appointed by Gov. Walter J. Hickel to fill vacancies created by the voluntary departures of Bud Hodson and Mike C. Mihuly in January.

Technically, the changes only replaced experienced sport fishing advocates with less seasoned sport fishing advocates in board make-up.

Politically charged atmosphere

However, the politicized atmosphere generated by Hickel minions and what many perceive as their blind guy with a sledge hammer approach to state board appointments in general and the already touchy subsistence controversy in particular left commercial fishermen nervous and board members skittish during the meeting in Juneau.

With 13 years experience on the Kenai/Soldotna local advisory committee, Carlisle started his state board tenure conservatively.

But Wardwell took a running leap into board life on several commercial proposals with little more than a passing nod to the board's semi-formal traditions. After twice failing even

to muster seconds to allow his motions to be debated, he displayed his political shorts pants with a quick you-don't-like-me-cause-I'm-a-sportfisherman whine.

Personality conflicts

Later that same day personality conflicts erupted again and the board began the next morning with a 90-minute closed session. Even Laird Jones, Division of Boards director and Fish Board chief of staff, was invited to leave and a "get here, and now" call was made to fish and game commissioner C. Ed Rosier to fulfill his formal role of ex officio secretary to the board.

While outside the Baranof Hotel meeting room speculation among board observers kicked out of the executive session ran toward the idea that Wardwell is the governor's sport fishing enforcer disguised as the Pillsbury doughboy and other board members might be experimenting with sliced bread, the secret discussion was apparently a straight talking "This is how we do things around here" lesson.

In any event, everyone emerged smiling from the very private meeting. Rosier hotfooted it for the governor's office and the board session continued at a noticeably more relaxed pace. The single marks were barely noticeable by the time the meeting ended.

Date SEP 08 1988

Header News

Radical plan may eliminate e. side setnets

by Joel Gay
Managing Editor 0460

Setnetters on the east side of Cook Inlet would fish through the summer of 1990, then shut down forever under a plan by Anchorage anglers to put more kings and reds into the Kenai and Kaslof Rivers.

"Project US" is the pet of the Kenai River Sportfishing Association, headed by Anchorage businessman Bob Penney. The proposal, the group maintains, would end the long-standing dispute between sport and commercial fishermen over who should harvest the Kenai River kings.

Setnetters call the idea ridiculous.

It would eliminate all commercial fishing within three miles of shore from Ninlichik to the East Foreland, which would dramatically increase the number of kings and reds in the rivers available to anglers. Any fish not hooked and not needed for escapement would be herded into a pen about 40 miles upriver and harvested.

Everyone wins, according to the proposal. Sport fishermen would have more fish and therefore better fishing. Setnetters could either collect a percentage of the fish trap proceeds without working or keep their permit and fish elsewhere in Cook Inlet. And biologists would have better control over escapement.

It would require the Alaska Legislature to radically change some existing state law, including to approve the use of fish traps. But if they don't act, the angling group is prepared to put it on the ballot and have state voters decide the idea.

See "Setnetters," Page 21

... Setnetters would be shut down

0460

Cont. from Page 1

"We've got both short and long-term game plans to address this," said Ken Wardwell, president of the sportsman's group. "We're very serious about it. And even though we're sportsmen, we feel it's beneficial to Cook Inlet setnetters."

Economics is the bottom line of their argument. In late 1987, the Dept. of Fish and Game released an economic analysis of sportfishing in Southcentral Alaska. The exhaustive study, done by a Sacramento, Calif. economics consultant considered to be among the best in the field, surveyed thousands of resident and visiting anglers and determined how much they spend on fishing — \$127 million in 1980.

The Kenai River is the major attraction in Southcentral and over \$38 million was spent that year on fishing the river's salmon and trout. Included in that figure is the cost of flying to Alaska from Outside, rental cars, lodging, eating and drinking, guides, boat repairs, salmon eggs, waders and all other goods and services.

Compare that to the ex-vessel value of the setnetters' catch, \$13 million, and it becomes the heart of the anglers' argument. They say it would make more sense, economically, to manage upper Cook Inlet salmon stocks for the benefit of anglers, and ditch the current plan that gives priority to commercial fishermen.

In short, Project US says, "Kenai River stocks may provide more overall benefit to the people of Alaska if their primary purpose is for use in the sport fishery."

But setnetters say the Kenai River group is missing the point. "I don't agree with their premise," said Gene Palm, a board member of the Cook Inlet Fishermen's Association. The anglers can talk about economic justification, but "what it comes down to is they don't like to see us catch those fish," he said.

The setnetters have caught up to 20,000 kings in a year, but average closer to 12,000. Mr. Palm contends that closing down the east side of Cook Inlet is too radical a move to get a few thousand more kings up the river.

His family has been fishing on the Salamatof beaches north of the Kenai River for nearly 30 years. Now it is a three-family operation, he said, with five permits — 15 nets in all.

"If (our families) were shut down, the Kenai River would have gotten another 50 kings this year. Of those, 20 would have been caught. That's seven kings per family and we don't think that's a fair cost."

And the idea of being paid not to fish reeks, he said. "It doesn't take into account the other reasons why people do this for a living. We fish because we want to fish. Contrary to what a lot of people think, money is not the reason. My family works together; there is a lot of teamwork, camaraderie, planning — those are values that don't come just from money."

Project US would build, at a cost of about \$3 million, a fish trap roughly 40 miles upstream on the Kenai River. They hired former Fish and Game biologist Dave Daisy to help design the trap. All kings and reds would enter the trap; those necessary for escapement would be released and all others would be harvested.

Processors would be waiting for the fish, which would be in mint condition, Mr. Wardwell said. Some setnetters say the fish would be in terrible condition after swimming 40 miles upstream, but the sportfishermen contend they would not. Reds taken even further, at the the Ruslan River, are usually bright and some still have sea lice, he said.

However, the anglers have already been warned that their proposal could bog down in a bureaucratic nightmare. Mr. Daisy wrote the group in January that environmentalists could have a field day with the idea of flooding the Kenai and Kaslof rivers with reds, which would overcrowd the banks and the water with fishermen. It will require numerous state and federal permits, and getting them may be tough, he said.

But the first hurdle comes this winter. The sportfishing association has sent a copy of their proposal to the Board of Fisheries and hope to win the board's concurrence. The final say lies with the Alaska Legislature, which would have to amend existing law for Project US to become a reality.

If the legislature balks, Mr. Wardwell said the group is already working on the process to put the plan to Alaska voters.

However, if the legislature buys Project US and everything else works out as planned, setnetters would fish the summer of 1990 and then be done.

Opinion

Project US is a proposal by one sport-fishing group for an ambitious program aimed at enhancing sport fishing by buying the set netters off the beaches. It is offered as a way to provide fairly for conflicting interests in a limited resource - the salmon of the Kenai and Kaslof rivers.

The proposal is built on the premise that something is radically wrong, and it therefore suggests a radical solution. This is where it runs into problems both practical and political, for it proposes an unprecedented fish-trapping program to replace a system that has worked effectively, if not perfectly, for almost two decades.

Up a busy river

What is radically wrong? According to Project US, there is "an inequity in the current allocation scheme for Kenai River salmon" in that a few hundred commercial set netters who work the eastside Cook Inlet beach sites from July 1 to Aug. 15 catch more king salmon each

year than an estimated 100,000 rod-and-reel anglers on the Kenai River.

This premise is underscored, in the Project US view, by a study that sportfishermen believe proves the sport-caught king is much more valuable to the local economy than the commercial-caught king, and the belief that it could be even more so if more salmon were allowed to reach the river.

This emphasis is promoted by Bob Penney and Ken Wardwell of Anchorage, the leaders of Project US and of the Kenai River Sportfishing Association. In their 67-page Project US proposal, they admit to working from a bias, but they also earnestly beseech others to consider the potential they offer for solving longstanding differences. Their idea: let the salmon enter the river and provide for the set netters' incomes and the processing industry's salmon supply by trapping the red salmon at Mile 40 up the Kenai River.

Here are some of the problems:

1. The study Project US cites for the value of the sport-caught fish adds to that value all related economic factors (buying groceries or meals or gas in Soldotna or Kenai or Ninilchik, and so on) vs. considering the value of the commercially caught fish on the basis of its sales price at the dock alone. Failure to roll in the factors of employment on beach sites or drift boats, of cannery sales and cannery jobs, and the degree of local residents hired (as opposed to Anchorage fishermen who take their money home) distorts the data.

Kenai Peninsula Fishermen's Association
Board of Fisheries Confirmation Hearings

2. Regardless of the actual king salmon catch (12,250 estimated by rod and reel in 1987), the evidence is that 53,000 kings got into the Kenai River that same year, and there is reason to doubt that (a.) the sport catch will increase significantly by having more fish in the river or (b.) that the river can bear much more traffic without grossly multiplying adverse environmental effects and the risk of actually killing off the habitat that makes the king salmon fishery possible to begin with.

3. Project US proposes private financing for the fish-trap operation, yet does not spell out how this could be done consistent with governmental responsibilities or how the removal of the free market could improve, or at least not hurt, the economy.

4. Project US postulates that the 40-Mile red salmon is as edible and commercially desirable as the beach-caught salmon, but the set netters counter that the deterioration of the important salmon oils and the natural changes proceeding within the salmon after he enters the river make the 40-Mile fish a significantly inferior product. They further claim that the beach-caught fish, not subject to being crushed in the bottom of a drift boat's hold for up to 24 hours, is the highest quality commercial catch available from wild stocks.

5. Set netters like their work, subscribe to the work ethic, and do not wish to sit at home collecting checks from Bob Penney & Co. Furthermore, the removal of their work would remove the jobs of all their employees, and replace them with nothing.

Project US is being proposed to the state Board of Fisheries early this winter. Now is not too soon for the public to review and debate its merits.

Quotable

□ Catching a trophy size Kenai king in a set net is the same as cutting down a redwood tree for firewood.

Ken Wardwell, president, Kenai River Sportfishing Assoc.

'Project US' hot topic at chamber

A capacity crowd showed up to hear the Kenai Peninsula Fishermen's Association debate "Project US" with its supporters Tuesday at the Soldotna Chamber of Commerce luncheon.

Each side discussed the issue for 20 minutes, then fielded questions for 20 minutes.

Ken Wardwell, president of the Kenai River Sport Fishermen's Association, and David Daisy, Project US fisheries consultant, defended the proposal to eliminate eastside set netting in favor of a fish trap located upriver from prime sport fishing spots.

Ninilchik resident Cheryl Sutton, set netter Gene Palm and their fishermen's cooperative's new executive director Loren Flagg spoke out against the plan.

"Project US, we believe, is a solution to the long-term conflict between commercial fishermen and sport fishermen," Wardwell said. "We are a strong and biased advocate for sport fishing."

"We believe that everybody wins," he said.

The plan calls for a fish trap at

mile 40 on the Kenai River. Commercial fishermen could harvest more efficiently, escapement could be better controlled, and sport fishermen could take more fish, he said.

Daisy said the plan is needed because he expects sockeye salmon runs to average 2 million fish in the future. He also predicts falling prices due to ocean ranching and Atlantic salmon farming, and increasing sport fishing pressure on the Kenai.

"It spells change," Daisy said, adding, this is where Project US makes sense. He invited the audience to do its own research and reach its own conclusions, instead of just agreeing with one side or the other.

Sutton said eastside set netters are willing to risk lower fish returns, but not the risks of letting Project US ban set netting. She said no set netter supports the plan, which she called socialism.

"We (set netters) love what we do and that's why we do it," she said. "We're people who have been

involved in a heritage we're very proud of."

Sutton also used an economic approach. She said set netters employ thousands of workers directly and thousands more indirectly.

Palm, a set netter, also called Project US socialistic. He said there is no reason to predict smaller runs, and denied claims that set netting takes too much of the king salmon return.

"The best use of our fisheries is multiple use," Palm said. "It's unreal to expect final and complete solutions."

Flagg, who also guides on the Kenai River, said both commercial and sport fishermen deserve a place on the Kenai. Almost every hand went up when Flagg asked if the audience agreed.

Flagg said Project US is environmentally dangerous. The proposed fish trap site is one of the more important juvenile salmon habitats, he said. Increasing the sport catch will mean more damage to banks from fishermen walking the shore.

Date OCT 14 1988

Peninsula Clarion

Client No. 0460

A fine kettle of fish: News and views, Project US to a 'gender bender'

When the Eastside set netters and the Project US guys eat lunch in the same restaurant, you can bet their food is a long time digesting.

And they weren't the only ones who felt the tension at last week's Soldotna Chamber of Commerce noon meeting. The controversy brought a "standing-room-only" crowd to watch the two adversaries argue about a plan that would put fish traps back in the Kenai River and kick the set netters off the Eastside beach. "I haven't seen this many people at a chamber meeting since Sam McDowell was here," Irv Carlisle said, remembering an earlier king salmon war.



LES PALMER

An Outdoor View

The set netters were there, looking prosperous after record year on Eastside beaches. Project US threatens their way of life, so they were on the edges of their chairs.

The fishing guides were there, looking prosperous after a record year on the river. Project US offers them hope, so they, too, were on the edges of their chairs.

Most of the rest of the crowd were chamber members, who showed up like the Riverside was church and it was Easter Sunday.

And it might well have been, given the silence that befell the crowd when chamber president-elect Phil Turkington called the meeting to order. Following the introductions of Team Setnet on his right, and Team Project US on his left, Turkington referred to the chamber's so-far neutral stance on the Project US issue, saying, "We don't take a stand one way or the other."

Then, trying to lighten the obvious strain, he said, "Frankly, as a businessman, I love them both." The crowd laughed politely.

Ken Wardwell, a Project US spokesman, was first to speak, and his nervous attempts at humor in his opening remarks were met by a silence I'd thought impossible in such a crowded room.

The "US" in Project US stands for "Ultimate Solution," Wardwell said, meaning it would resolve the conflict between Kenai River king salmon anglers and Eastside set netters. "We believe that everybody wins," he said.

But he obviously hasn't had a heart-to-heart chat with set netter Cheryl Sutton, who said, "If anyone thinks Project US is a good idea, I want to see you after this meeting."

The set netters, scarred from many battles, had their nets well lined up, and very little got by them. The Project US group, on the other hand, seemed to be fishing with a half-empty tackle box.

Wardwell went in over his head at least twice.

'We don't want to come across as glamorous. We're just fishermen. We believe in the idea, and we're going to get the word out, whether we stumble or not.'

Ken Wardwell, Project US

Several people challenged him when he said, "Eastside set netters catch two-thirds of the kings." Even his own team couldn't pull him out of that one.

A woman sitting at a table jammed with set netters stood and said that, although Project US is aimed at Eastside set netters, it would also displace the drift fleet, which had been moved close to Eastside beaches in 1987 and 1988 to protect Susitna salmon. Her remark was answered with silence.

I expected better from the Project US folks. Too bad. If this was the opening battle in a new fish war, the set netters won it hands down, as they have won so many in the past.

I talked to Ken Wardwell after the meeting. When I asked him if he thought he had been adequately prepared, he said, "We don't want to come across as glamorous. We're just fishermen. We believe in the idea, and we're going to get the word out, whether we stumble or not."

The supporters of Project US didn't ask for my opinion, but here it is anyway: When you're proposing something that jeopardizes the livelihoods of every commercial fisherman in Cook Inlet, there's damn little difference between stumbling and falling flat on your face.

Fish and politics don't mix. Or do they? Former governor Jay Hammond thinks they should — at least when salmon are being intercepted in large numbers before they reach traditional fisheries. Hammond says most fishermen have reached the conclusion that the legislature, not the Board of Fisheries or the Department of Fish & Game, should set policy when it comes to interception.

The idea makes sense. Interception of salmon is politics, whether on the high seas, or off Egegik in Bristol Bay. But the thought of the legislature being involved at all is enough to make you shudder.

Also on the subject of fish and politics is a column by Tom Elias, president of the Alaska Sportfishing Association, in that group's latest newsletter. The ASA was badly disappointed by Gov. Steve Cowper's recent appointment of Mike Chibuly to the Board of Fisheries. Why?

In a letter to Cowper, the ASA complained that Chibuly has had nothing to do with sportfishing organizations and has not been involved in the issues of importance to sport fishermen. Worse, the

ASA complained, Chibuly lives in Ninilchik, a small community with commercial fishing, not sportfishing, as its base. They asked that Cowper reconsider and appoint Joe Skirha, of Kenai, instead.

Cowper's response? He didn't even answer, Elias said.

Summarizing his column, Elias writes, "A lot of us believe the only way to get sport fishing representatives appointed to the Board of Fisheries by Governor Cowper is to nominate someone acceptable to the Eastside set net fishermen. Welcome to another chapter of Alaskan politics."

Only time will tell about Cowper's choice for the board. But neglecting to respond to a group of his constituents as large as the ASA might just prove a serious error, come next election.

I know some of you may think otherwise, but I try to keep this column relatively free from sexist language. You know the kind: "That trail up Bearbreath Mountain really separates the men from the boys." Stuff like that.

Oh, sure, I kid around at times, but you gals can take a little joke. Right?

I have limits, though, and the word *fisherman* is one. I've seen this word abused several times, lately, and it's time to put a stop to it.

What a abuse? I refer to the use of such non-words as *fisherpersons* and *fisherwoman*. I won't even waste words on these, because there's one more deserving of scorn.

Just the other day, in this very newspaper, an editor (who will not be named) wrote *fisher* in reference to a fisherman of the female persuasion.

Object! Yes, the dictionary says that a *fisher* is one who fishes. But a *fisher* is also a flesh-eating animal of the weasel family, while the word *fisherman* has but a single meaning, and one that is universally understood and respected.

Need more reason? Back in 1979, when Juanita Kreps was the U.S. Secretary of Commerce, she attempted to pacify the militant feminists of her time by decreeing that *fishermen* would from that time forward be officially called *fishers*.

She should have asked the women fishermen first. The Pacific Coast Fishermen's Wives Coalition quickly told Ms. Kreps what they thought of her *fisher*. Men were *fishermen*, by gawd, and so were women, and that was that!

And that was that. Somewhere, deep in the bowels of a musty file room in Washington, D.C., moulders a memo from J. Kreps to Staff, which puts the abominable *fisher* in its rightful place, which is under said memo. I believe that I speak for all fishermen — be they man or woman, sport or commercial, fin or shellfish — when I say it should stay there.

Any of you gals man enough to argue about it?

LES PALMER, a freelance writer who lives in Sitka, writes An Outdoor View for The Tides.

TELECOPY COVER SHEET

Ketchikan Legislative Information Office

Office - (907) 225-9875

Fax - (907) 225-8548

TO: Senate Resources Committee FAX: 465-2864 PHONE: _____

FROM: Tom Ramiskey PHONE: _____

INSTRUCTIONS: Written testimony - Ken Wardwell, Board of fisheries

RECEIVED: Date _____ Time _____

SENT: Date 4-10-91 Time 3:20PM

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 1 (Not counting cover sheet)

SENT BY: Rue



Alaska State Legislature

Please enter into the record my testimony to the Senate Resources Committee
committee name
committee on Confirmation - Board of Fisheries dated 4/10/91
bill/subject
nominee Ken Wardwell

I attended the recent Board of Fisheries meeting held in March at Juneau and offer the following comments regarding Board member Ken Wardwell: Obviously Mr. Wardwell was unfamiliar with certain aspects of commercial fishing here in Southeast, but in my opinion he made an honest effort to familiarize himself with the specifics of each fishery and to ~~study~~ acquaint himself with the issues; Mr. Wardwell did make the effort to be available to all ^{present} during breaks and before and after each daily session. In all fairness, I feel that he was ~~wholly~~ ridiculed and discredited by several of the other board members for his attempt to learn the specifics of the various fisheries.

Signed: Tom Ramirez
Testifier

Ketchikan Marine Charters
Representing (Optional)

428 Town - Vtn, AK 99901
Address

225-9225
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource
 committee on Ken Wardwell Confirmation to Board of Fisheries , dated _____ committee name
 _____ , dated _____ bill/subject

I support Ken Wardwell's confirmation, he will give a balance to the Board of Fisheries to provide support for Sport & Commercial and will be in the best of interest for the fish resource.

Signed: Ronald B. Walker
 Testifier

Representing (Optional)
P.O. Box 522 Soldotna, Ak 99667
 Address

262-1569
 Phone No.



**KENAI RIVER
SPORTFISHING ASSOCIATION, INC.
3620 Penland Parkway
Anchorage, Alaska 99508
907 * 276-2222**

April 8, 1991

Senator Lloyd Jones
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Lloyd:

I have known Ken Wardwell for over 15 years and he is a very respected man in our community; a devoted father, a good husband, a successful real estate broker and a past president of East Anchorage Rotary. His nomination to the Board of Fish was widely endorsed by our association, Alaska Sportsfishing Association and in Fairbanks by the Outdoor Council.

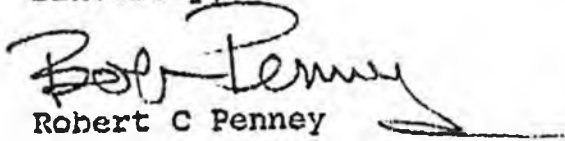
We know how very busy your calendar is right now. We know you certainly don't need the hassle that his appointment is causing, but by golly, we didn't start this controversy and we're quite angered by it. It was set in motion by one small group of grasping Eastside setnetters who fish the Kenai beaches.

The heart of their protest is the allocation issue of Kenai River salmon stocks. These 400 ESSN permit holders aren't happy with the 94% of the salmon harvest that they take. They want the 6% that 45,000 sportsmen catch also! The Kenai River is now the largest sport salmon fishery in our nation. It is very successful. Over 110,000 sportsmen spend over \$39,000,000 a year to fish the varied fish stocks of this one river. It's a major tourist industry. It needs a sportsman on the Board who understands this and can contribute to statewide fishery decisions also.

Most people who have shared the thrill and excitement of battling one of these 60-70 pound Kenai Kings would agree - catching one of the world's largest salmon in a setnet is like cutting down a huge redwood tree for firewood,...it should be against the law.

Ken Wardwell will be a great member of the Board of Fish. Over 225,000 licensed sportsmen along the railbelt will be very interested in seeing a positive vote for his confirmation. We sincerely ask you for your consideration.

Sincerely,



Robert C Penney
Chairman

RCP/st



Personal Note From . . .

Bob Penney

May 17, 1991

Dear Lloyd:

I have known Ken Wardwe
for 25 yrs. the Board
could not have a finer man

I please urge you to change
your vote to a yes, if you
had the opportunity to
vote for him again

Honestly he is a fine guy

Sincerely,

Bob Penney

please call me:

276-2222

262-5782



Alaska State Legislature

Please enter into the record my testimony to the Senate Resources
 committee name
 committee on Woodwell confirmation, dated April 8, 1991
 bill/subject

'PROJECT US' was biologically sound. Exploring new ideas and solutions even though those ideas may not be politically feasible is important. To deny a candidate for this type of reason is not in the best public interest.

Signed: Demetrius H. Randa
 Testifier

Representing (Optional)
Box 3055 Soldotna AK
 Address
(907) 262-9494
 Phone No.



Please enter into the record my testimony to the SENATE RESOURCES
 committee name
 committee on BOARD OF FISHERIES
KEN WARDWELL NOMINATION dated 4.8.91
 bill/subject

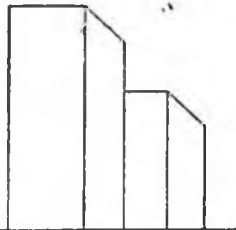
I, CHRISTY BERG, SUPPORT KEN WARDWELL'S
 NOMINATION TO THE ALASKA BOARD OF FISHERIES.
 HE WILL BE FAIR TO ALL USER GROUPS
 OF COOK INLET AND STATEWIDE.

Signed: Christy BERG
 Testifier

SELF
 Representing (Optional)

266 REDWOOD CT SOLDOTNA 99669
 Address

907-262-6064
 Phone No.



Hilligas
Company

1407 W. 31st Avenue, Suite 401
Anchorage, Alaska 99503
(907) 277-2580
FAX 272-4146

BILL BREDESEN
Real Estate Management & Marketing



Alaska State Legislature

Please enter into the record my testimony to the Trust Resour
 committee name
 committee on Continuation Penny
Ken Wardell, dated 5/8/91
 bill/subject

Ken Wardwell Compensation

Signed: *Bill Pruden*
 Testifier
Self
 Representing (Optional)
 Address
277-2580
 Phone No.

7/8/91 Ken Wardwell -

Bill Braden -

I first met Ken Wardwell in 1970 when we worked together as real Estate Sales Assos. for Area Realtors. We were both starting out our careers. Ken was excellent in his working, he showed interest and integrity in his dealing with his clients and other Sales associates. He was well respected by those of us who knew him.

As the years past, I have continued to respect him as a professional and later as The President of the Anchorage Multiple Listing Service. He is known as a hard worker and has good judgment.

My 20 years of knowing Ken Wardwell leave me with one conclusion. He is a honest, hardworking man who I believe will put fairness as the measure of any decision he makes.

Bill Braden



Alaska State Legislature

Please enter into the record my testimony to the SENATE CONFIRMATION
 committee name
 committee on KEN WARDWELL dated APRIL 8 1991
 bill/subject

KEN WARDWELL HAS DEMONSTRATED TO ME A CONCERN FOR FISHERIE MATTER THAT SPANS 20 YEARS - THAT I HAVE HAD THE PRIVILEGE TO KNOW HIM. I THINK THAT HE CAN AND WILL APPROACH ALL FISHERIES MATTERS OBJECTIVELY.

Signed: David B Ring
 Testifier
My Self
 Representing (Optional)
5033 W 50th Ave.
 Address Anchorage AK 99502
 Phone No. 243-0737



Alaska State Legislature

Please enter into the record my testimony to the Bd of Fisheries Commission
committee name

committee on Wardwell, dated 4/8/91
bill/subject

I HAVE KNOWN KEN WARDWELL FOR APPROX 10 YRS.
I HAVE WORKED WITH MR WARDWELL ON A
NUMBER OF BOARDS & COMMITTEES. I HAVE FOUND
HIM TO BE INTELLIGENT, DEDICATED, OBJECTIVE &
INDEPENDANT IN HIS THINKING. HE IS WILLING
TO INVESTIGATE ISSUES AND FORMED OPINIONS
HE IS CAPABLE OF DEFEND THIS STATE
WOULD DO WELL TO APPOINT INDIVIDUALS
TO BOARDS AND COMMISSIONS THAT DO NOT HAVE
HIDDEN AGENDAS OR POLITICAL ASPERATIONS.
I HARDILY RECOMMEND HIS APPOINTMENT TO
THE BOARD OF FISHERIES

Signed:

Robert J. Imlach (Robert J. Imlach)

Testifier

SELF

Representing (Optional)

1310 N ST. ANCH, AK. 99501

Address

(907) 278-0758 - H (907) 278-3581 - O

Phone No.