

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7647 SENATE RESOURCES

RESOLUTION

ALASKA BOARD OF FISHERIES

BOARD MEMBER:

At the present time local sport fisheries and charter boat/resort sport fishermen are considered in the same sport fishing user group. I am a sport fisherman of Southeast Alaska and moreover a resident (non charter) sport fisherman. As such I am unable to target the wild and hatchery Chinook resource stocks 7-days per week, as in the case with the charter/resort sport fishermen. For this reason I do not feel I should be classified in the same user group as the charter boat/resort sport fishermen.

I would request, if a designated allocation is given to the present sport user group, that resident (non charter) sport fisherman be given 50% or more of the Chinook stocks which is allocated to the sport fisherman as they are presently grouped by the Alaska Board of Fisheries, to preserve the lifestyle of residential (non charter) sport fishermen.

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
1 Terry Brand	Box 1382 29 ARACLOVE	Feb 14/1992
2 [Signature]	PO Box 857 Ward Cove	2-15-92
3 Roger W. Amundson	PO Box 233 Wards Cove	2-15-92
4 Marvin J. Prather	512 Knudson Cove Rd N. KTN.	2-15-92
5 Arthur Lundstrom	Box 9281 Ketchikan, AK. 99901	2-16-92
6 Norman Jared	507 Jefferson St. KTN AK. 99901	247-9824
7 Frank K. Kilgus	P.O. Box 7083 Ketchikan, Ak.	225-2680
8 Jim Gardner	POB 9110 Ketchikan AK	2-16-92
9 M. L. McWhirley	3520 Alaska Ave = Ket.	2-16-92
10 Don Slonaker	Box 1157 Ward Cove Alaska	2-16-92
11 [Signature]	Box 7296 KTN. AK. 99901	2-16-92
12 Bruce R. Komer	Box 558 Ward Cove AK 99928	2/16-92
13 Dan. Jared	507 Jefferson St KTN AK. 99901	247-9824
14 Neil K. Hama	P.O. Box 6073 KTN AK 99901	2/16/92

NAME	ADDRESS	DATE
Richard G. Lawrence	Box 5566 Ketchikan AK 99901	2-16-92
Russell A. Mack	P.O. Box 8939 Ketchikan AK 99901	2-16-92
Ray B. Hanson	10529 Collins Rd Ketchikan AK 99901	2-16-92
John Benson	Box 9510 Ketchikan AK 99901	2-16-92
Richard A. Smith	P.O. Box 5006 Ketchikan AK 99901	2-16-92
James J. Smith	Box 1400 Ward Cove AK 99928	2-16-92
James A. Johnson	2729 Tongass Hwy Ketchikan Alaska 99901	2-16-92
Henry D. Roy	P.O. Box 1202 Ward Cove, AK 99928	2-16-92
Charles T. Rolter	24 Carlton Dr, A/T	2-16-92
Barth Hunt	1723 2nd Ave	2-16-92
Eric C. Daggott	P.O. Box 658 Ward Cove AK	2-16-92
Steve Peterson	P.O. Box 1355 Ketchikan	2-16-92
CECIL WELLS	P.O. Box 9560	2-16-92
Allen Smith	P.O. Box 1342 Ward Cove	2-3825
Wm. B. Hanson	P.O. Box 901 Ward Cove	2-3825
Wm. K. Peterson	P.O. Box 1039 Ward Cove	2-16-92
Wm. W. Johnson	P.O. Box 5268 Ketchikan AK	2-16-92
Wm. W. Johnson	Box 5746 Ketchikan AK	2-16-92
Wm. W. Johnson	70 Box 5983 Ketchikan AK	2-16-92
Wm. W. Johnson	1 P.O. Box 1233 Ward Cove AK	2-16-92
Wm. W. Johnson	832 Bldg #12C	2-16-92
Wm. W. Johnson	10319 Al Tongass Hwy	2-16-92
Wm. W. Johnson	P.O. Box 1023 Ketchikan AK 99901	2-16-92
Wm. W. Johnson	P.O. Box 1303 Ward Cove 99928	2-16-92
Wm. W. Johnson	107 Freeman St Ketchikan AK 99901	2-16-92
Wm. W. Johnson	1109 9th Ave Ketchikan AK 99901	2-16-92
Wm. W. Johnson	1011 S. Pt. Higgins Rd	2-17-92
Wm. W. Johnson	Box 5551 Ketchikan	2-17-92
Wm. W. Johnson	Box 918 Ketchikan	2-17-92
Wm. W. Johnson	Box 8401 Ketchikan	2-17-92
Wm. W. Johnson	Box 533 Ward Cove	2-17-92
Wm. W. Johnson	2117 1st	2-17-92
Wm. W. Johnson	2117 1st	2-17-92

NAME	ADDRESS	DATE
Barbara Dennis	Box 8401 Kodiak AK	2/17/92
David De Groot	615 Hill Rd Kodiak AK	2-17-92
David De Groot	416 Broadway Kodiak AK	2-17-92
David De Groot	P.O. Box 6731 Kodiak AK	2-17-92
David De Groot	3115 Tide Hill Kodiak AK	2-17-92
Anna S McNamey	402 Jackson St Ketchikan AK	2-17-92
Ann Martin	P.O. Box 636 Uden Court AK	2-17-92
Michael W. Ruess	P.O. Box 6661 Ketchikan, AK	2-17-92
Ann Sherman	Rt 1 Box 701 Ketchikan AK	2-17-85
CHUCK McNamee	P.O. Box 7134 KTU	24221573
Norman Stein	Box 5516 Ketchikan AK	99901 2-17-92
M J Hart	Box 1162 Ward Cove AK	99928 2/17/92
A. M. Mathison	Box 504 Ward Cove AK	99928 2-17-92
Bernice Asthana	5339B Shoreline Dr No KTU	2-25-2458
T. Ed Huff	P.O. Box 8258 Ketchikan Alaska	99901 2-17-92
Tell Adams	20 Astor St #3 Ketchikan AK	99901 2-12-92
Kathy McNamee	P.O. Box 1091 Ward Cove	2-17-92
Dee Shull	561 Dr Loop KTU	2-17-92
Deak P. Kiker	P.O. Box 941 Ward Cove AK	2-12-92
Josephine Hunter	P.O. Box 5924 W, AK	2-17-92
Ann Kiker	P.O. Box 1440 Ward Cove AK	2-17-92
Ann Kiker	P.O. Box 9381 Vot AV	2-17-92
Keith D. Doherty	358 Bouden Apt 1	2-17-92
Ann Kiker	P.O. Box 532	2-17-92
Ann Kiker	P.O. Box 9123 KTU AK	99901 2-17-92
Ann Kiker	P.O. Box 8723 KTU AK	99901 2-17-92
Ann Kiker	254 Bond Rd Kodiak AK	99901 2/17/92
Ann Kiker	P.O. Box 579 Ward Cove AK	99928 2-17-92
Ann Kiker	5740 3rd Ave Ketchikan, AK	99901 2-17-92
Charles W. Grint	Box 977 Ward Cove Alaska	99901 2-17-92
John Merrill	703 Pollock Blvd	2-20-92
STEVE MERRILL	838 HARDING ST	2-20-92
John Merrill	Box 6931 Ketchikan, Alaska	2-20-92
Bob Mack	909 Jackson	2-20-92
JEAN ALDRIN	Box 1092 Ward Cove AK	2-20-92
General De Groot	P.O. Box 7951 K.A.	2-20-92
General De Groot	P.O. Box 5371 K.A.	2/20/92
Ann Kiker	P.O. Box 561 Ward Cove	2-20-92

**PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505**

MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Walter A Chausicki	832 BUREN #87 - KETCHIKAN	907-225-1024
Barbara DeLano	P.O. Box 1419 - Ward Cove	907-225-7280
F. A. Macha	9832 Evergreen	225-4004
Monique Clark	P.O. Box 16001	225-5745
Charles D Eodl	4987A Shoreline Dr	225-7307
CLAYTON E GARDNER	P.O. Box 8926 KTO.	225-6028
Robert K. Mann	Box 1205 - Ward Cove AK	247-0160
Sharon Mann	Box 1205 Ward Cove AK	247-0160
Jack H. Savelle	P.O. Box 477 Ward Cove	225-1662
D. Dianne Horden	P.O. Box 402 Ward Cove	225-1662
ROGER A WALTERS	P.O. Box 5221	247-8429
Robert Peterson	P.O. Box 667 WARD COVE	225-4507
Jack Quinn	832 RIVERVIEW ST	225-3028
Steve Walter	5392 Denishay Rd.	225-6762
Opf. Beckman	2122 3 <sup>rd</sup> Ave.	225-9219
Ronny Ray	P.O. Box 3036	225-3900
Barbara White	Box 684 Ward Cove	247-2421
Dennis M. Mendenhall	Box 1159 Ward Cove	247-2333
Hanna Johnson	Box 1419 Ward Cove	225-7280
Donald A. Mann	Box 1336 WARD COVE	225-6018
Tom Ferguson	436 Main St. #19 Ketchikan	225-0163
Ernest Paulsen	Box 1459 Ward Cove	247-1459
Frank H. H. Lutz	P.O. Box 5692 Ketchikan	225-1908
Sharon M. Heston	Box 1901 Ward Cove	225-0264
Ken Bush	Box 1504 Ward Cove	225-7099
Richard Heston	Box 585 Ward Cove AK	225-6718



PETITION  
IN SUPPORT OF SENATE BILL 97/HOUSE BILL 505

MEMBERS OF THE LEGISLATURE AND ALASKA RESIDENTS IN ALASKA AND SUPPORT SENATE BILL 97 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

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NAME	ADDRESS	PHONE
John [unclear]	12399 N Tong	247-2302
ROBUN RICHING	5308 N. TONGASS	225-7405
Dennis Spurgeon	6757 Roosevelt Dr.	225-2057
GARY TORNAVIL	3749 FAIRVIEW AVE.	225-7415
Mike Kaitera	4746 Bucey Ave	225-5341
Keith Quoking	5308 N. TONGASS	225-7405
John [unclear]	PO Box 684 WARD CO.	247-8452
Scott [unclear]	PO Box 9929 KTN AK	247-6070
Ken [unclear]	PO Box 9251 KTN AK	247-1496
Michael [unclear]	PO Box 1391 WARD CO	225-1104
Lee [unclear]	510 N Higgins Ktn	247-8159
Wendy [unclear]	P.O. Box 6524 KTN	247-8200
Paul [unclear]	PO Box 3036 KTN	225-3900
[unclear]	PO Box 632 WARD CO	247-2220
Tina [unclear]	PO Box 855 WARD CO	247-5655
Les Sherman	PO Box 945 WARD CO	247-2547
Samuel Kaitera	4746 Bucey Ave	225-5341









**PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505**

MEMBERS OF THE LEGISLATURE, I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME ADDRESS PHONE

<i>[Signature]</i>	Box 9098 Ketchikan AK	225-6085
<i>[Signature]</i>	116317 NTH Ketchikan	5-6031
<i>[Signature]</i>	Box 9113 Ketchikan, AK	225-5477
<i>[Signature]</i>	11452 Anchorage, AK	247-8024
<i>[Signature]</i>	Box 6255 Ketchikan	









PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

MEMBERS OF THE LEGISLATURE, I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS, GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME ADDRESS PHONE

*Bob Smith* 76 BULLPINE KTN AK (907) 247-5364

*Harry J. Tama* P.O. Box 8364 247-5364

Blank lines for additional petition entries.



PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Fred Peltola	8515 Nugget St Juneau	789-1799
Toni Shirley	BOX 21-1134, NOME BAY, AK	789-7058
Jim Patten	Box 210195 Auke Bay, AK	789-0736
Gauri Weiss	POB 210195 Auke Bay, AK	9-0736
David Cullum	4390 TAlce Blvd	789-7233
Alan D. Hart	Box 211187 Auke Bay, AK	99821
LARRY WACH	1770 Mendenhall Penn Rd	789-3072
John Macdonald	5875 GLACIER HWY	780-5185
Mark Strick	Rd. Box 22630 Juneau	465-2858
Della Campbell	9951 Sprucewood #89 Juneau Hl.	790-2509
Kat Mischke	PO Box 33106 Tono, AK	99801
Robert W. McKay	Box 211413 Auke Bay	99827
Sam Fitzgerald	12175 61 Hwy A103, Billings A103	99801
WILLIAM BERRY	PO 52725 JUNEAU, AK 99803	787-0124
George Cantillon	Box 210496 Auke Bay	789-7425
Don Soemmer	210622 NOME BAY AK	
Edward Colwell	Box 210113 Auke Bay, AK	789-9816
Carole Fischer	18575 The Way Juneau AK	789-4841
Tom Luntz	1017 Alton Circle Juneau AK	99801
Bernardo Chataluce	POB 20986	789-5442
Cheryl Carver	14020 Glacier Hwy Juneau, AK	99801 789 003

**PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505**

MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Lloyd Kunka	4568 Taku Blvd. Juneau	789-9644
Kenneth W. White	10465 Elm Hwy	789-2445
Mike Nussick	2345 KA Sea Air Juneau	89-2218
Ken Eubank	16295 PT. LENA LP	789-5105
KAREN MASSEY	PO Box 35003 Juneau AK	789-7727
Kennedy D. Marshall	PO Box 21093 ACK Bay 99821	789-2451
Dave Larkin	Box 210821 " "	789-5519
<del>Bob</del>	PO Box 20296 ACK Bay 99821	9-7872
Dennis Eubank	PO 10 ELFIN COVE	239 2230
William D. Decker	P.O. 210654 Nuka Bay	789-7414
Bill Brumhart	9350 Northland St. Juneau	789-9553
Francis G. Smith	9000 27th Ave Juneau	789-7265
<del>John</del>		
Norma A. Dress	9635 Moraine Way Juneau AK	99801
Mavis Mattha	2216 Radcliff Rd Juneau, AK	99801
Carl Steiner	PO Box 22077 " "	99802
Frank Stoney	7620 Eagle St 99801	789-5663
Joe Lamm	Box 344 Nuch Bay, Wash	78357-
Joe E. Lamm	4943 Steelhead Juneau AK	99801 789-9231
Joe Lamm	4943 Steelhead Juneau	99801 789-9231
Tadine T. Jussano	2967 Navell Ave Juneau, AK	99801 586-9475
Leif Nymalm	604 5th St JUNEAU, AK 99801	586-1782
John J. Jussano	5461 Dayton #6 Juneau	99802 586-3773
Ken Miller	4441 Columbia Blvd. Juneau	99801 789-070

PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Donald Zenger	P.O. Box 240492 Douglas AK 99824	364-3477
TERRY LENNON	5993 PINE ST JUNEAU AK 99801	
Ronald G. Baxter	P.O. Box 240574 Douglas AK 99824	364-3373
E. Ann Baxter	P.O. Box 240731 Douglas AK 99824	364-3488
Alan J. Wood	205 5TH ST DOUGLAS AK 99824	364-2100
Honora M. Voss	1501 5TH St. Douglas AK 99824	364-3437
<del>John</del>	4460 Egan Juneau AK 99801	
Kathy Baxter	P.O. Box 240731 Douglas AK 99824	364-3488
Robert Supra	5530 N. Douglas AK	586-1249
Jayco Supra	5580 N Douglas	586-1249
FREDERICK KASNIK	3960 GLACIER Hwy	780-4104
RACHEL KASNIK	3960 GLACIER Hwy JUNEAU AK	980-4104
Deborah Zenger	Box 240492 TRINIDAD AK 99824	364-3477
Judy Zenger	Box 240478 Douglas 99824	364-3432
Michael Zenger	Box 240478 Douglas AK 99824	364-3432
Charles KASNIK	P.O. Box 240863 Douglas AK 99824	364-2145
Scott Judson	P.O. Box 240534 Douglas AK 99824	364-2548
John	1310 4TH St Douglas AK 99824	364-2145
DAN CORCORAN	P.O. Box 240533 Douglas AK 99824	364-2212
Martha J. Corcoran	P.O. Box 240505 Douglas AK 99824	364-3532
Robert Ward	615 5th Street Douglas Alaska 99824	364-2212
James Ward	615 5th STREET Douglas, Alaska 99824	364-2212
KESSIE WALTERS	1005 2nd St. Douglas, AK 99824	4-5691
Jeffrey C. Hill	P.O. Box 22557 JUNEAU AK 99802	364-2712
John Smith	P.O. Box 22411 JUNEAU AK 99802	364-2712
John S. Koko	POB 240521 Douglas AK 99824	364-3212
John Bear	Box 240447 Douglas AK 99824	364-3212

PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

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NAME	ADDRESS	PHONE
<del>TED A. AZEVEDO</del>	<del>4119 DORWOOD</del>	<del>789-2111</del>
MIRIAM MONETTE	P.O. Box 20733 Juneau	789-4217
<del>PATRICIA MONETTE</del>	<del>P.O. Box 20733</del>	<del>789-4217</del>
Jon Hanson	Box 33014	790-2255
Napoleon Simmons	Box 211342	None
Richard Brown	Box 211342	789-2728
Jason Hill	Box 220985	767-3498
<del>Paul ...</del>	<del>7352 ... st</del>	<del>789-3649</del>
Timothy G.P. VERA	9800 SR.D.F.	790-2561
<del>Walt ...</del>	<del>2321 ...</del>	<del>789-0739</del>
Lisa Ritter	15120 Pt. Stephens Rd.	789-7838
Jon Dey	Box 33771 Juneau	
<del>K. ...</del>	<del>P.O. Box 21724 Juneau</del>	
DEWEY SMART	4101 BIRCH LAKE JUNEAU	
Gerry Crossley	3816 Melrose	789-2574
BRAD SMITHERS	4290 BROTHERS	789-9425
ALWAYNE	2255 MENDOW LANE	789-9017
ERIC FAXO	PO BOX 20357 JUNEAU	463-2675
Tom Cullen	P.O. Box 32332 Juneau	789-0079
<del>...</del>	<del>8177 ...</del>	<del>789-8126</del>
Craig Bennett	8824 GAIL AVE	789-3589
TAVES CAMPOR	160 Linnie Lane	789-4457
Doug Tanner	4358 Taku Blvd	789-3758
Vikki Parson	6590 Glacier Hwy #49	789-4160
John PARSON	6590 Glacier Hwy #49	789-4160
CHARLES ROSS	P.O. Box 21206 Juneau	
David A. Smith	5341 Churchill Way Juneau	789-6182

PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

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NAME	ADDRESS	PHONE
Anthony Price	8910 Gee St	789-1506
Dale Konrager	220 Troy St.	586-328
Rob Hays	10828 Steep Ln. EIR AK	694-6877
Robert Young	2529 Scott Dr. Juneau AK	586-9755
Bill Foster	Box 22851 Juneau, AK	
SHARON L. SWAINERS	BOX 22851 JUNEAU, AK	
Tom WALDRIP	2380 ODAY JUNEAU	789-244
Les Hamley	2349 Kevin Ct. Juneau	789-2635
Ray Vidich	4064 DEBORAH DR. JUNEAU AK.	99801
Jim Wolfe	9322 Northland St Juneau AK	99801
Ginny Johns	4236 Ptarmigan Juneau AK	99801
Chris Caste	9225 Long Run Dr Juneau	99801 789-79
Dave Mc-Courtney	4526 Chelsea CT Juneau AK	99801
Mick Hixon	8288 Valley Ave Juneau	9-3028 789-15
Eldon DeHann	5955 Thane Road, Juneau, AK.	99801 586-354
Alex Nunnally	8548 Steep Place Juneau AK	99801 789-503
Bruce Wright	8548 Steep Place Juneau AK	99801 789-503
John Squish	2800-V Poter Lane Juneau AK	99801 465-576
Ed Stalder	4192 Teku Blvd. Juneau AK	99801 789-3
Alfred Moore	Box 34776 Juneau AK	99803 789-455
Gene Jan	7760 Glacier Hwy. Juneau AK	99801 789-3580
Pat	Box 210336 Anka Bay, AK	789-008
Shirley P. Pelt	3210 BRIDGE JUNEAU AK	99801 9-343
Charlton	313 7 <sup>th</sup> St. Hcl Juneau AK	99801 467-
Walter Green	5292 No Douglas Hwy JUNEAU AK	99801 586-6
W. Menden	4720 Glacier Hwy Juneau AK	99801 0-4

**PETITION  
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MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Thomas Whalen Jr	Box 22167 JUNEAU AK 99802	364-3366
EARL Hubbard	P.O. Box 132, Douglas AK	364-3366
Kenneth Lee Willy	Box 22625 JUNEAU 99802	4-23
Jim SCAOLL	PO Box 22297 JUNEAU	364 2347
Juli ARMOUR	PB 21916 JUNEAU AK 99802	463 3427
MANUEL C MOSS	2740 Rose St JUNEAU AK 99801	364-3382
LARRY KING	8746 N Peaples JUNEAU AK	586 1852
Jeff Proctor	9457 BERNERS AVE #24	789-0273
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John Lee	230 S. Franklin - ST #708	462-5863
Ken Keeney	PO. Box 32211	462-2964
Duff Randall	299 N. FRANKLIN	463-5051
Helen Winkelman	1693 Harbor Way	463-54871
Kenneth Casotto	8179 Erin ST.	789-3390
Jim Ed	2222 Ritchie Rd	790-2285
Mark M. Green	5848 North St	786-4529
Joseph Pausch	Box 32411 JUNO AK	789-4215
David A. Milgard	5050 23rd St JUNO AK	

PETITION  
IN SUPPORT OF SENATE BILL 397/HOUSE BILL 505

MEMBERS OF THE LEGISLATURE: I AM A RESIDENT OF ALASKA AND SUPPORT SENATE BILL 397 AND HOUSE BILL 505. I UNDERSTAND THAT THESE BILLS WILL RECOGNIZE TWO SEPARATE "SPORT" USER GROUPS - GUIDED SPORT AND SPORT. BECAUSE OF THE GROWTH IN NON-RESIDENT AND GUIDED SPORT FISHING IN ALASKA WE NEED TO PROTECT RESIDENTS RIGHTS TO FISH IN OUR WATERS FOR BOTH RECREATION AND FAMILY CONSUMPTION. WITH THESE BILLS IN PLACE IT WILL GIVE THE BOARD OF FISH THE OPPORTUNITY TO MANAGE SPORT FISHING IN THE BEST INTEREST OF THE RESIDENTS OF ALASKA.

NAME	ADDRESS	PHONE
Robert Hill	8307 Valley Ave	(907) 789-0307
John T. Johnson	4101 Peninsula Blvd	(907) 789-7824
John Johnson	4101 Peninsula Blvd	(907) 789-7824
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Lee Johnson	3531 SWITT DR JUNEAU	(907) 789-9616
Michael D. Johnson	307 SPENCE ST KETCHIKAN	(907) 225-2532
Edward B. L.	12027 LOOP ROAD	907 789-9209
Ed Hall	Box 1947 Juneau AK	(907) 789-9846
Bob Johnson	1617 2nd St Douglas AK	364 2501
Jim Brooks	Box 21609 Ruby Bay	759-9227
Alvin Smith	208 7th St Juneau	546-3351
Thomas C. Freeman	3446 Meander Way, Juneau	789-3463
Robert J. Paquin	PO Box 845 Douglas AK	586-8043
Marjorie Lewis	308 1st St Juneau AK	586-3351
David Loren	3653 Postage Blvd Juneau	789-0765
Paul Hill	4245 N. Riverfront Dr. TULENA	789-0926
Bill Brundage	5992 Houghton St JNO	780-4207
Terry E. Carr	Box 32639 Juneau AK	789-3228
Janet H. Hill	Box 070881, Juneau, AK	789-2932
James L. Biskett	Alondale St #39	789-7960
Steve Coulter	P.O. Box 22620 Juneau 99802	780-4789
Jim Bouschert	PO Box 21212 Juneau 99802	789-4577
William J. Newman	PO Box 32691 Juneau 99803	789-2257
Mike Hill	1830 Glacier Hwy #103 Juneau 99801	463-2688
Mike Hill	10518 Fox Farm Trail Juneau AK 99801	
Frank J. Davis	3705 Amalgam St Juneau 99801	
Donald B. Meyer	304 5th St Ketchikan AK	99824-







To: All Legislators

Date: March 11, 1992

The attached list of individuals, some representing organizations, are opposed to HB 505, "An act authorizing the Board of Fisheries to allocate fishery resources to the guided sport fishery", sponsored by Representative Mackie, and the identical companion bill, SB 397, sponsored by Senator Eliason.

These bills are being pushed for a different reason than is apparent to some people. You will most likely see this bill before you soon for a vote. These bills actually discriminate between guided and unguided sport fishermen.

Frankly, these bills are designed to correct a legal mistake by the Board of Fish who inadvertently discriminated against sport fishermen who use commercial support.

Trying to fix the problem in this way will create an even larger and more damaging abuse of authority in Southeast Alaska.

Please study this critical public policy issue very carefully. Do not allow yourself to be made a party to an abuse of authority, one that ultimately may be challenged.

Thank you for your careful consideration. Please oppose these bills.

NAME:	ADDRESS	ORGANIZATION
<u>Ken Book</u>	<u>6584 LISA DR, KETCHIKAN, AK.</u>	<u>TONGASS SPORT FISH, ASSOC</u>
<u>Mike Williams</u>	<u>7390 S.T.C. KETCHIKAN AK</u>	<u>Ketchikan Marine (Instructors)</u>
<u>Stella Callentine</u>	<u>5662 S. Tongass, Ketchikan</u>	<u>Ketchikan Sport Angler</u>
<u>Tom Cameron</u>	<u>428 Tower Ln, AK</u>	<u>Charter Operator</u>
<u>Keith Smith</u>	<u>504 MONASTERY ST. SITKA</u>	<u>CHARTER / BED + BREAKFAST</u>
<u>Stan Miller</u>	<u>101507 Petersburg</u>	<u>Petersburg Charter Boat Assoc</u>

The undersigned oppose HB 505 and SB 397:

NAME: ADDRESS ORGANIZATION

WALT PAYNE Box 1251 Petessburg AK CHAIRMAN/LODGE

DAVE HELMICK Box 913 Petersburg LEONIE CRUISE

Jay B. Myers 1044 Sunset Way SITKA AK. SPORTFISHERMAN

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Karla Lynn 4440 Colville Juneau 99801 JCOA

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K. H. Voss, P.O. Box 32085 TUGEAU JCOA

John R. Smith, P.O. Box 210011 AKRE BAY AK JCOA

Sharon Winters P.O. Box 2300 SITKA AK SEBOA

Arb Brigham SITKA AK SCBA A

Ed. Thompson, 206372 Ketchikan ISL

Willie Ann Box 9637 Ketchikan ISL

THE BOARD OF SUPERVISORS 9199 CIPSA

HOSS Box 871 Seldovia 99669 CIPSA

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# The Role of Sport Fishing in the Southeast Alaska Tourism Economy

Prepared for:

**The Alaska Trollers Association**  
Juneau, Alaska

Prepared by:



**The McDowell Group**  
Juneau • Ketchikan

March, 1992

# The Role of Sport Fishing in the Southeast Alaska Tourism Economy

## Introduction

The Alaska Trollers Association retained the McDowell Group, economic and market consultants and researchers to conduct a three-part study relating to the Alaska Salmon Troll Fleet. The first part, *The Economic Impacts and Condition of the Alaska Salmon Troll Fleet* study details the economic importance of Alaska's largest resident commercial fishing fleet on the regional economy and was completed in early March of 1992.

the second part of the study assignment is a review of the role sport fishing plays in the regional tourism industry, which is included in this document. Currently, the Board of Fish is considering a proposal to stabilize allocation of the politically limited (by international treaty) regional king salmon catch among use groups, including charter operators who serve primarily nonresident visitors (tourists).

A final task of the assignment was to conduct a professional review of a recent, sport fishing economic study issued by the Alaska Sport Fish Division. This review is included in this section of the overall troll study.

## Methodology

The McDowell Group is the state's leading authority on the Alaska tourism market and has designed and conducted the Alaska Division of Tourism's nationally recognized research program, the *Alaska Visitor Statistics Program (AVSP)*, for the past seven years. The AVSP is considered the most sophisticated and accurate among tourism research programs conducted in the 50 states, including Hawaii. The program was recognized at the 1986 annual convention of the international body, The Travel and Tourism Research Association, in Memphis Tennessee for its unique methodology and exceptionally high response rates - 99% for personal intercept interviews, 82% for mail survey and 73% for expenditure diary research in 1985-86. These are considered record or near record rates for this type of research.

The data used in the following analysis is from the *Alaska Visitor Statistics Program* research for Summer (June through September) 1989, the most recent year for the program's survey research. That season the McDowell Group interviewed a carefully selected sample of 3,200 visitors arriving into the state by all modes of transportation at all major points of entry. Ninety-nine percent of the visitors selected by the sample methodology consented to the personal intercept interview.

Half of these visitors were also sent a mail survey immediately following their Alaska trip. This survey detailed their travel patterns, activities, opinions and motives for their recent Alaska trip. Normally, the McDowell Group does not conduct mail research. The non-response and self-selection biases inherent in this method are usually unacceptable given normal mail survey response rates and incomplete responses to questions which commonly occur without the use of interviewers. However, the 73% (1,134) response rate to the McDowell Group mail survey and exceptional completeness of response make these survey results reliable and accurate.

The other half of the personal intercept sample were paid to complete an expenditure diary while they were traveling about the state making expenditures during their Alaska trip. This method is much preferred to the recall method because recall on money matters tends to be unreliable. In this survey, 69% (1,103) responded with completed diaries.

The maximum margins of error for the three surveys range from  $\pm 1.8\%$  to  $\pm 3.0\%$ . Of the total visitors in these samples, 60% of them visited Southeast Alaska. The following analysis is based on the 60% of these samples which visited Southeast Alaska in the Summer of 1989. This makes the Southeast portions of these samples 1,920, 680 and 662, respectively. Accuracy of results of these surveys has been tested against actual known data and the results are well within the margin of error tolerances.

All data presented in the following text is taken from published documents from the *Alaska Visitor Statistics Program* conducted for the Alaska Division of Tourism by the McDowell Group. The specific documents used are; *Alaska Visitor Patterns, Opinions and Planning, Summer 1989*, *Southeast Alaska Visitor Profiles, Summer 1989*, *Alaska Visitor Expenditures, Summer 1989*. Some selected findings are taken from supporting data bases for these documents.

## **Study Findings**

### **Total Regional Visitor Market**

The Southeast Alaska visitor market in Summer 1989 totalled 307,700 nonresident visitors.

### **Southeast Sport Fishing Market**

Of these 307,700 visitors, 12%, or 37,800, sport fished in the region while 88%, or 269,900 did not. One of eight visitors to the region sport fishes, seven of eight do not. About twice as many visitors went flightseeing as went fishing in Southeast Alaska and about four times as many took city tours. Examples of other common activities for visitors to the region were shopping (84% did it), city tours (47% took one), flightseeing (28%), day cruises (28%), rafting, etc. (10%), wildlife viewing (43%) and hiking (15%)

Those fishing in salt water totalled 11.8%, or 36,300. A total of 12.3%, or 37,800, including those only fishing in fresh water, fished in the region.

When adjustments are added for those fishing only in the off season of October through May and for nonresident seasonal workers (neither group is included in the AVSP survey) the AVSP survey result would closely match the actual number of nonresident licenses sold in the region in 1989, which was 42,979. Again, this confirms the accuracy of the AVSP survey.

### **Market Growth**

The Alaska sportfishing visitor market is growing at about the same rate as the overall visitor market, at least according to ADF&G license sale data. Total nonresident license sales have grown 3.4% annually since 1986, but declined slightly in 1991. The growth rate in the visitor market is expected to be moderate in the 1990s, partly due to an uneasy long run economic outlook.

However, the number of businesses entering the charter industry in the region is exploding, as is the catch rate for these commercial sport fishing operators. The new operators are attracted by the recent exceptional abundance of both king and coho salmon, by dramatic increases in efficiency due to the use of downriggers, and by new marketing techniques which have tapped the cruiseship market as well as some other markets. As a result, the portion of the market served by charter operators is expanding faster than the overall regional sport fishing market.

Finally, resource and regulatory problems in other West Coast states may stimulate more demand for Alaska salmon fishing. If this shift of demand occurs, the total charter catch of king and coho salmon is likely to continue rising.

## **Sport Fishing as the Main Motive for Alaska Trip**

All visitors surveyed responded to this question, "Please tell us what prompted you to actually decide to visit Alaska *this year* (1989)?" The intent of the question was to pinpoint the deciding factor for the trip. This does not mean some people didn't go primarily for fishing while mentioning some other factor. However, the question does do a good job of identifying the relative importance of each motive. The leading motives to this question were personal reasons such as chance to travel with relatives.

Seven percent, or one of fourteen, of all Alaska visitors said fishing was the reason for deciding to go this year. For Southeast Alaska, the percentage was even less, 1.9%. But in the region where much of Alaska's trophy sport fishing occurs – Southwest Alaska – 25% said fishing was the the deciding factor. Incidentally, over half of all visitors to the Southwest region sport fished, 45% of them in fresh water.

## **The Role of Sport Fishing in the Southeast Visitor Industry**

The next question the analyst asks is, "Why is there a significant difference between the number of people who fish (12% in Southeast) and the number (2%) who said fishing was the deciding reason for their trip?" This means that 10%, or about four fifths of the regional sport fishing market does fish but fishing is not the focus of their trip.

A detailed analysis of the sport fishing market, done by the McDowell Group in 1991 for the Southeast Alaska Tourism Council, shows that Southeast sport fisherpeople engage in many other activities besides fishing on their visit and they travel to other areas of the state as well. Clearly, only a portion of their time is spent sport fishing while on their tour of the state. From this data it is obvious that the role of sport fishing in Southeast Alaska is an incidental one for most visitors while on their Alaska trip. It is the equivalent of a trip to Mendenhall Glacier, a tour of a totem park or a scenic flightseeing tour. Few people come to the region just for these experiences, just as few come just for fishing. However, for many people these experiences are satisfying ingredients of their overall Alaska experience.

This does not ignore the 3% of the entire regional visitor market which uses lodges and resorts (mostly for fishing). However, most other fishing by visitors – perhaps 80% of total fishing activity – is either day charters or non-commercial sport fishing done from shore, in their own boat or with friends and/or relatives who live in Southeast Alaska. In other words, fishing is usually not the main motive for the trip but one of many desirable experiences while traveling about the state.

## Sport Fishing Market Segments

Three major segments of the sport fish market exist. Of the total 37,800 fishing in the summer of 1989, about 5,000 to 9,000 are high end lodge/resort or overnight package charter clientele. Perhaps another 12,000 to 20,000 are day charter customers and the balance are fisherpeople fishing on their own without paid guide service. Together, they are 12% of the regional visitor market. In detail, these three market segments are:

1. The high end, sometimes **single purpose market**, estimated to be from 2% to 3% of the regional visitor market, or about 5,000 to 9,000 visitors. All lodge/resort users are 3% of the market but not all of them fish, though most of them do. A significant portion of them (65%) travel to other regions of the state while in Alaska, indicating fishing is not always the sole focus of their trip. These people usually utilize lodges or the larger charter vessels with overnight accommodations. These are the people whose primary purpose for visiting Alaska is often fishing.
2. The **day charter market** (as opposed to the resort/lodge and overnight fishing package market above). These are primarily drawn from the incidental market. For example, a large portion of this market is visitors on cruiseships who want to spend a few hours fishing, as well as other visitors who want to take in some fishing while on their Alaska trip. This also includes visiting friends and relatives whose Alaskan hosts want to ensure a good fishing experience. Their main purpose is not to come to Alaska to fish but to have fishing as one of perhaps 10 to 30 experiences while visiting the state. Data is not available on this market but estimates place the market at 12,000 to 20,000, or about four to seven percent of the region's visitors.
3. **Noncommercial sport fish market**. These visitors do not pay to go fishing but instead fish from shore or their own boat or they fish with Alaskan friends and/or relatives. Like the day charter market, these people use fishing as one of many experiences while on their overall Alaska trip. Their main purpose is not fishing but they do it as part of the Alaska experience. This is perhaps 4% to 7% of the regional visitor market.

## Sport Fishing Expenditures

The AVSP identifies visitor spending in Alaska (excluding transportation to and from the state). In total, Southeast summer 1989 visitors spent \$66 million in the region, an average of \$228 per person. This amount is based on daily entries in the expenditure diaries of over 600 regional visitors at the time of expenditure and are considered accurate (+ 4% margin of error for Southeast Alaska).

Because of the way the expenditure data base is constructed, only total expenditures of all kinds for all purposes can be isolated. Some unknown subset of the following numbers are related to sport fishing. However, it is possible to isolate the per person (per trip) spending of some groups. Remember, these figures are all spending by visitors who had a paid fishing experience, not just spending on fishing alone.

- The average spent on all items by visitors who sport fished in Southeast Alaska is about \$320. If the day charter portion is assumed to be as much as 7% of the market (about 22,000), the overall average rises to about \$350. The average total spent on all items by visitors who had a *paid* fishing experience was \$388 per person per trip. Some unknown portion of this is specifically on fishing while the balance is normal visitor expenditures not related to fishing.
- The average visitor who purchased a day (or half day) fishing trip spent \$292 on all expenditures in the region including the fishing trip itself. This is about 28% more than what the average Southeast visitor spends in the region.
- The average visitor who purchased an overnight fishing experience (often four days) spent between \$745 and \$1,192 on all items in Southeast Alaska, depending on the type of overnight experience. However, this is a small portion of the total market and the resulting small subsample size prevents expansion of the survey results to calculate total spending of this market.

A statistically verifiable expenditure total on all expenditures by visitors who included sport fishing among their activities while in Southeast is not available because of the small sample size for those who bought overnight fishing experiences. However, since all visitors spent \$66 million in the region, 12% of them sport fished and they averaged somewhat higher spending than the average visitor, a general estimates are possible. Some portion of such as estimated is the amount spent on fishing while the balance was spent on other items not related to fishing. However, allocating even this data to a particular attraction is inappropriate.

Since most of the regional sport fishing market did not come to Alaska with fishing as their deciding reason, it is inappropriate to credit sport fishing with their expenditures. Even those who do come for fishing as a primary motive often do other activities in addition to fishing. Likewise, it would be a misleading exaggeration to credit other expenditures by those who took a three-hour, \$22 Mendenhall Glacier tour to the Mendenhall Glacier, or to flightseeing, if they spent \$99 viewing the ice cap from an airplane.

### Demographic Characteristics

Since so much of this market is drawn from typical visitors to the region, their demographic profile is very similar to the typical Southeast visitor who does not fish. Age is slightly lower, income moderately higher and origin is typical of Alaska visitors being heavily from the West and South.

## Summary

The *Alaska Visitor Statistics Program* data on the portion of the visitor market that sport fishes provides insights into the role of the sport fishery in the Southeast region.

- *Sport fishing is rarely the deciding motive for Southeast visitors.* While only a small portion of the total market (2%) comes to the region specifically for fishing, one in eight visitors (12% of the market) does engage in sport fishing, almost all of them in salt water. Therefore, most of the Southeast market is incidental, meaning *most visitors sport fish as one of many activities and experiences in their overall Alaska trip.*
- *The overall Alaska sport fishing market is growing moderately, 3.4% per year since 1986, according to ADF&G data.* There was no growth in 1991, either in Alaska or in the Southeast region.
- *Sport fishing is a good addition to the wide mix of visitor experiences in the region, but by no means is it widespread or dominant.* Four times as many visitors take city tours as go fishing. Over twice as many pay the premium price to go flightseeing and 25% more visitors go hiking than fishing. Almost as many go rafting and canoeing.
- *The average Southeast sport fisher visits several cities in the region and half of them go on to visit Southcentral and other regions of the state, a pattern typical of all visitors.* This further confirms that *sport fishing for most visitors is one of many activities and attractions experienced while in Alaska.*
- *In terms of expenditures, the average sport fishing visitor in the region spends an estimated \$320 to \$350 on all expenditures, some of them related to fishing.* These figures include the expenditures of the premium resort/lodge market. This is significantly higher than the average visitor expenditure of \$228 in the region.
- *Market demand for Southeast sport fishing is strongest in July and August, the same peak months for the visitor industry as a whole.* May and June are harder to fill. This is partly due to species availability (coho, pink and halibut fishing are better in July and August) while only kings among salmon are available in May and most of June. The more affluent markets tend to prefer peak season as a time to travel and this affects fishing as well.

## Conclusion

The Southeast visitor market is estimated to supply over 90% of the commercial sport fishing clientele for lodges, resorts and charter services. How is this market likely to react to a fixed ceiling on king salmon catches in the region?

The McDowell Group has studied the Alaska visitor market for the past 22 years and has developed the entire Alaska visitor industry market data base over the past seven years. The firm has conducted specific studies in the regional sport fishing market and has consulted for a number of firms and organizations directly or indirectly involved in marketing to the lodge/charter sport fishing market. The McDowell Group earns about a third of its income from research and consulting in the visitor industry, an important portion of it in the Southeast market.

The following comments are our professional conclusions concerning the impact of the proposed catch ceiling on the lodge and charter industry in the region.

*A fixed ceiling on the number of king salmon available to the clients of lodges and charter operators is unlikely to have a negative effect on the contribution of the visitor industry to the regional economy. Fishing is a primary motive for only a small portion of the market, and most of that market prefers July and August when overall fish abundance is highest.*

Further, the Southeast visitor sport fishing market, in contrast to the Southwest regional market, is not a trophy fish market. Visitors to Southeast would probably not reduce their demand for sport fishing if the total king salmon catch were limited. Most of the market is incidental, using sport fishing as one of many Alaska experiences.

Those who are motivated primarily by king salmon would likely adjust their trips to the times when they are available. In fact, such a limitation might encourage the more serious king salmon fisherpeople to book earlier in the season when the industry could use the business.

While the number of nonresident sport fishers is growing only moderately (historically 3% to 4% per year, no growth in 1991) the lodge/charter sport catch rate, due to record abundance of king salmon (and coho) and the use of downriggers, is growing rapidly. As a result, the commercial sport market is growing faster than the overall sport fishing market and more charter operators are coming on line because they can now catch fish at a better rate.

The charter fleet is also growing because they do a better job of marketing and have tapped into the incidental cruiseship market that now supplies a large portion of the region's day charter business. Day, and half-day fishing, are now offered to cruiseship passengers, competing with Mendenhall Glacier tours, flightseeing and half-day river rafting experiences among other visitor experiences.

Both the charter and the troll fleet need stability in the future. A pro-rata sharing of the treaty king salmon limit would accomplish that. Other measures such as limited entry and season/area management could then be considered over time without being pushed by a participation and resource crisis such as that now experienced by the halibut fishery.

If no king salmon catch ceiling is placed on the lodge/charter commercial portion of the industry, Alaska's largest resident commercial fishery, the troll fleet, will be economically destabilized. Further, no catch ceiling would continue to open the door to future participation and resource crises in the lodge/charter industry.

## **Professional Review of the *Southeast Alaska Sport Fishing Economic Study,* December 1991, Alaska Department of Fish and Game**

The McDowell Group was asked to conduct a professional review of the recently published study for the Division of Sport Fish entitled *Southeast Sport Fishing Economic Study*, dated December 1991.

The McDowell Group is the state's leading authority on the Alaska tourism market and has designed and conducted the Alaska Division of Tourism's nationally recognized research program, the *Alaska Visitor Statistics Program*, for the past seven years. The AVSP is considered the most sophisticated and accurate among tourism research programs conducted in the 50 states, including Hawaii. The program was recognized at the 1986 annual convention of the international body, The Travel and Tourism Research Association, in Memphis Tennessee for its unique methodology and exceptionally high response rates – 99% for personal intercept interviews, 82% for mail survey and 73% for expenditure diary research in 1985-86. These are considered record or near record rates for this type of research.

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The McDowell Group is also the leading professional company in the assessment of industry economic impacts. It has produced the major works on the statewide impacts of the seafood industry (1989), the tourism industry (1991), the Southeast mining industry (1992) and the regional forest products industry (1991). The recent tourism industry study, *Alaska's Visitor Industry, An Economic Profile*, quantified for the first time, the employment and payroll of the industry.

### **Methodology**

Four professional staff members of the McDowell Group reviewed the study. These included the firm's survey supervisor, the marketing research director who managed the Alaska Visitor Statistics Program mentioned above, the principal economist who authored the *Alaska Visitor Industry, An Economic Profile*, and the principal analyst with 22 years in the business.

Review concentrated on the most critical area – survey methodology and results. Unless the basic data of a study are accurate, reliable and defensible, the rest of the econometric procedure is rendered moot.

# Review Findings

## Survey and Sampling Methodology

Response rates to the key economic questions upon which all study results are based are as low as 5% – unacceptable for analysis because of the certainty of self selection and non-response biases.

The study quoted survey response rates of 25.3% for residents (10% after the first mailing), 42% for visitors and 24.3% for the business/guide survey. However, only a fraction of these surveys have complete responses to the economic data questions on which the entire findings of the study are based.

Survey response rates to the critical expenditure and business-due to-fishing questions were unacceptably low and inconsistent in both the fisherperson and business/guide service surveys.

- Less than 5% of the resident survey sample answered any spending questions.
- Only 13.5% of the nonresident sample answered any spending questions.
- Only 13.2% of the combined business and guide service sample answered questions used in analysis of sport-fishing related business questions.

These low rates and incomplete responses render the data suspect. In a low return mail questionnaire (4.9% to a high of 13.5% is very low return) the self selection bias can be overwhelming. Only those with intense interest and motivation would be willing to attempt to answer the 60 to 100 responses (depending on the survey) required on the questionnaires.

The non-response bias potential is very high in these surveys. No data is known for the key economic data questions for 95.1% of the residents, 86.5% of the visitors and 86.8% of the businesses/guide services surveyed.

The end result of these low response rates is an unknown amount of inflation of study results. If only the most motivated sport fishers and sport fishing guide services and businesses responded, which is likely, then a significant upward bias is extremely likely.

Separate business and guide service samples were combined, rendering the results statistically invalid.

Mixing samples is sort of like mixing False Pass and Chilkat River tags. The statistical ramifications are not professionally acceptable.

The business and guide service surveys were combined, apparently due to inadequate responses from businesses thought to be impacted by sport fishing. No data is provided to show how many hotels, retail businesses, transportation companies, etc., actually replied to the survey. Further, no data on responses to key questions (such as how much labor is due to sport fishing) is provided for any of the nine business categories attempted in the survey.

If it is assumed that some of the responses were businesses (and not guide services) in the survey, the stated business sample size (an estimated 109) allows 12 responses per category, half of which did not answer critical employment, payroll, and economic questions. If these numbers were used to expand the sample results (six per category) to the entire population of businesses in each of these categories, the data is suspect, for two reasons. One, the small sample size means six retail businesses were used to represent the entire population of hundreds of retail businesses in the region. The margin of error from a subsample this small is nearly limitless. Second, if only six retail businesses responded to a sport fish impact survey, they are likely to be ones which are extremely committed to the subject matter, thus results are likely to be inflated.

Without this data segmented and applied to very specific SIC categories, the study results are invalid. Further, if guide services did respond disproportionately to the survey, the guide service results may have been used as proxies for other businesses which had less involvement in the sport fish industry. However, it is impossible to determine what was done because the study document does not explain.

The resident sample was drawn from registered voters, eliminating a good portion of the adult fishing population in Alaska.

This, of course casts a shadow on the resident results. Combined with a 4.9% response rate to the economic questions, the resident sample does not stand the rigors of random sampling. Therefore, it is inappropriate to expand the results to the population of fishing households.

The nonresident sample was drawn from two data bases – regional license sales and statewide license sales. The samples were then combined, rendering the results invalid for statistical purposes.

The surveys were extremely long, discouraging responses by a random selection of respondents. This causes an upward bias.

Only the most committed would have provided the 60 to 100 responses necessary. The business survey was also too long and complex for answering by most businesses.

**There was no apparent control for duplicate survey respondents.**

Second surveys were sent to most respondents but no mention of a control system exists in the report.

**The study fails to allocate visitor expenditures to other activities which most visitors participate in while on their Alaska trip.**

Allocating most visitor expenditures to fishing for visitors who spent only a small portion of their time and budget fishing is misleading and inflates impacts. Most visitors participate in a large number of activities while in the region, only one of which is fishing. Allocating most expenditures to fishing is similar to crediting the mayonnaise section of a grocery store with most of the sales in that store.

The study assumes that most visitor expenditures can be credited solely to sport fishing. However, the majority of the study's own respondents said sport fishing was not the main purpose of their trip. Data from the Division of Tourism states that a small portion of the total market specified fishing as the deciding factor for coming to Alaska. Most fishing visitors fish as one of perhaps 10 to 30 experiences during their Alaska trip. The study further allocates no spending to the many other activities which most fishing visitors engage in while on their Alaska visit. The net result is an unrealistically high number for the economic contribution of fishing in the region.

The practice of placing a value on one item in a single experience among many experiences is not a relevant method of making economic comparisons.

**The study results have little relationship to other existing data on the visitor industry which are known to be accurate.**

For example, the average visitor who sport fished using a day charter service spent \$292 on their entire trip in the region for all items, not just fishing. Yet the study in question attributes three times that amount to a single salmon. (Source: Alaska Visitor Statistics Program, Alaska Division of Tourism).

The average visitor (including those who do fish and those who do not) to Southeast Alaska spends \$228 on their entire trip in the region.

Total summer visitor expenditures in the region totaled \$66 million in 1989. Only 2% of these visitors came specifically for fishing and 12% sport fished. It is unlikely that fishing related expenditures alone would total over a third of this amount. Especially since most sport fishers visiting the region spent money on a variety of activities.

## Conclusion

The survey practices used in the *Southeast Alaska Sport Fishing Economic Study* resulted in unacceptably low response rates for the key economic questions upon which the study results are based. Low response rates for the key economic data questions, combining of samples, and the major potential for respondent self-selection bias all subject the study to potential errors of large magnitude, most of them on the high side.

While the sport fishing industry in the region is certainly economically important, this means of measuring its importance does not permit comparison to other industries. Further, the problems with methodology and survey responses further erode its use as a credible means of documenting the importance of the sport fishing industry.

## Survey Return Rates

### Southeast Alaska Sport Fishing Economic Study

	Resident Survey		Non-Resident Survey		Business Survey		Business & Guide Combined		Guide Sector Survey	
Total Surveys (Cards) Mailed Out (1st Mailing)	5,400	100%	1,960	100%	813	100%	1,285	100%	472	100%
Total Surveys (Year End) Mailed Out (2nd Mailing)	4,594	100%	1,960	100%	586	72%	972	76%	386	82%
* Number of Surveys Returned (After 2 follow-up mailings)	1,165	25.3%	829	42%	Not Available		313	24.3%	Not Available	
<b>RETURN RATE FOR Surveys used in Analysis of Annual Sportfishing-Related Spending</b>	<b>225</b>	<b>4.9%</b>	<b>265</b>	<b>13.5%</b>	Not Available		<b>170</b>	<b>13.2%</b>	Not Available	

\* This **return rate** does not reflect the actual percent of usable surveys. This is the return rate quoted in the methodology report for Resident and Non-resident surveys, and estimated by McDowell Group for Business and Guide Sector surveys.

NOTE: At some point (not disclosed in the methodology) the results of the guide sector survey and the business sector survey were combined to reflect the responses of a single survey. The guide sector survey and the business survey were in fact two separate surveys with combined responses.

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**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 2/12/92

FURTHER: Judiciary

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: \_\_\_\_\_

Resources                      Committee considered                      SB 398

Amending the definition of 'eccnornic benefit' in relation to a subsistence economy; efd.

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

same title  
 new title  
 technical  
title change  
(HB only)

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES:**                      Dept/Date

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:**                      Dept/Date

**Governor's bill** with fiscal notes:

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

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**DO PASS:**

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**OTHER RECOMMENDATIONS:**

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

\_\_\_\_\_  
Chair: Signature and Recommendation

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

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P.O. BOX K · STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295

March 20, 1992

VIA FACSIMILE

The Honorable Curt Menard  
Alaska State Senate  
Room 9, Capitol  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 398

Dear Senator Menard:

You have requested the Department of Law's views on SB 398. In particular I understand that you are concerned as to whether the proposed legislation merely clarifies existing law or whether it would operate to expand that law. In short, it is the Department's position that the proposed amendment does not expand existing law. I would note that there has been no legal interpretation of existing law and the legislative history for that law is virtually nonexistent. For that reason I will briefly explain our views as to the operation of existing law and, hence the operation of the proposed amendment.

AS 46.03.822(a) provides in relevant part that:

the following persons are strictly liable, jointly and severally, for damages to persons and property ... resulting from an unpermitted release of a hazardous substance:

... (2) the owner and the operator of a vessel or facility, from which there is a release ....

The term "damages" is defined in both AS 46.03.822(k) and AS 46.03.824. In section .824, the term is defined as follows:

Damages include but are not limited to injury to or loss of persons or property, real or personal, loss of income, loss of

the means of producing income, or the loss of an economic benefit.

"Economic benefit" is defined in AS 46.03.826(2):

"[E]conomic benefit" means a benefit measurable in economic terms, including but not limited to the gathering, catching, or killing of food or other items utilized in a subsistence economy and their replacement cost.

"Subsistence economy" is defined in AS 46.03.826(12):

"[S]ubsistence economy" means an economy which utilizes on a regular basis an item which is owned in common by the people of the state, or the United States, including but not limited to fish, game, fur bearing animals, birds, timber or any part of the natural habitat for noncommercial purposes.

The proposed legislation would modify the definition of "economic benefit" to provide a second example of the type of economic benefit that is included under the statute. In his testimony before the House Resources Committee, Lloyd Miller stated that the legislation is necessary because of a footnote in a November 11, 1991, memorandum by Trans-Alaska Pipeline Liability Fund Administrator John Gibbons. In that footnote, Administrator Gibbons stated that AS 46.03.822-.826 had "no room in [its definition of damages] for cultural, psychic or emotional distress claims of the Villages." Memorandum at 12-13 n. 23. In the text for that footnote, Gibbons essentially limited subsistence claims to the value of subsistence foods not consumed as a result of the spill, minus offsetting food supplied by the defendants. In fact the state statute was irrelevant to Gibbons' ruling, which relied on the definition of damages in the Fund regulations, 43 C.F.R. § 29.1(e), which is worded differently from state statutes and may be more limited than the existing state statute.

The definition of "economic benefit" dates from 1972. Virtually no usable legislative history exists for it. Nor does any prior judicial construction of the statute exist. General rules of statutory construction would then apply. Such an analysis should lead to a broad reading of the original statute, in order to effectuate the statute's general purpose of protecting the economic and social well-being of its natural resource users. The common

Letter to The Honorable Curt Menard  
Alaska State Senate  
RE: SB 398

March 20, 1992  
Page 3

meaning of the terms used in the statute should apply, unless they are technical words that have acquired a peculiar meaning.

The definition of "economic benefit" is couched in "including but not limited to" terms. The proposed new language, subsection (B), arguably merely restates the first part of the prior subsection. The value ("economic benefit") of "the gathering, catching, or killing of food or other items utilized in a subsistence economy" (existing AS 46.03.826(2)) should be synonymous with "the value of a subsistence economy to the physical, economic, traditional, and cultural existence of persons participating in the subsistence economy" (proposed new AS 46.03.826(2)(B)). An interpretation of the existing statute, such as that proposed by the TAPL Fund, that values subsistence resources only at replacement cost ignores the "and" immediately before "their replacement cost." Such a reading is plainly at odds with the existing structure of the statute.

In our view the existing statute provides for the recovery of "use values" for participants in a subsistence economy. Those use values include not merely the replacement cost of the subsistence catch, but also may include a "premium" based on the value of the subsistence activity to the user. In other words, the law recognizes that participation in a subsistence economy has value to the user that may go beyond the nominal value of the catch. That value may be reflective of the physical, economic, traditional and cultural background and values of the individual. I would emphasize that in most cases, such use values will not be easy for the user to prove. As specifically required by the statute, the value must be susceptible to being measured in economic terms. Thus it must be proven with reference to generally accepted scientific methods. While what is acceptable will necessarily differ with each situation, the types of analysis that claimants may attempt to utilize include travel cost, contingent valuation and the hedonic wage approach. Whether these or other types of analysis will be acceptable will be an issue that will be determined by the court hearing the particular case.

In order to provide you with a complete understanding of the damages for loss of economic benefit that, in our view, are recoverable under AS 46.03.826(2), it is useful to briefly discuss those damages that are not permitted by the existing statute, and thus would not be permitted under the amended version. Specifically, the definition of economic benefit does not allow for damages for emotional distress, pain and suffering and other types of damages that are not susceptible to measurement in economic terms.

Letter to The Honorable Curt Menard  
Alaska State Senate  
RE: SB 398

March 20, 1992  
Page 4

Finally, even though a particular item of damage may be recoverable as a loss of an economic benefit by someone or some entity, that damage may not be recoverable by all persons or entities. For example, individuals cannot recover for existence values for injuries to the resource itself. Existence values for injured resources, which may be very great for certain resources, may only be recovered by the government acting as trustee for those resources.

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Craig J. Tillery*  
Craig J. Tillery  
Assistant Attorney General

CJT:bkn



# Resource Development Council

for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035

Phone 907/276-0700 Fax 276-3887

## TELECOPIER TRANSMITTAL COVER SHEET

DATE: March 13 1992 4:00 AM/PM

TO: Lloyd Jones - Chairman, Senate Resource Committee

FAX#: 465-2864

PHONE #: 561-7007

FROM: REINWAND BORTMAN HENDRICKSON DUKE DAVIS

RE: HB 467 / SB 398

SUBJECT/MESSAGE: RDC Position Paper

TOTAL NUMBER OF PAGES SENT 2 INCLUDING COVER SHEET

IF YOU DO NOT RECEIVE ALL PAGES SENT CALL (907) 276-0700

RDC'S TELECOPIER (FAX) NUMBER IS: (907) 276-3887



# Resource Development Council

for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035

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 Congressman Don Young

## Position Paper - HB 467/SB398

March 10, 1992

HB 467/SB 398 would create special recovery rights under Alaska law for "cultural" damages in the volatile area of subsistence. The damages the bill would recognize are not for tangible losses, but for alleged cultural psychological or emotional damage to the Native subsistence way of life.

RDC recognizes the importance of preserving the cultural heritage of Alaskan Natives and their subsistence lifestyle. Subsistence remains an absolute necessity for many rural Alaskan residents. However, RDC cannot ignore the potential ramifications of this bill:

- As currently written, the bill creates a risk of new "cultural damage" lawsuits over impacts of business activity in Alaska that allegedly result in the release of hazardous substances. If an oil spill can allegedly damage cultural aspects of subsistence, so can activities or accidents within the logging, mining, construction and commercial fishing industries.
- Since the bill sets no standard for measurement of cultural damages, there is a risk of runaway jury awards for unsubstantiated claims, undermining tort reform principles. There are no established legal standards to determine these damages. The bill will invite an emotional appeal in awarding damages.
- HB 467/SB398 could potentially open the door to new claims by non-development groups for damages beyond any physical injury, property damage or economic loss.
- As currently drafted, this bill represents an attempt to avoid burden of proof of documenting actual individual damages by changing the nature of the subsistence claims from actual individual losses to a vaguely defined and general "cultural" loss.
- Recovery for emotional distress type damages is carefully limited in the law and is usually available only in cases of personal injury or intentional acts. This bill, however, could vastly expand emotional distress damages from individual claims to perhaps collective claims for alleged damage to culture.

RDC has no choice but to oppose this bill in its current form. It opens Pandora's Box to almost any conceivable claim for damages. Specific language and modifications are needed to define its application and remove potential ramifications.

# KONIAG, INC.

• 4300 B Street, Suite 407, Anchorage, AK 99503

(907) 561-2668 • FAX (907) 562-5258 •

March 3, 1992

Representative Jim Zawacki  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Zawacki:

We are writing you regarding H.B. 467. This proposed legislation purports to create a special class of citizens with special rights to damages totally unrelated to economic damages. Furthermore, we can't help but think, when noticing the retroactive date (to 1989) provision, that the bill is lawyer generated and driven in order to help them and others profit unjustly from the Exxon Valdez oil spill incident.


We are convinced that once recognized by the State, these special rights may not be confined to the oil industry alone, but would be claimed for other development projects i.e. mining, logging, railroad and road building, port and airport construction and so on.

This bill, in our opinion, would clear the way to almost any conceivable claim for damage with no clear standard of measurement. This is a dangerous, precedent setting piece of legislation that cannot be allowed to see the light of day. We seek your support to defeat this bill.

By copy of this letter to Governor Walter J. Hickel, we are asking him to veto the bill should it by chance made it through the legislature.

Sincerely,

KONIAG, INC.

  
Frank Pagano  
President

KONIAG, INC.

  
Uwe L. Gross  
Chief Executive Officer

cc: Walter J. Hickel, Governor



# ALASKA OUTDOOR COUNCIL, INC.

*Senator Jones: This letter  
reflects our position on SB376.*

P O Box 34097  
Juneau, AK 99803  
463-3830

*Richard Bishop*

March 13, 1992

The Honorable Dave Donley, Chair  
House Judiciary Committee  
Alaska State Legislature  
Juneau, AK 99811

Dear Representative Donley:

I am writing to express the opposition of the Alaska Outdoor Council to HB467, which amends the definition of economic benefit in relation to a subsistence economy.

Contrary to comments made on public radio, this bill does not clarify the law regarding the meaning of economic benefit. Rather, it introduces a whole host of intangibles and unknowns and invites creative, sweeping claims of economic benefits and damages that are not susceptible to objective evaluation.

We do not question the importance of cultural and traditional values including those related to subsistence uses. As the Alaska Outdoor Council's representative on the Governor's Subsistence Advisory Council, I advocated recognition and enunciation of those values. However, as a group the Governor's Council found that such values were not amenable to use as criteria by meeting which people might qualify for a subsistence priority. Unmeasurable values do not make good or acceptable standards. So we recognized the intangible values in our proposed findings, but used objective standards as qualifying criteria.

We are concerned that defining "economic benefit" to include "traditional" and "cultural" sets a dangerous, open-ended precedent that may be spuriously applied not only to damage claims related to oil spills. It would suggest claims based on "culture" or "tradition" in relation to any other perceived conflict between subsistence and other uses. The potential for conflicts between resource users is staggering.

This bill would essentially create a special class of people with rights arbitrarily denied to others. That is the sort of discriminatory treatment that we worked very hard to eliminate from the Governor's proposed subsistence bill. It would be unfortunate to have it surface elsewhere in law.

Please do not pass HB467.

Sincerely,

*Richard H. Bishop*

Richard H. Bishop  
Legislative Affairs

Major Problems With House Bill No. 467

SB 398

°The bill changes the rules of litigation pending for three years in mid-stream, at the behest of litigants in the case, raising serious questions not only of fairness but of constitutionality.

°The bill creates new, special recovery rights under Alaska law for "cultural" damages in the volatile area of subsistence, with significant possible impacts on other subsistence and Native rights issues.

°The bill is anti development because it creates a risk of new "cultural damage" lawsuits in other areas over claimed impacts of business activity in Alaska.

°The bill undermines tort reform principles by creating the risk of runaway jury awards for unsubstantiated, non-economic damage to "traditional and cultural existence".

°The bill will increase State government exposure for land, resource management, and other activities on grounds of claimed cultural impacts.

°The bill radically expands emotional distress type recoveries, creating the anomaly that an Alaska Native living in California could claim recovery for emotional distress for oil spill damage to his "cultural existence" but the relatives of a woman crushed to death in an elevator in Anchorage cannot.

°The bill opens the door to new claims by environmentalists and other special interest groups on similar theories of recovery for damages beyond any actual physical injury, property damage, or economic loss.

°Change in the existing strict liability statute is wholly unwarranted because it already provides recovery for actual damages from oil spills, without regard to fault, to the extent legally cognizable.

## Specific Issues

° New and unprecedented damages authorized by this bill would go far beyond actual damages into claims for loss of the "cultural" value of subsistence.

° This will create the risk of precisely the kind of unjustifiable jury damage awards which reformers have been trying to correct through tort reform, imposing further litigation costs upon business.

° The damages the bill would create are not for tangible losses but for what the Trans-Alaska Liability Fund described as alleged "cultural, psychic, or emotional damage to the native subsistence way of life."<sup>1</sup> The bill represents a radical expansion of established legal limits to liability for such claims of emotional distress.

° Recovery for such emotional distress type damages is carefully limited in the law and is usually available only in cases of personal injury or intentional acts. Even recovery for pain and suffering in wrongful death cases is limited by statute.

° This bill also appears to be an attempt to vastly expand emotional distress damages from individual claims to essentially collective claims for alleged damage to culture.

° The beneficiaries of this act are asking the legislature to intervene in pending litigation when they have themselves deliberately failed to provide information on actual subsistence damages to the Trans-Alaska Pipeline Liability Fund, despite repeated requests and opportunities to do so, and thus have failed to utilize remedies already available.<sup>2</sup>

° The Natives subsistence claimants similarly failed to submit individual subsistence claims to the Exxon Claims program,

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<sup>1</sup>Memorandum of the Trans-Alaska Pipeline Liability Fund Explaining Its Preliminary Disposition Of Native Subsistence Claims, January 23, 1992 at 2.

<sup>2</sup> Specifically, the Trans-Alaska Pipeline Liability Fund decisions on claimed subsistence losses (to which Lloyd Miller has called this bill a response) made clear the necessity of "individualized substantiation of claimed damage." Memorandum Of The Trans-Alaska Pipeline Liability Fund Explaining Its Preliminary Disposition of Native Subsistence Claims, January 23, 1992 at p. 1. The Fund, with the assistance of the Subsistence Division of ADF&G, prepared questionnaires for individual subsistence claimants seeking "essential" information on topics including subsistence harvests, mitigation income from oil spill cleanup work, and substitute provisions received from other sources including Exxon. Id. at 4. Despite repeated warnings from the Fund, only 14 individual responses were received, Id. at 5. Others were apparently completed but withheld by claimants' counsel. Id. The Fund had no choice but to deny the claims. Id. at 7.

which paid over \$300 million dollars to claimants for oil spill losses.

° Given the failure of these claimants to even attempt to document actual individual damages when given the opportunity, it must be concluded that this act is an attempt to avoid the burden of proof of doing so in court by changing the nature of the subsistence claims from actual individual losses to a vaguely defined and general "cultural" loss.

° The legislature should not become a backdoor means for special interest groups thus to receive the benefit of preferential legal standards and to avoid their burden of proof in pending litigation in court.

° It is particularly inappropriate to radically expand damages as proposed in this bill in a strict liability statute, where a plaintiff does not have to prove fault to recover actual damages.

° There are no established legal standards to determine these putative damages. The bill will invite an emotional appeal to the standardless discretion of a jury to award unjustified damages.

° Enactment of the bill will open the door to other claims for special treatment on related subsistence or native rights issues.

° The bill will create a dangerous precedent. If an oil spill can allegedly damage "cultural" aspects of subsistence, so can many other actions by individuals, private businesses, or the government. If successful here, the beneficiaries of this legislation will certainly assert entitlement to these types of damages in other cases, citing this act as recognition and approval of such claims.

° Other groups including environmentalists will also try to seek such "cultural" damages, in addition to actual losses, in litigation involving the particular activities they may be engaged in.



# GREATER FAIRBANKS BOARD OF REALTORS®

*The Voice for Real Estate™* in FAIRBANKS

1449 Gillam Way  
Fairbanks, Alaska 99701  
(907) 452-7743

## RESOLUTION

by the Greater Fairbanks Board of REALTORS opposing House Bill 467, an act amending the definition of "economic benefit" in relation to a subsistence economy, and providing for an effective date

**WHEREAS** House Bill 467, an act amending the definition of "economic benefit" in relation to a subsistence economy, and providing for an effective date of March 24, 1989, is under consideration by the Alaska State Legislature; and,

**WHEREAS** the act creates special recovery rights under Alaska law for "cultural" damages in the volatile area of subsistence, with significant possible impact on other subsistence and Native rights issues; and,

**WHEREAS** the act is anti-development in that it creates a risk of new "cultural damage" lawsuits in other areas based on claimed impacts of business activities in Alaska; and,

**WHEREAS** the act undermines tort reform principles by creating the risk of excessive jury awards for unsubstantiated, non-economic damage to "traditional and cultural existence"; and,

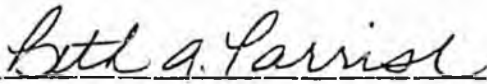
**WHEREAS** the act opens the door to new claims by environmental and other special interest groups on similar theories of liability for damages beyond any actual personal injury, property damage or economic loss; and,


**WHEREAS** such a change in the existing strict liability statute is unwarranted, because it already provides for recovery of actual damages from oil spills, without regard to fault, to the extent legally cognizable;

**NOW, THEREFORE, BE IT RESOLVED** that the Greater Fairbanks Board of REALTORS strongly urges the Alaska State Legislature to defeat House Bill 467.

Adopted this 3rd day of April, 1992.

BY: GREATER FAIRBANKS BOARD OF REALTORS

  
Beth Parrish, President

  
Nina J. Freeze, Executive Officer



# GREATER FAIRBANKS BOARD OF REALTORS®

*The Voice for Real Estate™* in FAIRBANKS

1449 Gillam Way  
Fairbanks, Alaska 99701  
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## A RESOLUTION OPPOSING HOUSE BILL 29, AN ACT AUTHORIZING SUITS TO ENFORCE ENVIRONMENTAL LAWS

**WHEREAS** House Bill 29, an act authorizing suits to enforce environmental laws, is under consideration by the Alaska State Legislature; and,

**WHEREAS** the act would allow persons affected by an alleged violation of the environmental law, regulation, permit, plan, or order to file a civil action against the alleged violator; and,

**WHEREAS** the act mandates that proceeds from a settlement of such a civil action may only be used for restoration costs, environmental education, donations to 501(c)(3) organizations, or for reimbursement of legal fees and costs; and,

**WHEREAS** the act is modeled after similar federal law; and,

**WHEREAS** the federal law in purpose and effect is an off budget entitlement program for environmental advocacy groups; and,

**WHEREAS** the vast majority of private enforcement actions under the federal law have been brought by environmental advocacy groups; and,

**WHEREAS** the federal law has not measurably increased the detection and cessation of pollution; rather, the violations easiest to prove and, therefore, those that attract the attention of private enforcers, most often turn out to be paperwork violations; and,

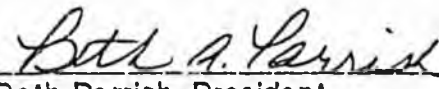
**WHEREAS** the vast majority of notices of intent to sue under the federal law have led, not to litigation, but to negotiations, settlements, and consent decrees; and,

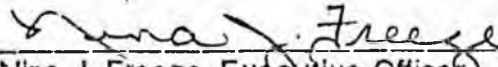
**WHEREAS** the compulsory philanthropy to environmental advocacy groups required by federal law and contemplated by House Bill 29 is a hidden tax on consumers;

**NOW, THEREFORE, BE IT RESOLVED** that the Greater Fairbanks Board of REALTORS strongly urges the Alaska State Legislature to defeat House Bill 29.

Adopted this 3rd day of April, 1992.

BY: GREATER FAIRBANKS BOARD OF REALTORS

  
Beth Parrish, President

  
Nina J. Freeze, Executive Officer



# GREATER FAIRBANKS BOARD OF REALTORS®

The Voice for Real Estate™ in FAIRBANKS

1449 Gillam Way  
Fairbanks, Alaska 99701  
(907) 452-7743

## A RESOLUTION OPPOSING HOUSE BILL 522, AN ACT IMPOSING A REAL ESTATE CONVEYANCE TAX

**WHEREAS** House Bill 522, an act imposing a real estate conveyance tax; providing for sharing with municipalities of a portion of the revenue obtained from the tax; authorizing certain municipalities to levy and collect a real estate conveyance tax; amending the formal requisites of recording a conveyance; and providing for an effective date; and,

**WHEREAS**, in the absence of a State withholding tax or a State sales tax, the property owners are already paying the bulk of the taxes; and,

**WHEREAS** such act would increase closing costs for the Sellers of real property and **WHEREAS** such costs would be passed on in part to the Purchasers of real property in Alaska, the moderate to low income family would be unable to realize the American dream of property ownership; and,

**WHEREAS** the real estate industry and the lending institutions are making an effort to provide alternatives for low to moderate income housing loans; and,

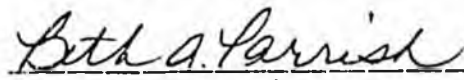
**WHEREAS** the sale and purchase of real property is essential to a healthy economy as well as a healthy real estate industry; and,

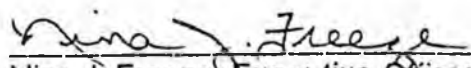
**WHEREAS** there should be more effort by the Alaska State Legislature to reduce State expenditures;

**NOW, THEREFORE, BE IT RESOLVED** that the Greater Fairbanks Board of REALTORS strongly urges the Alaska State Legislature to defeat House Bill 522.

Adopted this 20th day of March, 1992.

BY: GREATER FAIRBANKS BOARD OF REALTORS

  
Beth Parrish, President

  
Nina J. Freeze, Executive Officer

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MYRA M. MUNSON

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MARVIN J. SONOSKY  
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WILLIAM R. PERRY  
LLOYD BENTON MILLER\*  
DONALD J. SIMON  
DOUGLAS B.L. ENDRESON  
MYRA M. MUNSON\*  
ANNE D. NOTO

OF COUNSEL  
TASSIE M.K. HANNA  
ROGER W. DuBROCK\*  
KAY E. MAASSEN GOUWENS\*

\*ALASKA BAR

WREXIE L. BARDAGLIO  
LEGISLATIVE SPECIALIST

March 18, 1992

The Honorable Lloyd Jones  
Alaska State Senate  
State Capitol  
Juneau, AK 99801-1182

Re: Senate Bill 398 (Spill Damages to  
Subsistence Interests)

Dear Senator Jones:

Thank you so much for taking a few minutes with me and Senator Menard several days ago to discuss the merits of Senate Bill 398. I thought our discussion served as an excellent test of the merits of this fairly innocuous bill, and I was glad to have the opportunity to talk with you directly regarding its importance.

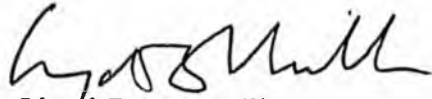
You correctly pointed out what the Attorney General's office has also been saying: A judge correctly interpreting the oil spill law as it is currently written should not limit the damages of subsistence users to a few dollars worth of salmon, duck meat or seal meat. Still, one judge has already misconstrued the law in precisely this way. S.B. 398 will make sure that that sort of retroactive misreading of the law does not occur. Because the bill is short, technical, and when properly interpreted not controversial, I hope you will be able to find a small block of time on your Committee to hear the bill and move it on to Judiciary.

Thank you once again for making the time to discuss this bill.

The Honorable Lloyd Jones  
March 18, 1992  
Page 2

Sincerely,

SONOSKY, CHAMBERS, SACHSE,  
MILLER & MUNSON

A handwritten signature in black ink, appearing to read "Lloyd Benton Miller". The signature is fluid and cursive, with the first name "Lloyd" being the most prominent.

By: Lloyd Benton Miller

LBM/lf

cas142ps lhm

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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

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

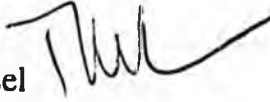
**MEMORANDUM**

March 25, 1992

**SUBJECT:** Subsistence (SB 398)

**TO:** Senator Curt Menard

**FROM:** Terri Lauterbach  
Legislative Counsel



You have asked whether the amendment made to "economic benefit" in SB 398 would have any effect on the state's efforts to establish a system for the regulation and management of subsistence and subsistence uses, particularly the Governor's proposed system under SB 443.

The answer to your question is no. SB 398 will not affect SB 443. The changes made in SB 398 neither expand nor contract, nor even describe, who is a subsistence user or what a subsistence use is. SB 398 only refers to the "value" of whatever a subsistence economy is as being a value that will have to be recognized when determining damages from a release of a hazardous substance. Subsistence laws will determine what that economy is and who is in it, not SB 398.

The relationship between SB 398 and the Governor's subsistence bill runs the direction opposite to that implied in your question. That is, SB 443 (or whatever subsistence scheme is worked out) will have a great effect on what a "subsistence economy" is (and who participates in it) for purposes of oil spill damages, but not vice versa. Changes made by SB 398 in the definition of "economic benefit" for purposes of oil spill damages will have no effect on the subsistence system proposed in SB 443 or any other subsistence proposals.

Please let me know if you have further questions about this matter.

TML:pl  
92-206.plm



# Alaska State Legislature

SENATE

Official Business

SENATOR CURT MENARD

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

## SPONSOR STATEMENT

Sponsor: Senator Curt Menard

A handwritten signature in black ink, appearing to read "Curt Menard", written over the name in the sponsor line.

Subject: Senate Bill 398: An act amending the definition of 'economic benefit' in relation to a subsistence economy

Date: 28 February 1992

Subject: Compensability of Native subsistence claims within the context of the Exxon Valdez claims of the Trans-Alaska Pipeline Liability Fund.

The Alaska Environmental Conservation Act of 1972 represents a broad effort by the Alaska Legislature to require polluters, including oil spillers, to compensate victims of spills for their full measure of "damages," including all damages measureable in terms of an economic loss. The term "damages" is broadly defined in AS 46.03.824, and refers to "the loss of an economic benefit." The term "economic benefit" is in turn defined in AS 46.03.826(2) to mean any "benefit measurable in economic terms." Included within the scope of such damages are damages to "a subsistence economy," and that term is also defined in the statute at AS 46.03.826. The Legislature's purpose in enacting these provisions was to assure that oil spillers would have to pay all of the economic damages caused by their actions.

In the wake of the Exxon Valdez Oil Spill the subsistence-dependent villages of Prince William Sound and elsewhere have been pressing claims under the Alaska Environmental Conservation Act against Exxon to recover the full measure of economic damages brought about as a result of the immediate and continuing severe impact of the spill on their subsistence

way of life. Because the value of subsistence involves considerably more than the bare dollar value of a duck not taken or a fish not caught, computing the damages requires extensive and sophisticated economic analyses which in many ways are similar to the analyses applied in determining the dollar value of natural resource damages.

While the villages have been pursuing their claims under the Alaska Environmental Conservation Act in state court, they have simultaneously been required under a Federal court order to present their claims to a federally created body known as the Trans-Alaska Pipeline Liability Fund. The Fund is a more limited avenue of relief for oil spill victims than the Alaska Environmental Conservation Act, because it only contains \$86 million for all of the victims of any one spill, while the Alaska Environmental Conservation Act carries no dollar limit. Recently, the Fund rejected the bulk of the subsistence claims on the ground that governing federal law did not authorize the Fund to pay any economic damages suffered by subsistence-dependent people other than the bare dollar value of subsistence foods not consumed. The decision was made by retired Federal Judge John Gibbons, who was hired by the Fund to dispose of all claims.

The decisions by Judge Gibbons, while unfortunate, would be of little consequence to the Alaska Legislature were it not for the fact that, in the course of a lengthy November 12, 1992 memorandum, Judge Gibbons expresses his view that the subsistence damage claims presented to and rejected by the Fund would similarly not be compensable under the Alaska Environmental Conservation Act.

Retired Federal Judge Gibbons is simply wrong in his assessment of our State's laws and of the Legislature's broad intent in making special provision to assure that polluters will pay the full measure of damage to our subsistence-dependent people. My view of the scope of the current law is shared by the Attorney General's office, which, I am informed, agrees that the Alaska Environmental Conservation Act authorizes the application of contingent valuation methodologies and other economic damage assessment models to compute the full measure of damages required to be paid under the Act. Nonetheless, Judge Gibbons' remarks are disturbing,

Page 3

SB 398 Sponsor Statement

and if they are accepted by the courts, would represent a severe undermining of the Legislature's intent.

For this reason, I have introduced Senate Bill 398 to remove any possible doubt regarding the Legislature's intent in 1972, and as reinforced by more recent amendments in 1986 and 1991. If the oil companies can hold their liability for the devastation caused to the village citizens of this state down to the mere food dollar value of their subsistence catches, a grave injustice will have been done to our citizens. I believe the Legislature has a duty to assure that this does not occur, and to remove even the most remote doubts that may have been raised as a result of the unfortunate rulings by the Trans-Alaska Pipeline Liability Fund.

I would appreciate your support of SB 398.

S B

4 0 6



7-LS1916D  
Utermohle  
4/30/92

**CS FOR SENATE BILL NO. 406 (RESOURCES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATOR HOFFMAN**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to the management of mixed stock fisheries by the Board of Fisheries."**

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

**3 \* Section 1. AS 16.05.251 is amended by adding a new subsection to read:**

**4 (h) The Board of Fisheries shall adopt by regulation a policy for the management of**  
**5 mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in**  
**6 a manner that is consistent with sustained yield of wild fish stocks.**



DEPARTMENT OF FISH AND GAME  
POSITION PAPER

Bill No: SB 406  
Sponsor: Senator Hoffman  
Division: Commercial Fisheri  
Bill Title: Management of M.  
Fisheries.

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

TO: Terry

DEPT: \_\_\_\_\_ FAX #: 3922

FROM: Cowan PHONE: \_\_\_\_\_

CD: \_\_\_\_\_ FAX #: 2332

Post-it brand fax transmittal memo 7871

NO. OF PAGES
2

Department Position: Oppose

Senate Bill 406 is similar in content to the Board of Fisheries' Policy Statement on Management of Mixed Stock Salmon Fisheries, which the Department of Fish and Game supports. However, adoption of that policy as statute would place a stringent requirement on the board to follow the guidelines when adopting regulations. Given the dynamic nature of Alaska's fisheries, it might be more advisable for the board, which was created to foster both the conservation and development of our fisheries resources, to adopt a mixed stock fisheries policy as a regulation. This would provide the board with the flexibility needed to change the policy if conditions warrant. The Legislature could provide strong guidance, through the form of a resolution, as to what it thinks the board should consider when adopting such a policy.

Stock specific fisheries management is a laudable goal. It is one which the department strives to attain. However, as is the case with many goals, it is one that can not be fully achieved in a practical since. I would like to point out a few factors that it difficult to achieve that goal.

There are few, if any, pure single stock fisheries in the state. From a strictly scientific perspective, a stock is a genetically unique breeding population. Application of that definition could lead one to the conclusion that, ideally, fisheries should only take place on the spawning grounds. One can easily envision how dangerous even a small error in setting the allowable fishing time in such a situation would be to the viability of a stock subjected to that type of fishery. The department and the board take a more broad, pragmatic approach to the concept of stock; that being a concept of more inclusive breeding populations that are manageable as a unit. For example, in management of the commercial fisheries that take place in the lower Yukon River, chinook and fall chum salmon are generally each considered a single management stock, as opposed to breaking those stocks down by their spawning tributaries. The point is that one should take the broad management approach to defining a stock when dealing with the guidelines such as those contained in this bill.

Position Paper Continued

SB 406

There are some important biological, economic, and social reasons for having mixed stock fisheries. As mentioned above, there is a danger to single stock management in the form of over fishing. The area where the fishery is to take place should be large enough to accommodate the fleet without undue congestion and to allow reasonable time to prosecute the fishery. In many areas this requires that the fishery take place before the fish stocks become highly separated. The quality of some fish species, such as pink and chum salmon, quickly deteriorate as they approach their natal streams. It is also very expensive to manage the large returns of these species on a stock specific basis. Thus, economics dictates some degree of mixed stock fishing in those types of situations.

Although a reasonable interpretation of the bill's language should not cause management difficulties, the lack of a strong definition for "stock," "mixed stock fishery," and other terms in the act could provide rich fodder for future litigation over controversial decisions of the Board of Fisheries. A very narrow interpretation of the term "stock" could force the board to adopt stock specific management plans that would require the department to initiate costly data gathering and inseason management projects on stream by stream basis. I recommend that the board be allowed to retain the flexibility to address specific situations, particularly as factors change with time. An important factor that will change with time is the ability to distinguish stocks of fish and the department's fiscal and technical capabilities to manage those stocks.

Commissioner's Signature

C. Meacham

Date: 2-28-97

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SB 406

Revision Date: 2/20/92 Department Affected: Fish and Game  
 Title: Management of Mixed Stock Fisheries BRU: Commercial Fisheries  
 Component: Commercial Fisheries  
 Sponsor: Senator Hoffman  
 Requestor: Senate Resources COMPONENT SERIAL NO. 

4	5	9
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210  
 Division: Commercial Fisheries Date: 2/20/92  
 Approved by Commissioner: C. Maclean  
 Agency: Fish and Game Date: 2-28-92

ADFG Zero  
Fiscal Note

February 20, 1992

Honorable Senator Lyman Hoffman  
Juneau, Alaska 99801

Subject: Senate Bill No. 406

This letter is to support Senate Bill No. 406. "AN ACT RELATING TO THE MANAGEMENT OF MIXED STOCK FISHERIES BY THE BOARD OF FISHERIES".

The board of fisheries does not have a policy nor regulation concerning the management of mixed stock fisheries. The board of fisheries has had in the past used such a policy statement to manage the mixed stock fisheries. This policy has been in the regulation books as a policy statement for a good number of years. In 1989 the board of fish worked over the present mixed fish policy statement. This policy statement is also contained in the 1990-1991 Bristol Bay and westward commercial fishing regulation book. Currently the board of fisheries cannot even mention its mixed fish policy statement because of a judge's ruling. The judge stated, "If the board of fish does not adopt the mixed fish policy statement into a regulation than the board should not use it".

As a past board of fish member I strongly feel that such a policy is vital to the management of our mixed stock fisheries. I have while on the board moved to adopt the mixed fish policy statement into a regulation but to no avail.


The A.G.s office has also urged the board of fish to adopt the mixed stock policy statement into a regulation. The A.G.s office has sent several memos to the board stating if the mixed fish policy statement is not put into regulation then according to the judge's decision and the interpretation of the A.G.s office, the board should refrain from even mentioning it in their deliberations on proposals dealing with mixed stocks of fish.

Senate Bill No. 406 will contain the existing mixed stock fisheries. These fisheries will not be able to expand at the expense of other fisheries that have harvested these stocks in a more terminal fisheries or by fishermen that have traditionally fished for these stocks. A few examples come to mind, presently the Area M fisheries are allocated 8.3% of the forecasted catch of Area T sockeye salmon. This was done by the board of fish. This bill, if passed will not effect that allocation. However, if the Area M fisherman start

Letter of Support  
Robin Samuelsen Jr

harvesting 12.5% of the Area T sockeye, the board of fish will have the tools necessary to curtail that new expansion of that fishery. Another example is the Kodiak-Cook Inlet fisheries. In the last Kodiak fish board cycle the board curtailed the expansion of the Kodiak fisherman on the sockeye stocks bound for Cook Inlet. At the time the board could use its mixed fish policy statement and did. Without this tool no telling what will happen the next time the board of fish takes up Kodiak proposals or other fisheries that are allowed to expand at the expense of other fisheries and fishermen. One thing this bill is not is a discrete stock bill, if it was I would not be supporting it. We have fisheries that are of mixed stocks throughout our state. These are long standing and accepted fisheries by fisherman as well as the board of fish. I again urge the passage of Senate Bill No. 406. This bill will not only help the board of fish to manage mixed stock fisheries but also help the public understand the rules the board of fish plays by and hopefully will elevate some of the turmoil surrounding our fisheries.

Thank You



H. Robin Samuelson Jr.

Box 412

Dillingam, Alaska 99576

# MEMORANDUM

State of Alaska  
Department of Law

TO: Laird Jones  
Director, Division of Boards  
Department of Fish & Game

DATE December 19, 1990

FILE NO 223-89-0078

TEL NO 465-3600

SUBJECT Mixed stock policy after  
Gilbert

FROM: Larri Irene Jones  
Assistant Attorney General  
Natural Resources Section

You requested more explicit guidance on the Board of Fisheries' mixed stock policy in light of Gilbert v. State \_\_\_ P.2d \_\_\_, Op. No. 3649 (Alaska December 7, 1990). That case declared that the mixed stock policy was in effect a regulation, because it "makes more specific the law enforced or administered" by the board and "affects the public," as outlined in the definition of "regulation" under AS 44.62.640(a)(3). However, the mixed stock policy was never adopted under the administrative procedure act, with notice, comment, codification, etc. Thus, the court ruled that the policy could not be relied upon by the board in any way as a basis for making regulations. This ruling applies not only to the Stepovak commercial allocation at issue in Gilbert, but to any regulations. (This does not mean, however, that any regulations already adopted by the board are necessarily invalid if the board referred to the mixed stock policy in adopting them. In the Gilbert case, for example, although the mixed stock policy had been referred to, the court found ample grounds in the record for the board's action, even if the mixed stock policy was subtracted out.)

This decision leaves the board two options with regard to the mixed stock policy. The first is adopting it as a regulation, in which case the board could rely on it and refer to it in adopting or rejecting proposals in the regulation-making process. In order to accomplish this option, the subject should be properly noticed, and the board might want to publish the existing policy as a proposal for public comment under the appropriate legal notice.

The alternative course of action would be not to adopt the policy as a regulation, and to simply stop referring to it. If the board chooses this course of action, the policy should be removed from the regulation handy dandy book, where I believe it is still reprinted, and should not be referred to in the deliberation process. The board could, however, use the content of the now invalid mixed stock policy in discussing reasons for or against various proposals. For example, the board members could express their concern that historic mixed stock fisheries not be allowed to grow, because of possible conservation concerns, and concern that those who rely on those fisheries should not suddenly have one of

Attorney General  
Legal Memorandum

their sources of livelihood closed down. The key to remember, if this course is chosen, is that the mixed stock policy is invalid procedurally, not substantively, and there is nothing wrong with the board discussing the kinds of concerns and goals expressed in the mixed stock policy in deliberating.

One advantage to not adopting the mixed stock policy as a regulation, and rather simply referring to the goals and concerns in discussions, is that it would remove one possible cause of action for law suits. In other words, if the mixed stock policy is adopted as a regulation, then on any given regulatory action affecting mixed stocks, people could allege inconsistency with the policy, whether the action is to increase the level of mixed stock harvest, decrease it, or leave it the same. Prevailing on those allegations would be another matter, but if the policy has not been adopted as regulation and is not referred to by the board, that cause of action will not be available to potential plaintiffs. However, if the board believes there are worthwhile purposes in converting the mixed stock policy into a regulation, the concerns over a potential additional cause of action should not be determinative.

If you have any questions, please let me know.

cc: Don Collinsworth  
Commissioner of Fish & Game

Denby Lloyd  
Director of Commercial Fisheries Division  
Department of Fish and Game

Tom Koester  
Steve White  
Bonnie Harris  
Department of Law

LIS:nl

At this point, there's hardly anything left to lose.

□ John Tetpon, an Anchorage Journalist, is Vice President of the Native American Journalists Association and a member of the Alaska Native Communications Society.



# Fish board should put fish and Alaska fishermen first

Some commend, others curse me for legislation creating boards of fish and game and education in the early 1960s.

It was the ardent desire of Gov. Bill Egan to eliminate boards. Having somewhat more clout than a freshman House member with no party affiliation (I was one of two Independents), Gov. Bill squashed my first bills before they came out of committee so I re-introduced them again ... and again ... and again. Such a pest did I make of myself, watered down versions were finally permitted to pass.

My hope was to shelter fish and game and education from political manipulation. To do so, respective commissioners would serve at the board's instead of the governor's pleasure. While education was so insulated, fish and game was left exposed.

Nonetheless, as governor I treated both departments alike. Instead of replacing



**JAY HAMMOND**

Fish and Game Commissioner Brooks with a "politically correct" appointee. I retained a competent professional. Moreover, I refused to pressure the board even when I disputed its actions. That I'd not politically orchestrate fish and game management was applauded by all ... save the faction whose "politics" did not prevail.

While I still believe fish and game boards should be sheltered from politics, shelter should be from within as well as without. Absent state policy guidelines on such things as intercept fisheries and harvest allocations, too often the board's politics fills the policy vacuum.

Even when not the case, if board members have financial interests in management, the public will charge "conflict." Areas and interests not represented will feel shortchanged.

As resource competition increased, so did public dissatisfaction. To alleviate that, I proposed local advisory boards. Later, I toyed with regional boards. Cost and complexity compelled me to shelve them.

Board decisions regarding intercept fisheries (i.e., the False Pass "chum cap"), and allocations seemingly favor-

ing non-resident Alaskans, have prompted Rep. Jerry Mackie of Craig to resurrect the idea of regional boards. However, until policy guidelines are imposed, any board system will be defective.

Who should establish these guidelines? Certainly not the board. For example, would drifters like a fish board on which sat only setnetters to be free to allocate salmon as they saw fit?

State policy should be made by the legislature. By this, I don't mean mucking around with specifics. That's for the board and department. What I *do* mean is a broad policy directing the board to place paramount two considerations when evaluating all regulatory proposals:

1. What's in the best interests of the fish?
2. What's in the best interests of Alaska fishermen? (In other words, does the proposal, if adopted, reduce

Alaska residents' share of the harvest?)

Proposals which would expand interception of intermingled fish stocks and reduce the total share of harvest going to Alaska residents should be thrown out.

Similarly, proposals real-locating harvests between gear types which reduce Alaskans' comparative share should be dumped. Instead the board of fish recently wasted time and incurred outrage by voting on elimination of almost 60 set nets. That proposal met neither policy objective:

1. More salmon would be caught which otherwise would escape into their natal streams if setnetters (who fish only part time) vacated locations into which flooded drifters fishing full time, and;

2. Alaska residents' collective comparative payday would be reduced, since over 90 percent of the bay's setnet

harvest goes to residents, compared to less than 50 percent for the drift fleet.

Why was this proposal even considered? Politics. Absent state policy better protecting fish and Alaska fishermen, it will ever be so ... or so presumed.

Recently, encouraged by Rep. Georgianna Lincoln of Rampart, I urged the governor to demand his agencies provide data comparing resident vs. non-resident harvest in all fishing districts. Happily, he demanded they do so.

I believe he'll be enlightened, perhaps even shocked. At the least, I hope it will induce *him* to direct both the board and the department, to place first the best interests of the fish and Alaska fishermen ... no matter whose ox may be gored.

□ Jay Hammond was governor of Alaska from 1974 to 1982.

# Democratic ride gets a little rougher as Kerrey goes after Clinton

WASHINGTON — Up to now the Democratic primaries have been like a children's birthday party. Everybody gets a prize; no one, overcome with the chagrin of defeat, rushes sobbing from the room. Now, however, the party is getting

Kerrey says that Clinton's transgressions in love and war make him "a soft peanut" for Republicans in the fall. It is the worst thing he could say about a man whose claim — yet to be proven — is "electability." Kerrey's first attempt to

— which Kerrey eventually opposed — refought.

It is personal, too, because Kerrey, like other Democrats, is irritated with Clinton's latter-day militarism as reflected in his statement that he would have voted for the Gulf War. Kerrey, like

Gen. P.X. Kelley to warn on video that the White House is no place for doves.

Kerrey has tried to translate Clinton's record on the draft into a matter of "personal responsibility." Clinton's reasoning, he says, is

money. He is garlanded with political endorsements from the entire Georgia establishment, beginning with Gov. Zell Miller, Sen. Sam Nunn and — most important, given the state's large black vote — Rep. John Lewis, an



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FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL. NO. SB407

Revision Date: 2/14/92

Department Affected: Fish and Game

Title: An act relating to boards of fisheries; and providing for an

BRU: Boards

Component: Board Services

Sponsor: Senator Hoffman

Requestor: Senate Resources

COMPONENT SERIAL NO. 

1	2	0	4
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	161.1	167.5	167.5	167.5	167.5	167.5
TRAVEL	170.0	176.8	176.8	176.8	176.8	176.8
CONTRACTUAL	93.0	97.0	97.0	97.0	97.0	97.0
SUPPLIES	5.0	5.2	5.2	5.2	5.2	5.2
EQUIPMENT	55.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	484.1	446.5	446.5	446.5	446.5	446.5

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

GENERAL FUND	484.1	446.5	446.5	446.5	446.5	446.5
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	484.1	446.5	446.5	446.5	446.5	446.5 0.0

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	2	2	2	2	2	2
TEMPORARY						

Estimate of current year impact: no FY92 impact

ANALYSIS: (Attach a separate page if necessary)  
see attached

Prepared By: Beverly Reaume *Linda Jones for* Phone: 465-3110

Division: Division of Boards Date: 2/25/92

Approved by Commissioner: *Tom Lowmyer*

Agency: Department of Fish and Game Date: 4/5/92

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

*Staff for regional boards located in Juneau*

Three Executive Directors: Southeast & State Fish Board;  
Southcentral, Western and Northern; Game and Joint  
(one of three is division director)

Meeting Schedule: Southeast: first half Oct. and first half Jan.  
Southcentral: last half Oct. and last half Jan.  
West/North: first half Nov. and first half Jan.  
State Fish Board: early Nov.; early Mar.  
Game Board: Nov. and Mar/Apr  
Joint Board: Jan. and Apr.

Total meeting days per year for regional and state fish boards:  
Regional boards = 26 each; state fish board = 12.

Other assumptions: All regulations will be open for consideration each year in each region. This will double the number of advisory committee meetings to review and respond to issues in their region. Three proposal books (one each region) will be prepared each year (currently one). This will increase both printing and postage costs. Total meeting days will increase by about 38 affecting both per diem and meeting space costs. New staff will be added in headquarters and clerical support expanded in regional offices to handle the increased workload.

<u>Staff Changes:</u>	<u>Cost</u>	<u>Months</u>
Deputy Director (3rd exec dir.)	85.7	12
Ass't Exec Director	(72.5)	(12)
Regulations Specialist	58.9	12
Reg Specialist I	31.5	8
Clerk Typist, Juneau Region	13.2	4
Clerk Typist, Anchorage	9.0	3
Clerk Typist, Dillingham	7.8	2
Clerk Typist, Bethel	11.5	3
Clerk Typist, Kotzebue	11.5	3
Clerk Typist, Fairbanks	10.5	3
	\$161.1	38

Other Cost Increases:

Advisory Committee meetings increase	200.0
Printing/Postage increase	35.0
Meeting space/Per Diem increase	33.0
One Time Costs: computer equipment, furniture, etc. for new staff, two sound systems	55.0

\* TOTAL\$484.1

\*does not include additional legal support for the Dept. of Law.