

**ALASKA**

**LEGISLATURE**

**COMMITTEE**

**FILES**

**1991-1992**

**8672**

**7681**

**SENATE**

**RESOURCES**

1 River State Game Sanctuary established under AS 16.20.160;

2 (3) provide opportunities that are compatible with (1) of this subsection for  
3 wildlife viewing, fisheries enhancement, fishing, hunting, and trapping, for temporary safe  
4 anchorage, and for other activities.

5 (c) The Board of Game shall determine whether hunting of brown bears within the  
6 McNeil River State Game Refuge should be prohibited.

7 (d) The use and enjoyment of valid rights and interests in mineral claims, including the  
8 right of access, within the McNeil River State Game Refuge is protected. This subsection does  
9 not affect the power of the commissioner of natural resources to open or close land within the  
10 McNeil River State Game Refuge to new mineral entry under AS 38.05.185 - 38.05.275.

11 (e) The department and the Department of Natural Resources

12 (1) may not enter into sales of land within the McNeil River State Game Refuge;

13 (2) may enter into leases within the McNeil River State Game Refuge if the  
14 commissioner finds that activity conducted under the lease is compatible with the purposes for  
15 which the refuge is established.

16 \* Sec. 2. AS 16.20.160 is repealed and reenacted to read:

17 Sec. 16.20.160. MCNEIL RIVER STATE GAME SANCTUARY. The following state-  
18 owned land and water, including the tidelands but exclusive of marine water and submerged land,  
19 lying within the parcels described in this subsection is established as the McNeil River State  
20 Game Sanctuary:

21 Township 12 South, Range 29 West, Seward Meridian

22 Sections 1 - 36

23 Township 12 South, Range 30 West, Seward Meridian

24 Sections 1 - 36

25 Township 13 South, Range 29 West, Seward Meridian

26 Sections 5 - 8

27 Sections 17 - 20

28 Sections 29 - 32

29 Township 13 South, Range 30 West, Seward Meridian

30 Sections 1 - 36

31 Township 13 South, Range 31 West, Seward Meridian

1                   Sections 1 - 36  
2                   Township 13 South, Range 32 West, Seward Meridian  
3                   Sections 1 - 36  
4                   Township 14 South, Range 32 West, Seward Meridian  
5                   Sections 1 - 12  
6                   Sections 15 - 22  
7                   Sections 27 - 30.

8 \* Sec. 3. AS 16.20.170 is repealed and reenacted to read:

9                   Sec. 16.20.170. PURPOSE; REGULATIONS. (a) The McNeil River State Game  
10 Sanctuary is established to

11                   (1) provide permanent protection for brown bear and other fish and wildlife  
12 populations and their habitats, so that these resources may be preserved for scientific, aesthetic,  
13 and educational purposes;

14                   (2) manage human use and activities in a way that is compatible with (1) of this  
15 subsection and to maintain and enhance the unique bear viewing opportunities within the  
16 sanctuary; and

17                   (3) provide opportunities that are compatible with (1) of this subsection for  
18 wildlife viewing, fisheries enhancement, and fishing, for temporary safe anchorage, and for other  
19 activities.

20                   (b) Hunting and trapping within the McNeil River State Game Sanctuary are prohibited.

21                   (c) The department and the Department of Natural Resources

22                   (1) may not enter into sales of land or water within the McNeil River State Game  
23 Sanctuary;

24                   (2) may enter into leases within the McNeil River State Game Sanctuary if the  
25 commissioner finds that activity conducted under the lease is compatible with the purposes for  
26 which the sanctuary is established.

27                   (d) The McNeil River State Game Sanctuary is closed to mineral entry under  
28 AS 38.05.185 - 38.05.275.

29                   (e) The boards may adopt regulations governing access, entry, development, construction,  
30 fishing, and other uses and activities affecting the natural habitat, fish and wildlife, and public  
31 use of the McNeil River State Game Sanctuary.

1 \* ~~Sec. 4. VALID EXISTING RIGHTS AND INTERESTS PRESERVED WITHIN REFUGE. The~~  
2 ~~establishment of the McNoil River State Game Refuge by AS 16.20.041, added by sec. 1 of this Act,~~  
3 ~~does not impair or alter a valid right or interest, including a mineral claim, existing on the effective date~~  
4 ~~of this Act, on state land within the refuge.~~ This provision is covered on Page 3, Line 7-11.  
5 \* ~~Sec. 4.~~ This Act takes effect on the date the Paint River fish ladder begins operation. The  
6 commissioner of fish and game shall certify to the revisor of statutes the date the fish ladder begins  
7 operation. This subsection is redundant.

If operation of the Paint River fish ladder is permanently halted by legal action, this act is repealed. The Commissioner of Fish and Game shall notify the revisor of statutes of the date that such a halt in operation occurs.

A repealer based on the Paint River fish ladder operation being halted may serve as a deterrent to the current plaintiffs continuing their suit even after the legislation. It may, however, have the unintended effect of making the fish ladder a legal target for others who are simply opposed to the creation of the refuge, for example, a disgruntled miner.

Once construction is completed and the fish ladder goes into operation, its legal vulnerability decreases dramatically. Rather than possibly encouraging nuisance suits, the legislature may wish to use a letter of intent to achieve the same purpose without the unintended negative side effects. A possible letter is below:

It is the intent of the legislature in passage of HB 306, to protect brown bear and the unique viewing opportunities at McNeil River while encouraging the construction of the Paint River fish ladder and enhancement of the Paint River system. It is not the intent of the legislature to discourage the development of valid mining claims within the McNeil River State Game Refuge.

If the plaintiffs in Friends of McNeil River vs. U.S. Army Corps of Engineers are successful in legally blocking construction or operation of the Paint River, the Senate Resources Committee shall introduce legislation repealing the creation of the McNeil River State Game Refuge and the enlargement of the McNeil River State Game Sanctuary. If such a circumstance occurs, the Departments of Fish and Game and Natural Resources have pledged their support for repeal of HB 306.



## **ALASKA OUTDOOR COUNCIL, INC.**

P.O. Box 34097

Juneau, AK 99803

May 17, 1991

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

Dear Senator Jones:

The Alaska Outdoor Council (AOC) supports the Paint River fishway project and the conservation of other fish and game of the area including the brown bears which frequent the McNeil River drainage. We also support perpetuation of the remarkable bear viewing opportunities at the McNeil River falls. We appreciate the Legislature's interest in the project and related matters, and Representative Grussendorf's and your collective efforts to devise a legislative compromise which reassures the various interested parties that their concerns will be addressed.

We wish to reiterate our basic position that this legislation is not necessary to address and accommodate the various interests. Adequate authority and flexibility is present in existing statutes and regulatory options. But, since this forum focuses on a legislative approach we offer the following recommendations to make the current version of HB 306 acceptable to the AOC.

\* The principle purpose of the Refuge should reflect a broad conservation mandate. delete the existing language of 16.20.041(b)(1), and insert language along these lines:

"provide for the conservation of brown bears and of other fish and game populations and their habitats to maintain, enhance, and utilize these resources consistent with the sustained yield principle".

- \* Delete 16.20.170(b). Determination of hunting and trapping opportunities should be made by the Board of Game.
- \* Change the designation of the Little Kamishak/Kamishak Rivers Unit of the proposal from sanctuary to refuge, and add the Amakdedori River drainage to the north side of the refuge. This proposal was made at a meeting of interested parties in Anchorage and received wide support.

These changes would be consistent with maintaining the exemplary bear management program in the McNeil River Sanctuary, address concerns related to the fishway project, and help ensure that opportunities for public uses of public fish and game resources are balanced.

We also support the efforts of the Department of Fish and Game and of other interested parties to maintain adequate opportunities and access for other resource uses in the refuge.

Sincerely,



Richard H. Bishop  
Legislative Affairs

Post-it brand  
Fax Transmittal Memo

7672 No of Pages 4 Today's Date 5/17 Time 1:10 PM  
From TONY DAWSON  
Company F.O.M.R.  
Location ANCHORAGE Dept. Charge  
Fax # 248-7251 Telephone # 248-1974  
Original  Discard  Return  Call for pickup

To SENATOR LLOYD JONES / PAULA TERRELL  
Company ALASKA STATE SENATE  
LOCATION JUNEAU  
Fax # 465-3922 Telephone # 465-3743  
Comments DEAR SENATOR:

I SEND THIS FOR YOUR CONSIDERATION FOR THE RECORD DURING TODAY'S SENATE RESOURCES COMMITTEE HEARING ON HB 306

SINCERELY, Tony Dawson



Friends of McNeil River

P.O. Box 231091 Anchorage, AK 99523-1091  
Phone (907) 345-7036

May 17, 1991

Sen. Rick Halford  
Alaska State Senate  
Juneau, AK

CCNY/F.Y.L.

Dear Senator:

Glad to hear of your interest in the McNeil-Paint River controversy. Here are some facts you may find useful in understanding the threat hunting poses to McNeil River's bears.

1. First, it must be stated that the permit required for the construction and fish project at Paint River was issued by the Corps of Engineers based upon an incomplete Environmental Assessment in violation of federal law. Friends of McNeil and other organizations feel that careful consideration of the impacts on McNeil River and its people tolerant bears must be addressed before the project is allowed to continue.

2. The bill, as I last saw it (a week ago), offers token protection by adding a small portion of the lower Paint River to existing McNeil River State Game Sanctuary--land the bill also protects legislated hunting closure. But this critical sliver of land is just 5% of 160,960 acres designated by the bill. Because the fish ladder itself is to be bear-proofed and big water sections of the lower stream offer poor fishing, bears will won't linger there anyway.

We fear more trouble in the areas remaining UNprotected--below the ladder in Akjemguiga Cove, at the second ladder/falls upstream near Paint Lakes, and on the upstream tributaries of the entire Paint River watershed (including Dunuletak Creek). All these areas, including the 131,840 acres to be designated as "refuge," remain open to hunting.

3. Those refuge lands--encompassing the entire upstream spawning grounds in the Paint River system--will draw many bears to waiting hunters in late fall. Spawning out salmon will be most available to bears in the late fall period--September until freeze up--as they backwash from the streams. Salmon are much easier to catch then, and bears on a fall feeding binge before denning will not pass them up. Clear evidence for this exists on all streams where red salmon and late run silvers are found on the Alaska Peninsula.

Bear "highways" will develop along Dunuletak Creek and Paint River and lead bears upstream across the western and northern boundaries of the Paint River addition to the sanctuary to prime spawning areas. The moment they cross either line, they will face hunters guns. As an experienced guide and sportsman, I'm sure you have witnessed this scenario yourself. By the way, the Paint River area is also used for denning, something that could also result in high spring hunt mortality.

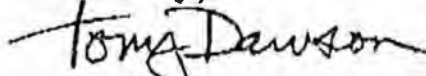
Concerned area guides predict a bear massacre, and a black eye for the hunting community. For that and the more obvious reasons, the described refuge must be closed to hunting. If not legislated, closure requires Board of Game action, and we are advised that may be unlikely due to political considerations. The bill working its way through the legislature is a small positive step, but it is far from enough.

Rep. Grussendorf has done yeoman duty on this project--without him and the Friends of McNeil River, things would not have come this far so quickly. But the issues are very complex. Political pressures limit all our aspirations in this matter, but FOMR believes the level of protection needed to prevent displacement or death of McNeil River's bears is still far from reality. Most of the area to which they will be lured remains open to hunting in spite of HB 306 and Rep. Grussendorf's best efforts.

Finally, let me address the characterization of Friends of McNeil as an "environmental" group. Though our goal in this issue is environmental, our group is a mixed bag. I am a big game hunter who hunts bears, as does over half of our founding membership. We are not anti-hunting; we simply can't understand why any sportsmen would want to shoot a bear that accepts humans as nonthreatening, and will voluntarily approach humans closely. Where's the challenge? If ever bears needed protection, the educated and tolerant bears of McNeil River are the ones.

McNeil River is unique in all the world. We don't want to see that squandered over economic issues. At the grass-roots level nationwide, biologists of many disciplines, including some of the world's preeminent bear biologists, agree with us completely. I hope this helps clarify the issue. Once any reasoning person is presented with all the facts, they find it hard not to become a Friend of McNeil River. Please contact me with any questions.

Sincerely,



Tony Dawson  
A Founding Member

Encl: Map of impacted streams/areas open and closed to hunting.

cc: Sen. Lloyd Jones/Paula Terrel  
Rep. Ben Grussendorf



## STATEMENT OF FRIENDS OF McNEIL RIVER

For the Hearing Record on

HB 306, TO EXPAND THE McNEIL RIVER STATE GAME SANCTUARY  
Before the  
SENATE RESOURCES COMMITTEE  
JUNEAU, ALASKA  
MAY 17, 1991

This is a statement by five citizen groups whose goal is to safeguard the integrity of the McNeil River State Game Sanctuary.

We recommend that HB 306 incorporate the following provisions.

1. Brown/grizzly bear hunting should be prohibited by the bill throughout the Faint River drainage and the adjacent Amakdedori Creek drainage, whether these areas are designated as sanctuary or refuge. We favor sanctuary status because sanctuaries are *TRADITIONALLY* closed to hunting and offer the highest degree of protection to wildlife and habitat.
2. The bill should close the new sanctuary/refuge to new entry under the State's mining and mineral leasing laws. Valid existing rights would not be affected.
3. In subsection (3) under "Purpose" of the expanded sanctuary, delete "fisheries enhancement" and "other activities" as purposes of the existing sanctuary and its two Kamishak River additions. Fisheries enhancement should be limited to the Faint River drainage. In the McNeil River watershed, fisheries enhancement has already been found to conflict with the bears' food requirements.
4. New leases for sport fishing camps, lodges, and other commercial developments should not be allowed in the new areas designated by the bill. These kinds of development will promote increased human-bear conflicts and probable killing of bears "in defense of life and property." Bear viewing by the non-fishing public should be managed in the same careful way as at McNeil River, without the need for elaborate facilities.

Thank you for this opportunity to present our views.

Start on Page 3, Line 3 - AS 16.20.041(b)(3) The words in brackets and the deletions are just for your clarity while drafting. I know they won't appear in the proposed CS.

(3) provide opportunities that are compatible with (1) of this subsection for wildlife viewing, fisheries enhancement, fishing, hunting, and trapping, [AND MINERAL ENTRY, FOR] temporary safe anchorage, and for other activities.

(c) The Board of Game shall determine whether hunting of brown bears within the McNeil River State Game Refuge should be prohibited.

(d) The use and enjoyment of valid [EXISTING] rights and interests in mineral claims, including the right of access, within the McNeil River State Game Refuge is protected. This subsection does not affect the power of the commissioner of Natural Resources to open or close land within the McNeil River State Game Refuge to new mineral entry under AS 38.05.185 - 38.05.275.

(e) The department and the Department of Natural Resources

(1) may not enter into sales of land [OR WATER] within the McNeil River State Game Refuge;

(2) may enter into leases within the McNeil River State Game Refuge if the commissioner finds that activity conducted under the lease is compatible with the purposes for which the refuge is established.

## Big bucks paint bleak picture for McNeil River bears

**F**riends of McNeil River — a group of Alaskans dedicated to protecting the sanctuary's world-famous gathering of bears from nearby commercial fisheries development — have suffered two setbacks during the past week.

Setback No. 1 happened in the Alaska Legislature, where House members passed a bill that would extend the sanctuary's boundaries and also establish an adjacent McNeil River State Game Refuge.

Setback No. 2 occurred four days later in Federal Court. On Tuesday, U.S. District Judge Andrew Kleinfeld refused to block construction of a fish ladder on the Paint River, as requested in a lawsuit filed by Friends of McNeil and several other environmental groups.

While Kleinfeld's decision was clearly not in the best interest of Friends (or McNeil's bears), the House's action was more subtly harmful. So subtle, in fact, that a *Times* headline reported "House passes bill to protect bears."

Although protection of McNeil's bears may have been the original intent of primary sponsor Ben Grussendorf, House Bill 306 — in its present form — could ultimately work against the dozens of brown bears that annually congregate at McNeil River Falls to feed on chum salmon.

HB 306 expands the sanctuary, in which hunting and trapping are prohibited, by only 5 percent, while also creating a refuge along the Paint River, where a massive fisheries-development project is planned only a few miles from McNeil Falls.

The first step in that plan is



Bill  
Sherwonit  
OUTDOORS  
COLUMNIST

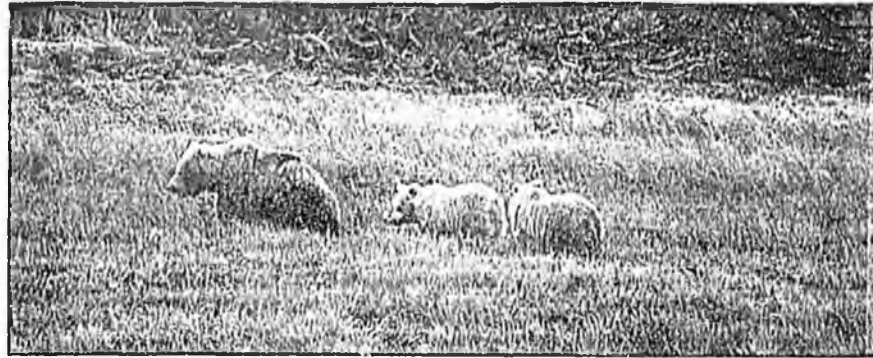
the construction of a controversial fish ladder — scheduled to begin this summer — that will allow salmon to ascend a 40-foot waterfall near the Paint River's mouth. Working together, the Cook Inlet Aquaculture Association and state Commercial Fish Division expect to create an annual return of up to 1.5 million salmon.

State wildlife biologists say there's no question bears will be drawn from McNeil to Paint River if such an artificial run is created; the only uncertainty is the number of bears involved.

Friends of McNeil — and many state biologists — worry that unless sufficient safeguards are enacted, bears drawn to the Paint River will either be hunted, shot as DLPs (in defense-of-life-and-property), or learn to associate humans with food, thus changing the manner in which they interact with humans.

Grussendorf's bill was intended to provide such safeguards. Unfortunately, "as it is now, the bill does practically nothing," says Tony Dawson, an Anchorage-based wildlife photographer and a founding member of Friends.

"(State government) has done a really good job of promoting this legislation as a protective measure for the bears; I've had several people call and



Times photo by BILL SHERWONIT

A brown bear sow leads her cubs across the McNeil River Flats on the west side of Cook Inlet.

congratulate me on our 'victory.' Grussendorf says this is a win-win situation, but we haven't gained a thing. This could end up hurting the bears more than helping them.

"The most critical areas, where the salmon will be most accessible to the bears (either when running up Paint River and its tributaries, or after spawning) are within the refuge. Ninety-five percent of the land outlined in the bill could be open to hunting. It all depends on what the Board of Game chooses to do. And with the current make-up of the board, I don't think it's likely that hunting will be prohibited in the refuge."

Dawson can easily imagine a worst-case scenario in which the remains of spawned-out salmon will continue attracting bears to Paint River and its tributaries into late fall. Such a predictable lure could make the bears easy targets for trophy seekers, if hunting is permitted within the drainage.

"Instead of being a protected area, it could become a death

trap for bears," he says. "There could be a firing line (within the refuge), where people wait for bears to leave the sanctuary."

Legislators' comments about increased opportunities for hunting and fishing lodges in the region also is worrisome.

"I keep hearing people say they want to protect the bears," Dawson notes. "But it's becoming more and more clear that they only want to protect the bears if it doesn't affect their income or special interests."

Although he criticizes HB 306 as "bad legislation," Dawson admits it is better than nothing if Paint River does indeed become a major salmon producer.

But he and other Friends of McNeil remain hopeful that they'll halt the Paint River project, despite Kleinfeld's ruling on Tuesday.

While refusing to issue a preliminary injunction, the judge denied Friends' request "without prejudice to its renewal."

Kleinfeld told Friends attorney Ken Robertson, "You lost on this preliminary

injunction because you didn't have all the necessary evidence. This is largely a procedural matter; your motion can be filed again, with the proper paperwork."

The judge also noted that, based on available evidence, the U.S. Army Corps of Engineers and Economic Development Administration had indeed failed to do an adequate environmental assessment (EA), as Friends has charged in its lawsuit.

"Based on the evidence submitted, there is no demonstration that the agencies have taken a hard look at the (fish ladder's) environmental consequences," Kleinfeld emphasized. "There is no mention at all of McNeil's bears. Without the appropriate analysis and discussion, the EA appears insufficient."

That's good news for Friends of McNeil and other parties who want the Corps to rescind its Paint River permit. If — or when — the case goes to trial, it's likely that the federal government will be required to

do another, more thorough, environmental assessment.

There is some bad news attached to Kleinfeld's preliminary analysis, however. In discussing the merits of Friends' lawsuit, he argued that the mere presence of a fish ladder will have no impact on McNeil's bear population. Only if the ladder is put into operation will the bears be affected. Therefore, he sees no compelling reason to halt the ladder's construction, as long as the fisheries project can be stopped at some future date.

Dawson disagrees.

"Once the fish ladder is built, it's a dead issue," he says. "The momentum to produce a commercial fishery will be unstoppable. After its money has been spent (the EDA is providing a \$1 million grant), there's no way the federal government is going to come up with an environmental assessment that would shut the project down."

Some might consider Dawson to be an overly cynical doomsayer. But from the start of this proposed fisheries development project, both state and federal agencies have consistently failed to adequately address the threat it poses to McNeil's gathering of bears.

I believe his cynicism — and his fears — are justified.

In a culture where decision-makers continue to make value judgments based largely on dollar signs, which do you think will receive greater consideration: a big-bucks development project? Or a gathering of bears (even if it is unique)?

Fishing  
heats up



WHAT'S HAPPENING  
IN ALASKA'S OUTDOORS

Start on Page 3, Line 3 - AS 16.20.041(b) (3)

(3) provide opportunities that are compatible with (1) of this subsection for wildlife viewing, fisheries enhancement, fishing, hunting, and trapping, [AND MINERAL ENTRY FOR] temporary safe anchorage, and for other activities.

(c) The Board of Game shall determine whether hunting of brown bears within the McNeil River State Game Refuge should be prohibited.

(d) The use and enjoyment of valid [EXISTING] rights and interests in mineral claims, within the McNeil River State Game Refuge is protected. This subsection does not affect the power of the commissioner of Natural Resources to open or close land within the McNeil River State Game Refuge to new mineral entry under AS 38.05.185 - 38.05.275.

(e) The department and the Department of Natural Resources

(1) may not enter into sales of land or water within the McNeil River State Game Refuge;

(2) may enter into surface leases within the McNeil River State Game Refuge if the commissioner finds that activity conducted under the lease is compatible with the purposes for which the refuge is established.

(f) The McNeil River State Game Refuge is closed to oil and gas leasing.

# DEPARTMENT OF FISH AND GAME

## POSITION PAPER

Bill No: CSHB 306

Sponsor: Representative Grussendorf

Division: Habitat

Bill Title: An act relating to establishing the McNeil River State Game Refuge and altering the McNeil River State Game Sanctuary, and providing for an effective date

Department Position: The Alaska Department of Fish and Game strongly supports HB 306. We believe that this bill provides a solution for the McNeil River Sanctuary/Paint River fish ladder controversy where both sides of the dispute benefit.

### BACKGROUND

In 1978 the FRED Division identified the Paint River as a very good candidate for enhancement. The drainage has at least 25 miles of stream suitable for spawning and could support all five species of salmon. Salmon use of the system is currently blocked by a 35 foot waterfall at tidewater.

The Cook Inlet Regional Planning Team included a Paint River fish ladder in its published enhancement plan in 1981. In 1985, Cook Inlet Aquaculture Association received a planning grant for the fish ladder. Funding for construction was obtained through state capital budget appropriations of eight hundred thousand dollars each in 1989 and 1990 and from a one million dollar grant from the federal Economic Development Administration.

In August of 1988, the U.S. Army Corps of Engineers issued a permit for the construction of the fish ladder. Cook Inlet Aquaculture began the bid process for construction in late summer of 1990, and in March of this year completed the process and issued the notice to proceed.

The Paint River drainage lies just North of the McNeil River State Game Sanctuary. The McNeil Sanctuary presents a unique experience to view and photograph large numbers of brown bears in close proximity. In late winter and early spring of this year a group of people coalesced who were concerned that the enhancement project might have a negative effect on the bears at McNeil River. Some of these people formed the group "Friends of McNeil."

### LAWSUIT

On April 16 of this year, the Friends of McNeil along with five environmental groups filed for an injunction to halt construction of the fish ladder. Their suit alleged that the Corps had failed to do a proper environmental impact statement and had not noticed the permit properly.

In particular, these groups fear the enhanced salmon runs in the Paint River will attract bears from McNeil out of the sanctuary where they would be hunted or have adverse contacts with fishermen or others. It is worth noting that bears are not feeding on salmon during hunting season and their normal range has always far exceeded the sanctuary or even the proposed refuge boundaries.

HB 306 is an effort to resolve the dispute in a manner that benefits both commercial fishing and protection of bear viewing opportunities without hurting other interests. The Army Corps has stated its intention to condition its permit to make operation of the fish ladder contingent upon passage of this legislation. The effective date of HB 306 has been modified to make the legislation effective the day the fish ladder goes into operation.

On May 14, the judge denied plaintiff's request for a preliminary injunction to halt construction of the fish ladder. It is estimated that this matter will be back before the court in approximately two weeks. We believe passage of HB 306 should help resolve the lawsuit.

### PROPOSED AMENDMENT

Cominco and the American Copper Nickel Company each have existing claims in Township 11 South, Range 31 W, which is proposed to be in the refuge. In an attempt to protect these existing claims and the possibility of appropriate new claims, House Finance inserted mineral entry, to be allowed to the extent compatible with permanent protection of brown bear and other fish and wildlife populations and their habitats, in the purposes of the refuge. Commissioner Heinze has testified that it is his intention to administratively close the refuge to new mineral entry while we see whether the salmon runs take hold and how they affect the bears. for 5 yrs

Inclusion of mineral entry in the purposes of the refuge poses three problems. First, the purposes is the list of reasons the refuge is created. While mining may be allowed, it is clearly not one of the reasons for the creation of the refuge. Second, we have checked with the Attorney General's Office and been advised that inclusion in the purpose section could, at a minimum, raise legal questions about the ability of the Commissioner of Natural Resources to administratively close mineral entry, even temporarily. Third, the placement of mineral entry in the purpose section makes all existing claims as well as new entries specifically subject to compatibility determinations.

We suggest instead the following amendment:

Page 3, Line 3 - Delete: "[AND MINERAL ENTRY]"

Page 3, Line 13 - Insert a new subsection (e) to read:

"The use and enjoyment of valid existing rights and interests, including mineral claims, within the McNeil River State Game Refuge is protected. This subsection does not affect the power of the Commissioner of Natural Resources to open or close land to new mineral entry under AS 38.05.185 - 38.05.275."

We believe this amendment improves the solution for all parties. It protects existing claims without affecting DNR's power regarding new claims.

### SUMMARY

We believe HB 306 improves protection for the brown bears at McNeil River while helping to facilitate an enhancement project that will be of major value to the commercial fishery. It allows for flexible

management to deal with any conflicts that might develop. It protects mineral claims in the proposed area.  
We urge your swift and favorable action on this bill.

Commissioner's Signature *Ben Amerill* Date: 5/15/91 1

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**BILL NO.** HB 306

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game  
 Title: McNeil River State Game Refuge BRU: Wildlife Conservation  
 Component: Wildlife Conservation

Sponsor: Grussendorf  
 Requestor: House COMPONENT SERIAL NO. 

	4	7	3
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**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES			26.0	26.0	26.0	26.0
TRAVEL		4.0	4.0	4.0	4.0	4.0
CONTRACTUAL			10.0	10.0	10.0	10.0
SUPPLIES		1.0	4.0	4.0	4.0	4.0
EQUIPMENT			8.9	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>5.0</b>	<b>52.9</b>	<b>44.0</b>	<b>44.0</b>	<b>44.0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		5.0	52.9	44.0	44.0	44.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>5.0</b>	<b>52.9</b>	<b>44.0</b>	<b>44.0</b>	<b>44.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME			2	2	2	2
TEMPORARY						

Estimate of current year impact: None

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

See attached

Prepared By: John H. Westlund Phone: 267-2199  
 Division: \_\_\_\_\_ Date: April 30, 1991

Approved by Commissioner: \_\_\_\_\_  
 Agency: \_\_\_\_\_ Date: \_\_\_\_\_

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

# McNeil River Proposals April 1991



Proposed McNeil River State Game Sanctuary Additions

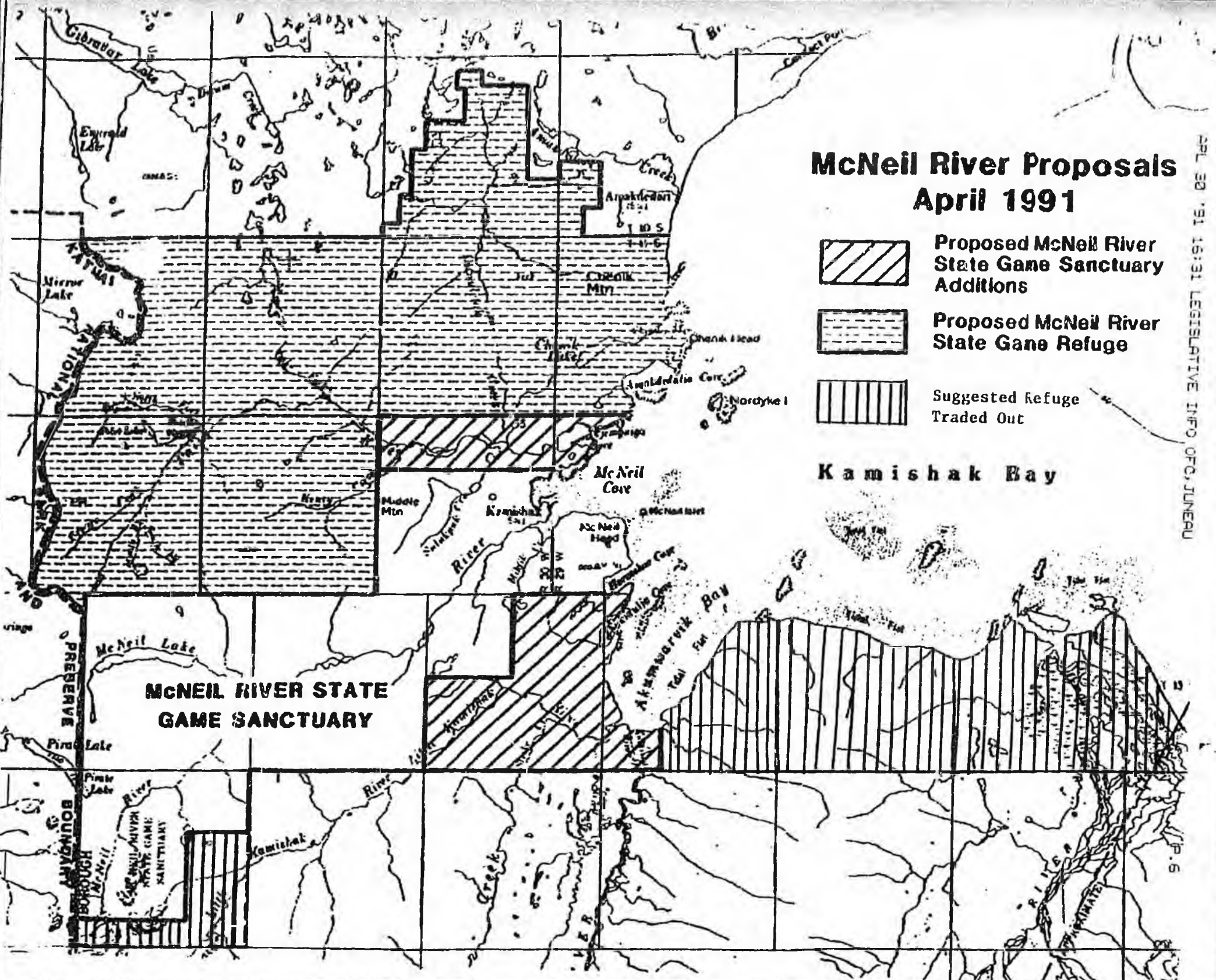


Proposed McNeil River State Game Refuge



Suggested Refuge Traded Out

## Kamishak Bay



**McNEIL RIVER STATE  
GAME SANCTUARY**

**McNEIL RIVER STATE  
GAME REFUGE**

PRESERVE

BOUNDARY

P.S.

MODIFICATIONS TO CSHB 306 (FIN), ADF&G DRAFT OF MAY 15, 1991

Starting on page 2, line 26:

(b) The McNeil River State Game Refuge is established to

(1) provide permanent protection for brown bear and other fish and wildlife populations and their habitats, so that these resources may be preserved for scientific, aesthetic, and educational purposes;

(2) manage human use and activities in a way that is compatible with (1) of this subsection and to maintain and enhance the unique bear viewing opportunities in the McNeil River State Game Sanctuary established under AS 16.20.160;

(3) provide opportunities that are compatible with (1) of this subsection for wildlife viewing, fisheries enhancement, fishing, hunting, and trapping;

(4) guarantee opportunities for access to and exploration and mining of minerals;

(c) The Board of Game shall determine whether hunting of brown bears within the McNeil River State Game Refuge should be prohibited.

(d) The use and enjoyment of valid existing rights and interests in mineral claims, within the McNeil River State Game Refuge [is] are protected. This subsection does not affect the power of the Commissioner of Natural Resources to open or close land within the McNeil River State Game Refuge to new mineral entry under AS 38.05.185 - 38.05.275.

(e) The department and the Department of Natural Resources

(1) may not enter into sales of land [or water] within the McNeil River State Game Refuge;

(2) may enter into [surface] leases within the McNeil River State Game Refuge if the commissioner and the commissioner of Natural Resources find[s] that activity conducted under the lease(s) is compatible with the purposes for which the refuge is established.

(f) The McNeil River State Game Refuge is closed to oil and gas leasing.

Without Modification the Fatal flaws were:

1. sales of water??? All mines require some water;
2. no subsurface (mineral) leases would be allowed. The area is now open ONLY to Leasehold Location which requires a "lease" before mining can take place.
3. not including Commissioner of DNR in compatibility determination;
4. "compatible" with (1), if the new (4) is not included;
5. no access provisions.

SENATE CS FOR CS FOR HB 306 ( )

Testimony Before Senate Resources Committee

May 18, 1991

My name is Steve Borell, I am the Executive Director of the Alaska Miners Association and I am testifying on behalf of the Association.

Thank you, Mr. Chairman and committee for the opportunity to testify before you regarding this legislation for the second time in as many days. As I stated at the previous hearing, we are extremely concerned about this legislation and we very much appreciate the chance to appraise this committee of several additional points that we feel should be considered.

Land availability for mineral exploration, and access to those lands, have been probably the most crucial issues for the mining industry during the past 25 years. The land base available for exploration and mining in Alaska has been reduced on a continuing basis during this period.

First came ANSCA whereby 45.6 million acres were removed from the public domain lands and transferred to Native Corporations. We have absolutely no quarrel with the Native Corporations receiving this land and we are encouraged to see these Corporations begin to develop their vast mineral resources and to provide jobs to their shareholders.

Then came ANILCA whereby 104 million acres were added to federal conservation units and closed to mineral entry and mining. But the promises made in ANILCA that there would be "no more" set-asides and the promises that valid existing in-holdings would be honored have been circumvented by the U.S. Forest Service and the National Park Service, respectively. The latest chapter in the on-going effort of the National Park Service to remove the valid in-holders appeared in the Friday, May 17, 1991 issue of the Anchorage Times; and I quote from page C1

" The National Park Service has rejected the first Kantishna mining plan submitted since a court order restored the option of placer mining in the embattled reserve surrounded by Denali National Park.

Area miners contend the Park Service action is evidence the federal agency wants to completely shut them out of the rich gold belt....

However, Park Service spokesman John Quinley said the decision to deny a mining plan by Sam Koppenberg of Fairbanks does not necessarily mean all proposals will be rejected."

For their part, the U.S. Forest Service, working in the Tongass National Forest, has continued to study additional areas for designation as "Wilderness" and to study rivers and streams for

designation as "Wild & Scenic Rivers". These types of studies were expressly prohibited by ANILCA.

It should be recognized that once all state and native selections have been completed, approximately 165.4 million acres of federal land in Alaska will be closed to mineral entry and mining. That is almost the size of Texas which has 168 million total acres. To state it another way, that is an area equal to the combined size of New York, New Jersey, Pennsylvania, West Virginia, Ohio, Indiana and Illinois!

To add insult to injury, the State of Alaska has spent the past many years making its land selections based in large part on the mineral potential of the lands and already approximately 10% of those lands have been given restrictive land use designations that will not allow mineral entry or mining. Also, other state lands have been encumbered with other restrictions through the land planning process that effectively eliminates access and therefore eliminates any possibility for mining.

In the past, and I emphise in the past, mineral closures have often been made with no consideration or only a cursory consideration being given to mineral potential. Preceived or potential conflicts that would require DNR and ADF&G to actively manage different uses in the same area have, in the past, been addressed by summairly closing the area to mineral entry. Land management was replaced by additional land "lock-ups".

Due in a large part to the uncertainty associated with land availability and the very negative attitude toward mining that was held by some past administrations, many minerals companies ceased to explore for minerals in Alaska. By the year 1984 more than 80 minerals companies had left the state.

I am thankful to report that this situation has now begun to improve. Greens Creek and Red Dog have shown the world that it is indeed possible to start a major new mine in Alaska. That notion had been in doubt for many years. Both of these mines began operation in 1989 and are effectively the first hard rock mining in the state since WW II when a presidential order closed all precious metal mines in the nation.

Large scale mining projects will nearly always require major mining companies if they are to succeed. Small prospectors and small miners continue to be an important part of the industry and will also be a primary source of prospects for large scale mines. However, major mining companies will nearly always be required if large scale mines are to ever get started.

But the managers and directors of the large mining companies must have the assurance that if they search for and find a mineral deposit that they believe can be mined at a profit, they will have a reasonable chance to develop the deposit into a mine. They fully recognize and fully plan to comply with all manner of constraints

and environmental regulations.

However, they will not even look for minerals in areas having excessive or potentially unreasonable restrictions. Given the current legal appetite of some preservationist organizations, these managers and directors would be in dereliction of their responsibilities if they were to do otherwise.

It is in this setting that we now find HB 306 "McNeil River State Game Refuge". Here is an area that has had mining claims since approximately 1913. Many companies have done exploration work in the area. Two of the largest and most respected mining companies in the world have more than 150 active mining claims in the area. Some of these claims were staked on BLM land before the land was selected by the state and the claims were subsequently converted to state claims. As stated in my previous testimony, one of these companies has spent \$250,000 in the past and has an approved permit from your DNR for a work plan for this summer that will cost more than \$500,000.

If this legislation becomes law, I cannot predict the course of action that will be taken by the companies now holding claims in this area. I can however predict the affect on the state as a whole. Passage of this bill will have a very chilling affect on how major mining companies view Alaska. Mining companies will again see Alaska as a place that is unfriendly to the mining industry and not interested in minerals investement.

AD1  
4/6

# State decides not to change ladder plans

## Bears may run into humans at Paint River salmon runs

By DAVID HULEN  
Daily News reporter

The controversial fish ladder on the Paint River just outside the McNeil River bear sanctuary will apparently be built on schedule this summer without new restrictions on human activity around it, state wildlife authorities said Friday.

The \$3 million structure is to be built near the mouth of the Paint River, just three miles from the much-photographed falls on the McNeil where dozens of brown bears gather each summer to gorge on salmon.

The idea of the ladder, on the west side of Cook Inlet across from Homer, is to enable salmon to swim around a 35-foot waterfall and spawn in the system, creating a new major commercial salmon run.

But some conservationists think a large new salmon run so close to McNeil could threaten the bears that gather there — and the chance for people to watch so many of them — by drawing them out of the sanctuary and on to state land along the Paint, where bear hunting and sport fishing are allowed. Fish ladder opponents think the amount of human contact with bears could increase, endangering both bears and people.

Officials in the Department of Fish and Game have been discussing the idea in recent weeks of pressing for legislation to impose land-use restrictions on the area around Paint River. One idea was to press legislators to extend the McNeil River sanctuary north to cover the Paint River system, along with restrictions of hunting, fishing and other human activity.

Please see Page C-3, LADDER

# LADDER: State decides to forgo new rules

Continued from Page C-1

But on Friday, Karl Schneider, acting regional supervisor of the Division of Wildlife Conservation, said Fish and Game officials in Juneau had not decided to push the legislation this year. With only a month or so left in this year's session, he said, it was unlikely that any such action would occur this year.

Part of the reason, he said, was that new appointees at the top of Fish and

Game, including the new state head of Wildlife Conservation, were just settling into their jobs and were still trying to get familiar with the issue. In addition, he said, groups involved with the issue haven't been able to agree on just what the department should do.

Permits were issued for the project last year. "I think they feel at this point they can't take a position," Schneider said. Nonetheless, he said, officials in

the department think "some kind of special area status" makes sense and said the issue will continue to be discussed.

Tony Dawson, an Anchorage wildlife photographer who has helped form the group Friends of McNeil River, was among a large group of citizens and government officials who met on the issue Friday. He said he was disappointed the state wasn't doing more.

"They seem to think (placing restrictions on the land)

is moving too fast. ... To us, it's not moving fast enough," Dawson said. "Nobody's offering any hope of canceling the project and no protection is likely to be in place" until at least next year.

Schneider, meanwhile, said he thought Fish and Game officials shared the same concerns of the McNeil River group.

"The uncertainty is what's the best thing to do about it," he said.

AD1  
4/4/71

Articles

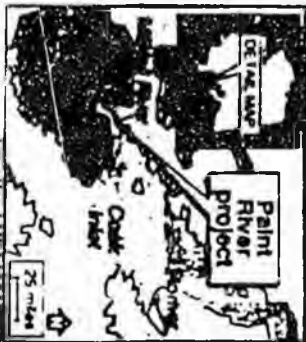
# FISH LADDER PLAN spurs interest in bear sanctuary

By DAVID FUTCH

4-10-91

TIMES WRITER

The fear of a brown bear massacre by hunters along the Paint River has led House Speaker Ben Grussendorf to devise a plan to include that stream within the boundaries of the McNeil River State Game Sanctuary.



Grussendorf said Tuesday he expects to introduce a bill ensuring that if a proposed \$2.8 million Paint River fish ladder is built, bears attracted there by migrating salmon will not be killed by hunters.

Currently the Paint River drainage area three miles north of McNeil River does not protect bears from human intrusion, hunting or fishing because the land is designated as state land and not sanctuary for animals.

Friends of McNeil River, a group that opposes construction of the fish ladder, said without sanctuary status, people could fish there, causing potentially disastrous confrontations with bears.

Each year hundreds of people make the trek to view as many as 65 bears at a time feeding on salmon at McNeil River. The river flows to McNeil Cove, 34 miles southwest of Augustine Island in the Aleutian Range.

The Paint River fish ladder is a state, federal and Cook Inlet Aquaculture Association project. See River, page B5.

## River

Continued from page B1

signed to create another breeding ground for salmon by giving them a way to negotiate the 35-foot high Paint River Falls.

Hunting guide Mike DeNeut predicts a bear massacre unless the Paint River area becomes part of the McNeil River sanctuary.

DeNeut, who has 20 years guiding experience in the nearby Iliamna drainage area, said any designation other than sanctuary status would allow hunters to kill bears at Paint River.

"If you include it as part of McNeil, guides will

stay away because they know the government will almost send them to the electric chair for hunting in the sanctuary," DeNeut said. "I know the mentality of a lot of guides and they can't wait for the ladder to go in."

Grussendorf, D-Sitka, said he decided to propose legislation to include Paint River in the McNeil Sanctuary to give bears priority status and protect them.

The state wants the fish ladder built but does not want to see bears an easy target to hunters.

Friends of McNeil River said the ladder would create a mother lode of salmon at Paint River and divert older and younger bears unable to compete at McNeil River to the Paint River where bears currently do not congregate.

"Bears are not stupid. They take the easy way out," Grussendorf said. "The Paint River could

become another place where people go to look at bears. When people think of Alaska they think of that magnificent animal. Alaska wouldn't be Alaska without that brown bear."

Tony and Kathy Dawson with Friends of McNeil River have been fighting the ladder but understand political realities will demand the ladder be built. They said they are pleased to see legislation is being put forth to include the Paint River as part of McNeil River Sanctuary. They added they hope the Paint River gets sanctuary status before it's too late.

Tony Dawson said the ladder may not be completed in time for salmon to make a run up the Paint River this summer but it will be by next summer.

If a couple of seasons pass without the Paint River receiving sanctuary status, then the McNeil

River bears could end up on the wrong end of a gun, Dawson said.

"What should have been done is give this area sanctuary status before the ladder is built," he said. "The other point is there are a lot of people tapping their pencils and shaking their heads that six weeks ago weren't doing anything."

Tom Walker, a Cook Inlet Aquaculture planner, said his group has no problem with naming the Paint River part of McNeil Sanctuary.

He said he hopes language in the bill allows for limited activity on the Paint River so Cook Inlet Aquaculture can check on what happens to the salmon migrating up the Paint River.

"Our area of interest is the salmon," Walker said. "I wouldn't hazard a recommendation as to what is good or bad for bears."



Times photo by BILL SHERWONIT



# STATE'S BIOLOGISTS AGREE McNEIL'S BEARS NEED ADDITIONAL PROTECTION

4-14-91

**S**ince being assigned to McNeil River State Game Sanctuary in 1976, Larry Aumiller has become the world's leading expert on McNeil's annual gathering of brown bears. Some colleagues within the Department of Fish and Game say the 46-year-old state wildlife technician understands *Ursus arctos* better than anyone, anywhere.

Through his close contact with McNeil's bears, Aumiller has developed ties with the animals that most people might consider a little strange. He's learned to distinguish individual animals and, if asked, will discuss their different personalities and behavioral traits.

He's even named many of the regulars who fish for salmon at McNeil Falls year after year. There's Teddy. Chaser. Weird. And Flashman, Groucho and Melody. Just to name a few.

In a sense, the bears have become Aumiller's family. His concern for them, both collectively and individually, is clear.

It's equally clear that the sanctuary and its summertime residents have helped to shape Aumiller's life over the past 15 years. He, in turn, has helped thousands of sanctuary visitors see first-hand that bears are not the bloodthirsty, unpredictable killers that they're often made out to be, while demonstrating that humans and bears can indeed peacefully co-exist "if you do the right things."

Aumiller's unique connection with McNeil's bears naturally makes him sensitive to anything that might jeopardize the sanctuary's values. Long before anyone else, he recognized that a proposed fisheries-development project at nearby Paint River would inevitably affect the sanctuary and possibly do it significant harm. He expressed his concerns.

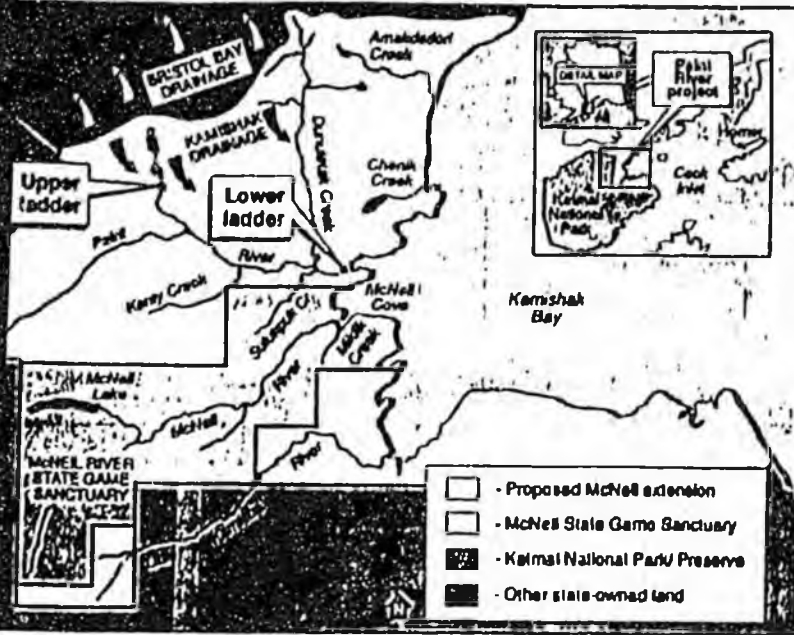
For years, no one listened. Or at least no one in a position of authority acted on his concerns.

Sometime within the past year, things began to change. Dramatically. As reported by the media, nearly everyone in





The Anchorage Times  
Wednesday, April 17, 1991



## Environmentalists sue to protect McNeil bears

By DESIREE HUMPHREY

TIMES WRITER

Five environmental groups sued the federal government Tuesday seeking to block construction of a Paint River fish ladder they say will lead to trouble for bears in the nearby McNeil River State Game Sanctuary.

The Friends of McNeil River and four other environmental groups said impact studies required by federal law were not done before funding and permits were issued for the \$2.8 million project. The project is designed to create a breeding ground and foundation for a major salmon fishery at Paint River.

The groups want a federal judge to stop the project and block its funding until the

completion of studies on the impact of increased human activity in the area and the possibility of adverse encounters between man and bear. The suit was filed in Anchorage federal court.

The federal government has allocated \$1 million to Cook Inlet Aquaculture Association for the project, expected to be completed this summer, the suit said. The association is a private, non-profit group working with the Alaska Department of Fish and Game to start the new fishery.

The fish ladder would be built at the mouth of Paint River, about three miles away from McNeil Falls where bears feed during summer salmon runs, the suit said. The appearance of new fish elsewhere would

draw bears away from the sanctuary viewing area, the suit said.

"The introduction of fish at Paint River is also expected to attract large numbers of sport and commercial users including hunters, fishermen, boaters and other recreational users," the suit said. "Historically large numbers of bears in areas of lots of human activity means lots of trouble."

Tom Mears, executive director for the aquaculture association, said Tuesday the concerns of the environmental groups have been addressed in the fish-ladder plan.

For example, a protective grating will be installed to keep bears from falling in and drowning, he said. In addition, a permanent electric fence will be built.

# Friends can't wait, join in lawsuit

4-18-91 Times

**T**ony Dawson and other Friends of McNeil River didn't want to go to court.

Members of the Friends group waited patiently for several weeks, hoping that state officials would do the right thing: expand McNeil River State Game Sanctuary to protect McNeil's unique gathering of bears from planned fisheries development at nearby Paint River.

Their plea was simple and logical: do something to protect McNeil's bears before construction of a fish ladder begins this spring.

Despite recent support from the state's Division of Wildlife Conservation, Dawson and Friends were frustrated by the mixed messages being sent from Juneau.

Unwilling to gamble that sufficient protective measures would eventually be enacted, the group chose to join four other environmental groups (The Wilderness Society, National Wildlife Federation, Alaska Chapter of the Sierra Club and Alaska Wildlife Alliance) in a lawsuit that seeks to block construction of the Paint River fish ladder until an appropriate environmental assessment is completed.

"The options seem pretty clear to us," says Dawson.

"Either the land around Paint River is given some sort of special status to control human access and activities, or the fish don't go up the ladder.

"The worst-case scenario for us would be for development to occur and have no added protection for the bears. There's been no progress on this issue since our first meeting with Fish and Game this winter.

Something has to be done, so we finally decided to take some action ourselves. This at least buys us some time, while protective measures are being considered (by the state)."

Dawson and other parties involved in the court action understand the risk they're taking. The suit could alienate potential allies, such as commercial fishermen who've publicly supported an expansion of McNeil sanctuary.

"I hope we don't end up burning some bridges," he says. "We're not anti-commercial fishing, or anti-hunting. But our No. 1 concern at this point is the sanctuary and the safety of McNeil's bears. As it stands, the project is ill-conceived and poorly studied. We'd be taking a bigger risk by doing nothing."

Jack Hesslon, the Sierra Club's Alaska representative, further explains. "The whole process has been flawed. An environmental analysis should have been done before any decision was made to allow the fish ladder. This is like putting the cart before the horse; we're being asked to acquiesce to the fish ladder and then worry about protective measures. Logically you should hold off on the project until it's shown that the ladder is compatible with the continued well-being of bears at McNeil and Katmai National Park."

Which raises an intriguing — and so far unanswered — question: how did the Paint River fisheries enhancement project ever get approved without adequate environmental impact studies?

The lawsuit filed Tuesday in U.S. District Court specifically points fingers at the Army Corps of Engineers, which issued the necessary permit to begin fish-ladder construction, and at the Department of Commerce's Economic Development Administration (EDA), which has provided \$1 million in funding.

But other government agencies, both federal and state, also failed to adequately address the project's potential impacts.

Representatives of the Alaska Department of Fish and Game, U.S. Fish and Wildlife Service and National Park Service have all expressed concerns about the

Paint River fish-ladder project. Yet they've only done so in recent weeks, long after the fish-ladder project was approved.

"The EDA should have done a better job of contacting the appropriate agencies when it evaluated the project," says Bill Lawrence, chief of the Park Service's Environmental Compliance Division for Alaska. "If a there's a permit application or funding request for development activities near a national park, we normally comment. But we have no record of even having reviewed the darn thing (at Paint River), even though it could have significant impact on Katmai's bear population."

"But I don't want to point fingers only at EDA," Lawrence adds. "We should have done a better job ourselves. We missed the boat as well."

Another agency that "missed the boat" is Fish and Game.

As far back as Dec. 1, 1981, in its McNeil River Brown Bear Management Plan, the department noted that salmon-enhancement projects were planned for drainages north of the sanctuary. In regard to those projects, the plan stated. "The availability of salmon in other systems may also reduce the concentration of bears at McNeil River Falls, and bear-human conflicts at fisheries installations could result in destruction of bears."

More recently, in a 1990 report, the department indicated there's a "strong possibility" that salmon returns to Paint River (which after construction of the fish ladder and stocking could number more than 1.5 million fish) "will profoundly affect bear distribution, abundance and behavior" in the McNeil region.

Yet when asked to comment on the Paint River fish ladder in 1988, the Department of Fish and Game expressed no concerns about the project's possible impacts on the sanctuary or its bear population. (Its only stipulations were that the fish ladder, associated construction camps and food-storage areas be "bear proof" and that workers attend a workshop on bear-human interactions.)

No one in Fish and Game's Division of Wildlife Conservation has been able to explain what went wrong. But DWC clearly goofed. To quote again from the McNeil management plan, the state is mandated "To protect, maintain, and enhance the brown bear population in concert with other components of the ecosystem and thereby assure its capability of providing sustained opportunities to view and photograph brown bears and, secondarily, for scientific and educational study of brown bears."

Since state and federal agencies have so far been unable or unwilling to rectify their mistakes, Friends of McNeil and other concerned groups are doing what they can to protect the sanctuary's unique gathering of bears. For now, that means taking their case to court.



Times photo by RUSS KENDALL

River, is shown with three daughters, from left, and her son's girlfriend's baby, Jessica Seay.

## Day in jail

ivist to serve 15-day sentence

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ational pan-  
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day in an  
f a 15-day  
i-abortion  
  
said Sun-  
Day spent

apart from husband, Earle, and their eight children — Jennifer, 19, Jonathon, 17, Mary, 14, Sarah, 11, Andrew, 8, Anna Marie, 6, Bethany, 3, and Edith, 1.

"It's really upsetting my little ones, the ones in school," she said Friday. "Everyone else is bringing home cards and things they made at school today to give their moms Sunday."

But missing Mother's Day is insignificant "compared to what's happen-

See Mother, back page

JUNEAU — Former Gov. Jay Hammond urged lawmakers Friday to approve spending \$22 million to buy land, timber and mineral rights in scenic Kachemak Bay State Park.

The spending bill is scheduled for a House vote Monday. It would pay \$15.5 million to Seldovia Native Association for the land, \$4.5 million to Timber Trading Co. for the timber rights, and \$2 million to Cook Inlet Region Inc. for mineral rights.

Hammond, a Republican who served multiple terms in the House and Senate, spoke to lawmakers in each chamber. Under a legislative rule, visiting former lawmakers are allowed to ad-

fluence legislation.

But Hammond said he felt too strongly about the issue to abide by the rule, and the presiding officers made no attempt to stop him.

Hammond said he has seen no greater public support for an issue. He compared the timber purchase to a \$36 million oil-lease buyback in Kachemak Bay midway through his 1974-82 tenure as governor. That involved more money, was more contentious, yet it still was approved, he said.

In an interview, Hammond said it makes little sense for the state now to allow such a beautiful landscape to be scarred for a

See Buyback, back page

5-11-91 AT.

# House passes bill to protect bears

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — The House passed a bill Friday to protect the brown bears of the McNeil River State Game Sanctuary from hunters who would prey on them feasting on a new man-made run of salmon to a nearby stream.

The Paint River fish ladder was designed to turn a salmon-free stream into a producer of perhaps 500,000 fish. Construction is to begin within two weeks, and that has a group called Friends of McNeil River concerned.

Paint River is about 3 miles from the McNeil River Falls, which has become a world-famous bear observation site. McNeil River is located across Cook Inlet from Homer.

House Speaker Ben Grussendorf, D-Sitka, sponsored the bill that would expand the 84,000-acre sanctuary at the head of the Alaska Peninsula by just over 29,000 acres, including lower Paint River. It also would create a 132,000-acre game refuge north

"The bill is written in such a way that everybody can be a winner or if it is not accepted, everybody is a loser, especially the bears."

— Ben Grussendorf  
House speaker

of the sanctuary.

"The bill is written in such a way that everybody can be a winner or if it is not accepted, everybody is a loser, especially the bears," Grussendorf said.

The bill passed the House 32-17 after considerable debate Friday, but may face tougher times in the Senate.

"We believe in no-net-loss of multiple-use land in the Senate," said Senate Majority Leader Rick Halford, R-Chugiak.

That was also the concern of House Republicans who tried to

See Bears, back page

# alizing brothers sentenced to 8 years

Souter was assigned the case after Judge Karl Johnstone with-

5-11-91 ADN

# House OKs protection for bears at fish ladder

By BRIAN S. AKRE  
The Associated Press

JUNEAU — Brown bears that may be lured out of the McNeil River State Game Sanctuary to feast on a new salmon run on Paint River would be protected under legislation endorsed Friday by the House.

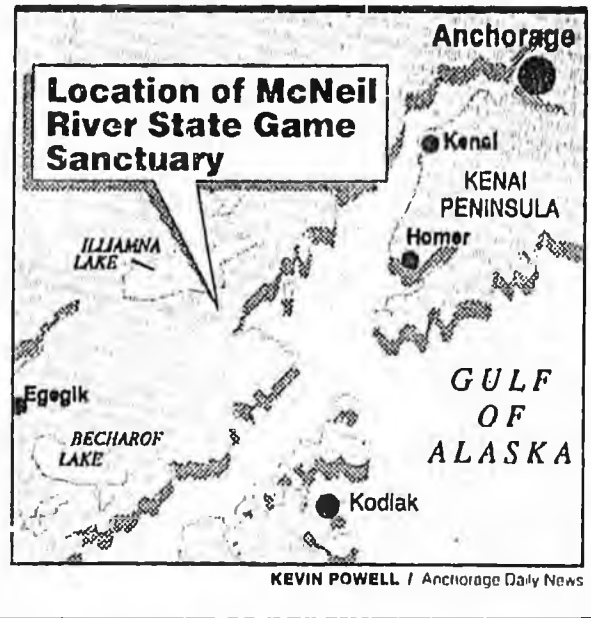
The legislation would expand the 84,000-acre sanctuary at the head of the Alaska Peninsula by just over 29,000 acres, including lower Paint River. It also would

create a 132,000-acre game refuge north of the sanctuary.

Friends of McNeil River and four other conservation and wildlife groups have sued to block construction of a \$3 million fish ladder on the river. The ladder would allow salmon to bypass a 40-foot waterfall and spawn upstream.

The project's ultimate goal is to create a new commercial salmon

Please see Back Page, BEARS



KEVIN POWELL / Anchorage Daily News

# Proposed leave miners

By NATALIE PHILLIPS  
Daily News reporter

The federal mining law may be overhauled for the first time since President Ulysses S. Grant signed it in 1872, and Alaska's mom-and-pop gold miners say the re-vamping could finish them off.

Instead of performing \$100 of work annually to maintain rights to a 20-acre claim and eventually own it, miners would pay \$3,200 annually per claim and never be able to call the land theirs.

"It is going to destroy everything I have worked for all my life," said Roger Burggraf, a 58-year-old miner from Fairbanks. "Most mining deposits have been found by the small miners and he, in turn, has spent years of blood, sweat and tears and whatever resources he can come up with to the develop the property. That will be gone."

But conservationists and environmentalists argue changes are long overdue.

"You don't have mom-and-pop oil drilling operations anymore, what with the complexity of business, the environmental regulations and the risk to the

# Back in Iraq, Kurdish family staggers for home in poverty

By JOSEPH LBRIGHT  
Cox News Service

KANI MASI, Iraq — Khairi Ismail, a Kurd who used to run an auto parts dealership, was back from exile this week with his family alive and his life savings gone.

He and 35 of his relatives were camped by a high mountain road a few miles inside Iraq. They had no tent, no wheels for their car and no town to go back to.

A month ago, fear of Saddam Hussein's poison gas caused them to take to the mountains. Now, fear of cholera in the Cukurca refugee camp

**PROTECTION PLAN:** A joint allied-Iraqi plan to safeguard returning Kurds is in the works. A-6

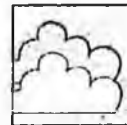
has caused them to begin straggling home.

Clustered by the road with his family and hand luggage and the plastic litter of thousands of travelers, Khairi said he wished he never left their home town of Dohuk, 60 miles south of the Turkish border.

"If I knew the Turkish border

Please see Back Page, KURDS

## SATURDAY



### MOSTLY CLOUDY

High in upper 40s; low 35  
Details, Page A-8

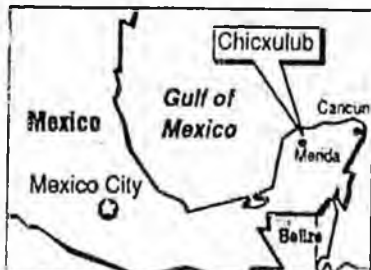
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# NASA researchers may have found dinosaur killi

By THOMAS H. MAUGH II  
Los Angeles Times

PASADENA, Calif. — NASA researchers say they have found the first surface evidence marking the pre-

holes on the Yucatan Peninsula of Mexico that appear to outline the largest known impact crater on Earth — one that is more than 125 miles in diameter. A variety

change that led to the extinction of the largest creatures that ever roamed the surface of the Earth, as well as at least half of the other species that lived on Earth

the theory. Many attribute the species' demise to volcanic eruptions. Those who do accept the theory believe that identification of a crater of the right size and

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
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Times photo by RUSS KENDALL

River, is shown with three daughters, from left, and her son's girlfriend's baby, Jessica Seay.

## Mother's Day in jail

Activist to serve 15-day sentence

apart from husband, Earle, and their eight children — Jennifer, 19, Jonathon, 17, Mary, 14, Sarah, 11, Andrew, 8, Anna Marie, 6, Bethany, 3, and Edith, 1.

"It's really upsetting my little ones, the ones in school," she said Friday. "Everyone else is bringing home cards and things they made at school today to give their moms Sunday."

But missing Mother's Day is insignificant "compared to what's happen-

See Mother, back page

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JUNEAU — Former Gov. Jay Hammond urged lawmakers Friday to approve spending \$22 million to buy land, timber and mineral rights in scenic Kachemak Bay State Park.

The spending bill is scheduled for a House vote Monday. It would pay \$15.5 million to Seldovia Native Association for the land, \$4.5 million to Timber Trading Co. for the timber rights, and \$2 million to Cook Inlet Region Inc. for mineral rights.

Hammond, a Republican who served multiple terms in the House and Senate, spoke to lawmakers in each chamber. Under a legislative rule, visiting former lawmakers are allowed to ad-

fluence legisla-  
tion.

But Hammond said he felt too strongly about the issue to abide by the rule, and the presiding officers made no attempt to stop him.

Hammond said he has seen no greater public support for an issue. He compared the timber purchase to a \$36 million oil-lease buyback in Kachemak Bay midway through his 1974-82 tenure as governor. That involved more money, was more contentious, yet it still was approved, he said.

In an interview, Hammond said it makes little sense for the state now to allow such a beautiful landscape to be scarred for a

See Buyback, back page

# House passes bill to protect bears

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — The House passed a bill Friday to protect the brown bears of the McNeil River State Game Sanctuary from hunters who would prey on them feasting on a new man-made run of salmon to a nearby stream.

The Paint River fish ladder was designed to turn a salmon-free stream into a producer of perhaps 500,000 fish. Construction is to begin within two weeks, and that has a group called Friends of McNeil River concerned.

Paint River is about 3 miles from the McNeil River Falls, which has become a world-famous bear observation site. McNeil River is located across Cook Inlet from Homer.

House Speaker Ben Grussendorf, D-Sitka, sponsored the bill that would expand the 84,000-acre sanctuary at the head of the Alaska Peninsula by just over 29,000 acres, including lower Paint River. It also would create a 132,000-acre game refuge north

"The bill is written in such a way that everybody can be a winner or if it is not accepted, everybody is a loser, especially the bears."

— Ben Grussendorf  
House speaker

of the sanctuary.

"The bill is written in such a way that everybody can be a winner or if it is not accepted, everybody is a loser, especially the bears," Grussendorf said.

The bill passed the House 32-17 after considerable debate Friday, but may face tougher times in the Senate.

"We believe in no-net-loss of multiple-use land in the Senate," said Senate Majority Leader Rick Halford, R-Chugiak.

That was also the concern of House Republicans who tried to

See Bears, back page

# ...ling brothers sentenced to 8 years

Souter was assigned the case after Judge Karl Johnstone with-

...very unusual," said Patrick Sharrock, the board's director. "Everything sort of came to fruition at the same time." Typically, there are only one or two liquor license suspensions a year, he said.

the latter upheld the suspension. In 1988, the board levied a 30-day suspension but decided to enforce only five days, and it could not change the terms now, Sharrock said.

Managers at the Crazy Horse clubs declined to

The two Anchorage establishments have accepted the suspensions, which begin June 1, and the Moose Club is discussing the penalty with its membership, Sharrock said.

In addition, he said Fu Do Chinese Restaurant in

## Bears

Continued from page B1

amend the bill Thursday to allow hunting of other game and trapping in the new refuge.

"I am constantly reminded the tenure of philosophy (here) has been to lock out human beings in favor of whoever the current critter of concern might be," said House Minority Leader Robin Taylor, R-Wrangell. "I'm just waiting for the lousy chance for a human being to make a living off the land in Alaska.

"It seems like every time I turn around here, something is world class and unique and

something has to be done," he said.

Tony Dawson, an Anchorage wildlife photographer and a founder of the McNeil River group, said the bill will not completely protect the bears of McNeil River.

Dawson said the bill is a first step but the refuge could still be open to bear hunting and that tributaries of the Paint River outside of the refuge will also attract fish.

"What we then have is the boundary of the sanctuary abutted against a refuge in which full hunting privileges are proposed," Dawson said. "All the upstream tributaries will get fish as well. My fear is a firing line

could develop where people wait (outside) the sanctuary."

The river group has filed a lawsuit to block the fish ladder's construction until more environmental studies are done. Dawson said the bears are a valuable resource and famous throughout the world.

"They're used to people behaving in a predictable way at McNeil," he said. "These are very special bears, many have visual impacts worldwide."

The fish ladder is a joint state, federal and Cook Inlet Aquaculture Association project expected to cost about \$3 million. It would enable fish to traverse the 35-foot Paint River falls and spawn in the waterway.

## Mother

Continued from page B1

ing at the clinic to mothers and babies," Fardig said. "We'll survive it, they won't."

Fardig and her daughter Mary were among six people arrested in September 1990 on trespassing charges after they locked themselves to a 220-pound ring inside the Alaska Women's Health Services Inc. clinic to protest the clinic's abortion services.

Because she works as a pharmacy technician during the week, Fardig asked for permission to serve her sentence one weekend each month.

She said she agreed to report to the Sixth Avenue Jail on the second weekend of each month without realizing it would mean spending Mother's Day apart from her children and her parents, who live in Anchorage. This weekend will be her second in jail.

"I always have my parents

over and fix dinner for my mother on Mother's Day," she said. "And neither of them are very well right now."

Her breast feeding schedule for baby Edith also is disrupted by the jail sentence, Fardig said.

Although the family saw her at the jail last month during visitor hours, Fardig said she doesn't want them to come this weekend because it's too hard.

"But the kids say they're going to come see me this Sunday," she said.

24,000 acres in the 120,000-acre park. The company is scheduled to start logging soon unless a bill is passed.

Similar legislation failed last

The bill's future in the Senate is less clear, mostly because of resistance to the way the purchase would be funded. House Bill 83 would use \$7 million from

## Police nab fugitive w

By DIANA ELLIOTT

TIMES WRITER

A man who police said tried to sell a stolen gun at an Anchorage pawn shop this week turned out to be a fugitive wanted in two states on charges of conspiracy to commit arson, robbery and drug trafficking, authorities said.

Anchorage police investigator Mitch Gray said he unwittingly became embroiled in a tangled mess when he attempted to find out the real identity of a man who said his name was Elshami Essam.

The case began to unfold Wednesday when a pawn shop employee told police a man was trying to sell a gun listed as stolen. Officers questioned the man briefly, then asked for his Alaska driver's license, said Anchorage police Lt. Bill Gifford.

A computer check Essam was wanted for arson.

"He admitted he but said someone was name," Gifford said.

Gray spent two days variations of the name nationwide crime computer even sent the man's file to the Federal Bureau of Investigation in Washington find out if he was really

On Friday the FBI that the man was not Juan Carlos Farinas, wanted in New Jersey charges of conspiracy assault by arson. The man in the arson case is Essam, who was convicted case and sentenced to prison, Gifford said.

Farinas is also w

## Interior floods spread to w

ASSOCIATED PRESS

High waters that caused millions of dollars in flood damage in the Interior this week are bringing their destructive power to the state's west and southwest regions.

Flood warnings remained in effect until today for communities on the Koyukuk and Kobuk rivers, and some near the mouth of the Kuskokwim River, according to the National Weather Service.

A flood warning means that flooding is occurring or is imminent.

Evacuation of elders and children from the village of Kobuk began Friday afternoon as water from the Kobuk River began encroaching through the

village said.

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## Buyback

Continued from page B1

5-11-91 ADN

# House OKs protection for bears at fish ladder

By **BRIAN S. AKRE**  
The Associated Press

**JUNEAU** -- Brown bears that may be lured out of the McNeil River State Game Sanctuary to feast on a new salmon run on Paint River would be protected under legislation endorsed Friday by the House.

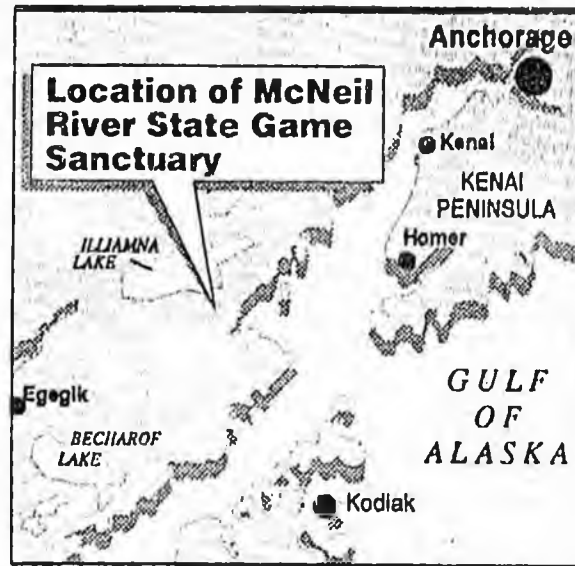
The legislation would expand the 84,000-acre sanctuary at the head of the Alaska Peninsula by just over 29,000 acres, including lower Paint River. It also would

create a 132,000-acre game refuge north of the sanctuary.

Friends of McNeil River and four other conservation and wildlife groups have sued to block construction of a \$3 million fish ladder on the river. The ladder would allow salmon to bypass a 40-foot waterfall and spawn upstream.

The project's ultimate goal is to create a new commercial salmon

Please see Back Page, **BEARS**



KEVIN POWELL / Anchorage Daily News

# Proposed leave min

By **NATALIE PHILLIPS**  
Daily News reporter

The federal mining law may be overhauled for the first time since President Ulysses S. Grant signed it in 1872, and Alaska's mom-and-pop gold miners say the re-vamping could finish them off.

Instead of performing \$100 of work annually to maintain rights to a 20-acre claim and eventually own it, miners would pay \$3,200 annually per claim and never be able to call the land theirs.

"It is going to destroy everything I have worked for all my life," said Roger Burggraf, a 58-year-old miner from Fairbanks. "Most mining deposits have been found by the small miners and he, in turn, has spent years of blood, sweat and tears and whatever resources he can come up with to the develop the property. That will be gone."

But conservationists and environmentalists argue changes are long overdue.

"You don't have mom-and-pop oil drilling operations anymore, what with the complexity of business, the environmental regulations and the risk to the

# Back in Iraq, Kurdish family staggers for home in poverty

By **JOSEPH ALBRIGHT**  
Cox News Service

**KANI MASI**, Iraq — Khairi Ismail, a Kurd who used to run an auto parts dealership, was back from exile this week with his family alive and his life savings gone.

He and 35 of his relatives were camped by a high mountain road a few miles inside Iraq. They had no tent, no wheels for their car and no town to go back to.

A month ago, fear of Saddam Hussein's poison gas caused them to take to the mountains. Now, fear of cholera in the Cukurca refugee camp

■ **PROTECTION PLAN:** A joint allied-Iraqi plan to safeguard returning Kurds is in the works. **A-6**

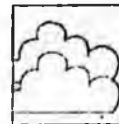
has caused them to begin straggling home.

Clustered by the road with his family and hand luggage and the plastic litter of thousands of travelers, Khairi said he wished he never left their home town of Dohuk, 60 miles south of the Turkish border.

"If I knew the Turkish border

Please see Back Page, **KURDS**

## SATURDAY



### MOSTLY CLOUDY

High in upper 40s; low 35  
Details, Page A-8

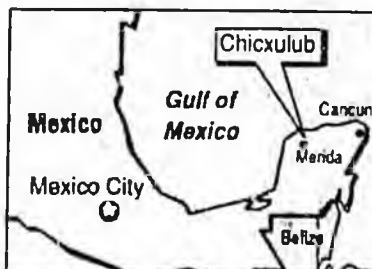
Weatherline, 278-7000

### SECTIONS

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METRO	Section B	CLASSIFIED	Section F
SPORTS	Section C	HOMEFRONT	Section G
REAL ESTATE	Section D	IMPULSE	Sections H

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# NASA researchers may have found dinosaur killi

By **THOMAS H. MAUGH II**  
Los Angeles Times

**PASADENA, Calif.** — NASA researchers say they have found the first surface evidence marking the pro-

holes on the Yucatan Peninsula of Mexico that appear to outline the largest known impact crater on Earth — one that is more than 125 miles in diameter. A variety

change that led to the extinction of the largest creatures that ever roamed the surface of the Earth, as well as at least half of the other species that lived on Earth

the theory. Many attribute the species' demise to volcanic eruptions. Those who do accept the theory believe that identification of a crater of the right size

ive disruptions in sediments dating from 65 million years ago and magnetic and gravitational anomalies that are also associated with meteorites.

But no one had seen evidence on the Earth's surface marking the impact site of the meteorite.

The unusual pattern of sink holes in the northeastern section of Mexico's Yucatan province was spotted by Charles Duller of NASA-Ames while he was searching satellite imagery for wa-

ring is centered near the town of Chicxulub, for which the buried crater is named.

Duller and his colleagues, Adriana Ocampo of JPL and Kevin Pope, who is now at Geo Eco Arc Research in nearby La Canada, Calif., considered many other geological explanations before concluding that the formation was caused by a buried impact crater. That conclusion was presented in a letter published in the British journal *Nature* on Thursday.

three days, we will not have anything for eating," said his wife, Shavin, 20.

Back in Dohuk he wasn't rich, but he was well off. He figured he had invested \$6,000 in his parts dealership. At the age of 31, he left behind an apartment with a TV, two washing machines and a freezer.

As a refugee, he and his family have been nicked and dined toward having nothing.

During their seven-day walk into the mountains in early April, his mother lost

camp. They cost \$10, which he considers exorbitant.

His 2-year-old son lost his shoes as well. So did his brother's son and his wife. And three other relatives. Each pair cost \$10.

He paid another Turk \$8 for a small teapot, another rip-off, in his opinion. And from time to time, he would buy wheat and rice on the camp black market because his family didn't like the odor of American military rations.

A few days ago, the overcrowding and the filth at

and father and some of the children stayed behind to wait for the promised American transportation.

Nobody in the family has died, but half a dozen suffered severe diarrhea. Of those who are on the move toward Dohuk, his brother and his 2-year-old son are still fighting it.

He thanks Allah and George Bush for keeping everyone alive.

It cost \$250 to hire the truck and tractor that hauled them over the high mountains and down as far

dam's borders are still coming onto the city. Even after they leave, he has to worry about the plainclothes security men whom he calls "Saddam's detectives."

The family has a plan. "We will go to Zakho (the site of the American-run refugee camp) until the United States forces take Dohuk," he said. "After that, we will go to Dohuk. But if the Americans ever leave, we will have to leave again for another country. Saddam is a very, very dangerous man."

## BEARS: House approves extending protection for those lured to planned fish ladder

Continued from Page A-1

fishery for Lower Cook Inlet. But opponents fear the ladder will be a magnet for the bears. They argue that conflicts between people and bears will increase as more bears leave the protective confines of the sanctuary.

"The founder of the Friends of McNeil River has stated that 'either the land around Paint River is given some sort of special status to control human access and activities, or the fish don't go up the ladder,'" House Speaker Ben Grussendorf said in a memo to lawmakers.

The bill would ban all hunting and trapping within the sanctuary and would allow the state Game Board to decide if bear hunting should be banned in the new refuge.

Friends of McNeil River wants hunting banned throughout the area.

The bill originally banned brown bear hunting in the refuge as well. But that provision was removed after the Alaska Outdoor Council, a sportsmen's group, threatened a lawsuit to stop the fish ladder if the ban was retained.

The U.S. Army Corps of Engineers plans to begin

building the fish ladder in the summer. The bill's expanded boundary for the sanctuary would include the ladder and the lower two to three miles of the river.

Grussendorf, D-Sitka, led the effort to find a compromise that would head off the lawsuit and protect the bears and the fish project. He said the conservationists' lawsuit may be dropped if the legislature passes his bill.

That angered at least one lawmaker.

"Someone has threatened to take us to court and this

is the buyout," complained Rep. Robin Taylor, R-Wrangell and House minority leader.

Taylor said the state would be succumbing to "environmental intimidation" if it gives in to the conservation groups. He insisted the bill would do nothing but "lock up" valuable state land.

"Will the bears be better off because we do this? I don't think the bears will know the difference tomorrow."

Taylor noted the land was part of the entitlement

decided to the state by the federal government under the Statehood Act. "That entitlement was to provide an economic base for the growth and development of this state. We're taking this precious gift and squandering it."

Rep. Mike Navarre, D-Kenai, said the bill would provide hunting, fishing and trapping opportunities in the refuge, which would lead to development of lodges and other recreation-related businesses.

"We're not locking it up," Navarre said. "We're devel-

oping it. It's good economic development."

House Bill 306 passed 32-7. Opposed were Democrat Pat Carney of Anchorage and Republicans Mark Hanley, Terry Martin and Jim Zawacki of Anchorage; Mike Miller of North Pole; Bert Sharp of Fairbanks; and Taylor. Dave Choquette, R-Anchorage, did not vote.

Grussendorf invoked the spirit of wildlife appreciation from the movie "Dances with Wolves" as he urged lawmakers to pass bill: "I invite all the members of this body to come with us and waltz with bears."



## KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669  
PHONE (907) 262-4441

DON GILMA  
MAYOR

April 30, 1991

Rep. Ben Grussendorf  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Rep. ~~Grussendorf~~ *Ben*:

I am writing in support of HB 306 and your efforts in finding an amicable solution to the current dilemma surrounding the Paint River fishery enhancement project and the protection of the brown bear and other fish and wildlife populations and habitats in the McNeil River area.

It is my understanding that a lawsuit has been filed against the U.S. Corps of Engineers over the Paint River project by a number of organizations who are interested in preserving the integrity of the McNeil River brown bear habitat. It is also my understanding that this pending lawsuit could potentially have a detrimental effect on the federal funding allocated to this project.

Both the development of the Paint River project and the protection of the wildlife in the McNeil River area are important to the well being of this region of the State. While the Borough Assembly has not had the opportunity to take a position on this issue, I believe I can speak for both the administration and the Assembly in saying we strongly support your efforts in finding a solution so that the Paint River fishery enhancement project may proceed, while at the same time protecting the fish and wildlife in the McNeil River area.

Sincerely,

Don Gilman,  
Borough Mayor

*Letter of Support*

KENAI PENINSULA BOROUGH  
ECONOMIC DEVELOPMENT DISTRICT, INC.

RESOLUTION 91-7

A RESOLUTION SUPPORTING THE CONSTRUCTION OF THE PAINT RIVER FISHERIES ENHANCEMENT PROJECT AND SUPPORT FOR HB 306 "AN ACT ESTABLISHING A McNEIL RIVER STATE GAME REFUGE AND ALTERING THE McNEIL RIVER STATE GAME SANCTUARY AND PROVIDING FOR AN EFFECTIVE DATE."

WHEREAS, ninety-nine percent of Lower Cook Inlet commercial salmon permits are held by Alaskans, of which ninety-three percent are residents of the Kenai Peninsula; and

WHEREAS, commercial fishing is a major industrial activity sustaining the economy and labor force of the Kenai Peninsula; and

WHEREAS, the Paint River Fisheries Enhancement Project (which will stock all five species of salmon native to Alaska) would be an accessible fishery for the Kenai Peninsula's commercial fleet; and

WHEREAS, the fish ladder will enable the Paint River system to produce more than 1.7 million salmon annually, adding a projected annual commercial fish harvest and processing value in the Lower Cook Inlet of \$11 million and adding new jobs to the regional economy; and

WHEREAS, \$1.6 million has been appropriated by the State of Alaska and \$1 million committed by the U.S. Economic Development Administration for construction of the fish ladder; and

WHEREAS, concerns have been expressed for protecting bear population at McNeil River; and

WHEREAS, Representative Ben Grussendorf has introduced HB 306 which expands the boundaries of the McNeil River State Game Sanctuary and establishes a McNeil River State Game Refuge.

NOW, THEREFORE, BE IT RESOLVED BY THE EXECUTIVE COMMITTEE OF THE KENAI PENINSULA BOROUGH ECONOMIC DEVELOPMENT DISTRICT, INC. THAT

Section 1: The Alaska State Legislature enact HB 306 to provide expansion of the McNeil River State Game Sanctuary and establishment of a McNeil River State Game Refuge which will address the protection of the bear population at McNeil River.

\*\*\*\*\* TRANSMITTAL MEMO \*\*\*\*\*

TO: Kenai Commission  
DEPT: Kenai FAX #: 465-4565  
FROM: Steve Hunter PHONE: 235-8121  
CO: City of Homer FAX #: 235-3140  
Post-it brand the transmittal memo 7671

NO. OF PAGES  
2

CITY OF HOMER  
HOMER, ALASKA

Sponsor: Dennis Hanoski

RESOLUTION 91-30

A RESOLUTION OF THE HOMER CITY COUNCIL SUPPORTING THE CONSTRUCTION OF THE PAINT RIVER FISHERIES ENHANCEMENT PROJECT AND SUPPORT FOR HB 306 "AN ACT ESTABLISHING A McNEIL RIVER STATE GAME REFUGE AND ALTERING THE McNEIL RIVER STATE GAME SANCTUARY AND PROVIDING FOR AN EFFECTIVE DATE."

WHEREAS, ninety-nine percent of Lower Cook Inlet commercial salmon permits are held by Alaskans, of which ninety-three percent are residents of the Kenai Peninsula; and

WHEREAS, commercial fishing is a major industrial activity sustaining the economy and labor force of the Kenai Peninsula; and

WHEREAS, the Paint River Fisheries Enhancement Project (which will stock all five species of salmon native to Alaska) would be an accessible fishery for the Kenai Peninsula's commercial fleet; and

WHEREAS, the fish ladder will enable the Paint River system to produce more than 1.7 million salmon annually, adding a projected annual commercial fish harvest and processing value in the Lower Cook Inlet of \$11 million and 267 new jobs to the regional economy; and

WHEREAS, \$1.6 million has been appropriated by the State of Alaska and \$1 million committed by the U.S.E.D.A. (United States Economic Development Administration) for construction of the fish ladder; and

WHEREAS, concerns have been expressed for protecting bear population at McNeil River; and

WHEREAS, Representative Ben Grussendorf has introduced HB 306 which expands the boundaries of the McNeil River State Game Sanctuary and establishes a McNeil River State Game Refuge.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council of Homer, Alaska, that the Alaska State Legislature enact HB 306 to provide expansion of the McNeil River State Game Sanctuary and establishment of a McNeil River State Game Refuge which will address the protection of the bear population at McNeil River and that copies of this resolution be forwarded to all Legislators and the Governor of Alaska.


Homer Resolution

Resolution 91-30  
Page 2

PASSED AND APPROVED by the Homer City Council this 13th day  
of ~~April~~ 1991.

MAY

CITY OF HOMER

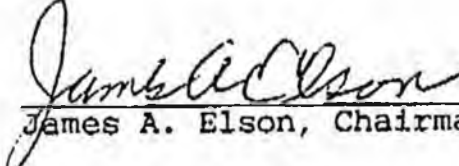
  
HARRY E. GREGOIRE, MAYOR

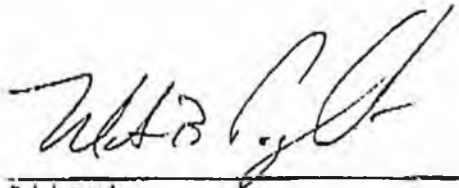
ATTEST:

  
MARY L. SHANNON, CITY CLERK

Section 2: This resolution shall take shall take effect immediately upon its adoption.

APPROVED BY THE EXECUTIVE COMMITTEE OF THE KENAI PENINSULA BOROUGH ECONOMIC DEVELOPMENT DISTRICT, INC., THIS 6<sup>th</sup> DAY OF May, 1991.

  
James A. Elson, Chairman

  
Attest:

REPRESENTATIVE  
BEN GRUSSENDORF  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99835  
(907) 747-8458

RULES COMMITTEE  
LEGISLATIVE COUNCIL

DISTRICT 3  
ELFIN COVE  
PELICAN  
PORT ALEXANDER  
SITKA  
TENAKEE

# Alaska State Legislature



WHILE IN JUNEAU  
PO Box 7  
JUNEAU, ALASKA 99811  
(907) 485-3824  
(907) 485-3720

## House of Representatives SPEAKER OF THE HOUSE

TO: SENATOR JONES, CHAIRMAN  
SENATE RESOURCES COMMITTEE

FROM: REPRESENTATIVE BEN GRUSSENDORF  
SPEAKER OF THE HOUSE

DATE: MAY 11, 1991

SUBJECT CS HB 306 (Finance)  
"An Act establishing a McNeil River State Game  
Refuge and altering the McNeil River State Game  
Sanctuary; and providing for an effective date."

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**BILL SUMMARY:** The bill proposes extending the existing sanctuary to include the lower Paint River and lower Little Kamishak River at the head of the Alaska Peninsula. It also proposes establishing a refuge north of the sanctuary to include drainage areas of the Paint River, and lakes currently stocked with salmon. The areas are proposed to give priority status to brown bear expected to be attracted to the Paint River by new salmon runs following the completion of an enhancement project--fish ladder--on the Paint River. The bill provides protection for bear anticipated to be adversely affected by increased human-bear contact.

**FISCAL IMPACT:** Zero fiscal note by the Department of Natural Resources; Department of Fish and Game submits zero note in FY 92, 5.0 in FY 93, 52.9 in FY 94, and 44.0 in FY 95-97.

**PREVIOUS HOUSE ACTION:** Passed House: 30 Yea; 7 Nay; 3 Absent

**BILL HISTORY:** A lawsuit against the building of the proposed fish ladder at the Paint River has been filed by five different conservation groups. The bill attempts to alleviate some concerns by the various interest groups involved in litigating against the ladder, while also providing economic development in the region.

Conservation aspects of the bill allow for the establishment of the sanctuary to: provide permanent protection for brown bear and other fish and wildlife; manage human use compatible with the protection of the bear; and maintain and enhance the unique bear viewing opportunities at the McNeil River. The bill prohibits

hunting, trapping and mineral entry within the sanctuary. The boards of fish and game may govern access, entry, development, construction, fishing, and other uses and activities in the sanctuary through the adoption of regulations.

Fisheries enhancement within the sanctuary allows the construction of a ladder allowing five species of salmon to negotiate a 40 foot waterfall. The Kenai Peninsula Borough Economic Development District, Inc. anticipates the Paint River system to produce more than 1.7 million salmon annually, adding a projected annual commercial fish harvest and processing value in the Lower Cook Inlet of \$11 million and adding new jobs to the regional economy.

The proposed refuge includes river drainage areas also expected to attract bears as salmon run the Paint River and its tributaries. Human activities allowed in the refuge under this bill include wildlife viewing, fisheries enhancement, fishing, hunting, trapping, mineral entry, temporary safe anchorage, and other activities as long as these activities are compatible with the protection of the area bear population. The board of game shall determine whether hunting of brown bear shall be permitted.

The unique effective date of this bill allows the sanctuary extension and the refuge establishment only upon the operation of the fish ladder.

# McNeil River Proposals April 1991



Proposed McNeil River  
State Game Sanctuary  
Additions



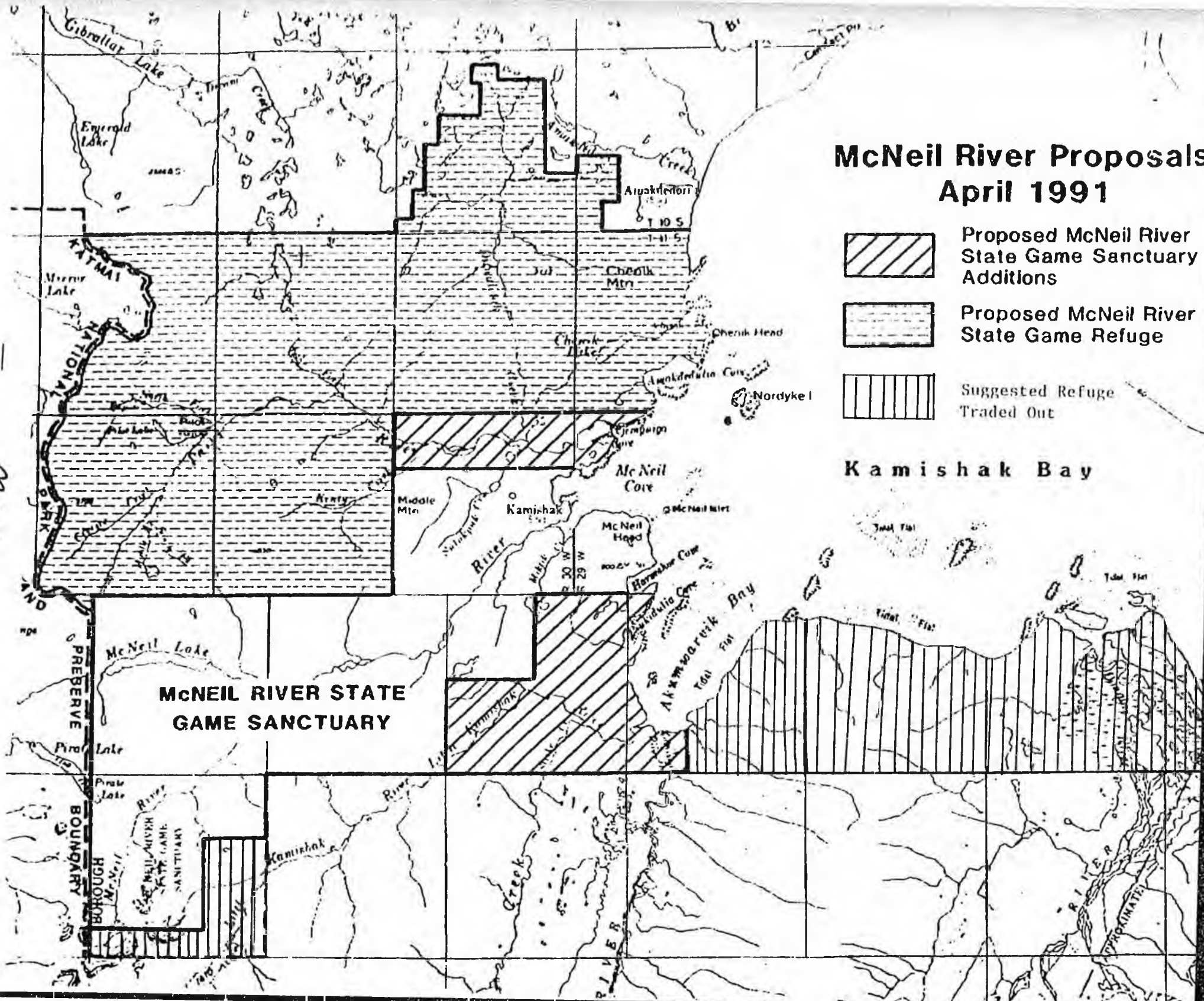
Proposed McNeil River  
State Game Refuge



Suggested Refuge  
Traded Out

## Kamishak Bay

Map



ALASKA MINERALS COMMISSION  
P.O. Box 80148  
Fairbanks, Ak. 99708

Senator Jones, Chairman  
Senate Resource Committee  
Juneau, Ak.

Dear Senator Jones:

Current legislation, H.B. 306, that your committee is slated to consider has severe impacts to the Mining Industry. The Alaska Minerals Commission recommended in their 1991 report, in item 13 that "The Legislature and Governor should enact legislation limiting withdrawals of land prior to mineral assessments, such as the Senate Bill 34 which was submitted in the 15th Legislature."

Currently SSHB No. 97 calls for a mineral assessment to be made prior to restricting or closing state land or water to mining.

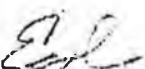
H.B. 306 is counter to the recommendation of the Mineral Commission as outlined above. The indiscriminate withdrawal of large tracts of State land before they are fully assessed, is not in the best interest of all Alaskans.

The Paint River area is a suspected highly mineralized region that is in proximity to a recently announced world class copper-gold deposit. The withdrawal of lands before they are fully assessed is a process that should not be acceptable to you and your committee.

Finally, this bill has not had the adequate consideration by all parties concerned. It is proposed that you request a thorough impact analysis of such a large withdrawal before signing off.

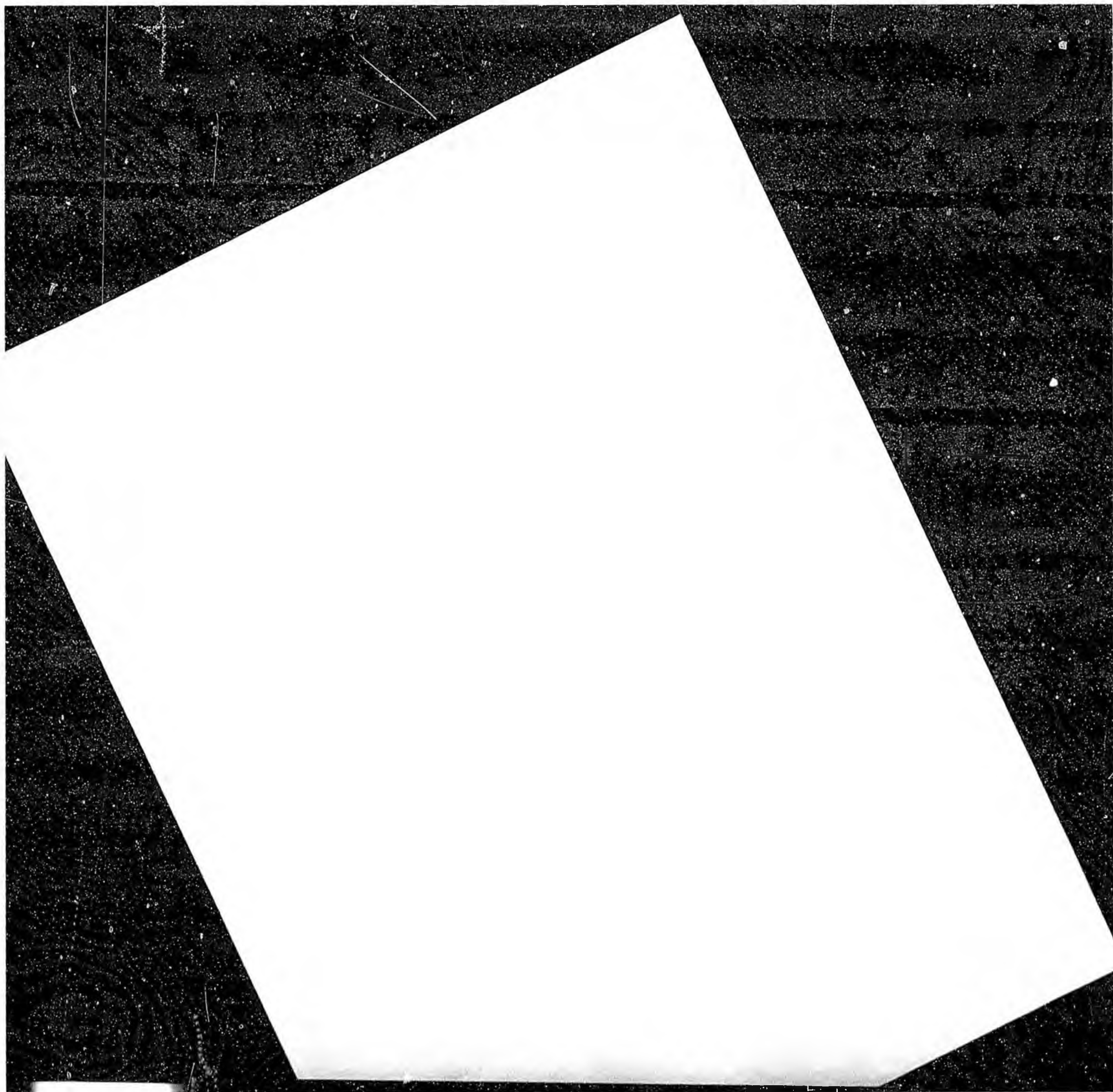
If you have any questions, feel free to contact me.

Sincerely yours,

  
Earl H. Beistline, Chairman  
Alaska Minerals Commission

EHB:cb

c.c. Governor Hickey  
Lt. Gov. Coghill



# **CORRECTION**

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

H B

3 6 9

Senate Resources Committee  
Letter of intent  
for  
House Bill 369(L&C)

It is the intent of the Seventeenth Legislature that this legislation does not mandate a listed current price if a prior written agreement exists between a seller and a buyer.

It is further the intent that this legislation does not preclude the payment of bonuses, post-season adjustments, or other forms of compensation that are in addition to the price paid at the time of delivery of the salmon.

5/12/92  
Senate adopted

# House of Representatives

While in Session:  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182  
(907)465-4942

P.O. Box 47001  
Pedro Bay, Alaska 99647  
(907)850-2208

Interim Office: 561-6154



Member  
Finance Committee

Finance  
Subcommittee Chair:  
Courts  
Department of Public Safety  
Finance  
Subcommittee Member:  
Department of Fish and Game

**Rep. George Jacko, Jr.**

## MEMORANDUM

TO: Senator Lloyd Jones, Chairman  
Senate Resources

FROM: Representative George Jacko, Jr.

DATE: May 7, 1992

SUBJ: HB 369 - current salmon prices

=====

This memo is to respectfully request that you schedule HB 369 at your earliest convenience. HB 369 requires current salmon prices to be included on fish tickets and posted on premises where salmon is purchased.

HB 369 has zero fiscal notes from the Departments of Fish and Game, Public Safety, and Revenue. It was passed out of the House Resources and Labor and Commerce committees before being waived by the Finance Committee.

HB 369 originally requested fishbuyers to propose a price before the start of a salmon season. After consultation with fishermen and others, I decided to eliminate the preseason requirement. The bill now requires current prices to be included on fish tickets and to be displayed where salmon is bought and sold.

HB 369 addresses the increasing problem of "open ticket" fishing. It is becoming increasingly common in Bristol Bay for fishermen to go fishing not knowing prices until a later date. The open ticket problem played a large part in the organized efforts of last summer.

A careful distinction -- HB 369 does not preclude price adjustments at any time.

Thank you for your consideration of this matter.

**CS FOR HOUSE BILL NO. 369 (L&C)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered: 4/29/92**  
**Referred: Finance**

**Sponsor(s): REPRESENTATIVE JACKO**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the price paid to fishermen for salmon."

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

3 \* Section 1. AS 16.05.690 is amended by adding a new subsection to read:

4           (c) A fish ticket recording the purchase of salmon must include the current price paid per  
5           pound for each species of salmon purchased.

6 \* Sec. 2. AS 16.10 is amended by adding a new section to read:

7           Sec. 16.10.277. POSTING OF CURRENT SALMON PRICE. A fish processor, primary  
8           fish buyer, or cooperative corporation organized under AS 10.15 shall prominently post the  
9           current price being paid for salmon at each location where salmon are purchased.



# UNITED FISHERMEN OF ALASKA

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

May 1, 1992

## MEMBER ASSOCIATIONS

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

The Honorable George Jacko  
House of Representatives  
Post Office Box V  
Juneau, Alaska 99811

Re: CSHB 369

Dear Representative Jacko:

I would like to take this opportunity to express to you the support of the United Fishermen of Alaska for the Committee Substitute for House Bill 369.

This legislation very realistically addresses the failure of buyers to place a current price per pound on fish tickets. This has created tremendous problems for fishermen.

It is the feeling of UFA that this proposed legislation, if enacted, will resolve that problem.

Thank you for sponsoring this legislation and for the opportunity to comment on this bill.

Very truly yours,

Greg Seider  
Executive Director

MAY 05 1992

SOUTHEAST ALASKA SEINERS ASSOCIATION  
P.O. BOX 9579  
KETCHIKAN, ALASKA 99901  
\_\_\_\_\_  
(907) 225-5156

May 1, 1992

Representative George Jacko  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear George,

It is my understanding that the current CS for HB 369 simply requires a current fish price to be recorded on fish tickets. With this change, we no longer oppose HB 369.

I appreciate your willingness to work with fishing organizations on this legislation.

Sincerely,



Kathryn Troll  
Executive Director

# Editorial

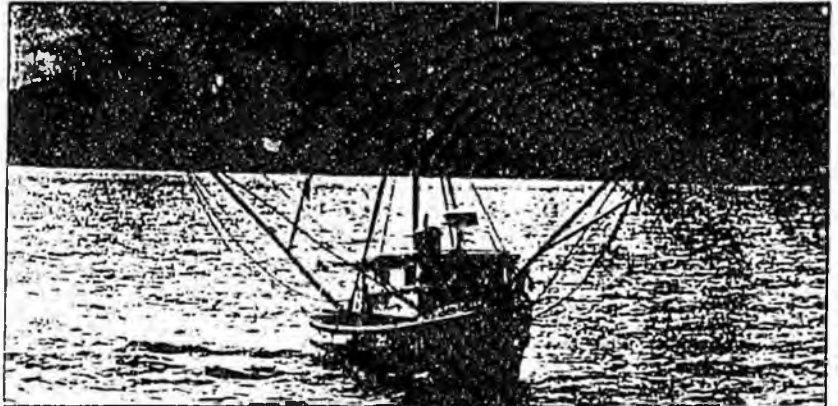
## New business legislation

Dave Choquette and Larry Baker are at it again in Juneau, quietly pushing through important new business legislation. Last year, the two freshmen Republicans from Anchorage demonstrated that even members of the minority GOP — and first-term freshmen, at that — can get major legislation through the Democrat-controlled State House. They may be up for an encore performance this year.

This year there are two proposals, one in which the two are co-sponsor that involves a further reworking of commercial and industrial loan programs of the Alaska Industrial Development and Export Authority, the subject of last year's success. The second is a plan by Larry Baker that expands the ability of municipalities to form port authorities.

The AIDEA bill, both this year and last, makes lending programs of the authority more flexible, and more workable for commercial banks to act as loan participants. Last year's change allowed banks to amortize their share of loan participations on a shorter schedule than AIDEA. Previously, both the banks were required to match the longer terms of AIDEA's participation, requirements which made the program unworkable for commercial banks here. Alaska banks have very limited capital available for long-term lending; this change enables them to get their money out quicker, and get it into new projects.

The 1992 change removes a \$10 million limit on the total value of loans in which AIDEA participates, which enables the authority to get involved in bigger commercial projects (although AIDEA's exposure is still limited to \$10 million). Another change enables the authority to guarantee small commercial business loans with floating rates, removing the previous requirement of fixed-rates, which banks didn't like on small business loans.



Fishing vessel on the prowl

Photo by Steve McCutcheon

## Commentary

### Bill says: state your prices before fishing season opens

By Rep. George Jacko Jr.

Following the events of last summer and after considerable thought about the future of the salmon industry, I decided to introduce legislation requiring salmon prices be posted in advance of the season. My intention is to get fishermen and fishbuyers discussing prices before the first fish swims up the river.

To my knowledge, this issue has never been directly addressed by the Legislature. In fact, serious discussion has never gone beyond the make-shift podiums of the summer boycotts and the ad hoc fisheries organizations formed during the heat of the moment, while the fish madly swam up the rivers.

After the organized efforts of last summer, I think it's time that the issue of pre-season prices be brought before the Legislature.

Presently, the Department of Labor can intervene 120 days before a season if a third of the fishermen in an area are in a price dispute with fishbuyers. However, this law has never been utilized. Most would agree in the difficulty involved in getting fishermen together and obtaining a formal response from fishbuyers before the start of a season.

If HB 369 becomes law, fishermen will have a base price in advance that they can research and compare. The Department of Labor could then become involved, if necessary. This would alleviate many of the problems faced last summer.

Too often the rumor mill is the only source of pricing information available to fishermen. Walking the docks in the summertime, one learns it is not processors who come forth with meaningful information, rather, it is someone who heard from someone else what processor A or processor B is offering.

Although no one expects fishbuyers to publicly disclose their marketing strategy, the fact that many don't offer any information until the last moment is upsetting and certainly disadvantageous to the industry. This has been the norm in the industry for many years.

From a processor's perspective, if your competitor does not offer any pre-season information, then why should you?

However, if Alaska law mandates an exchange, then all processors will have to step up to the plate

with at least some solid marketing information before the season. A careful distinction under my legislation, processors will not be precluded from adjusting prices upward at any time.

Fishermen statewide have expressed interest in improving the dialogue with fishbuyers. I'm sure the first question on everyone's mind is, "Can and should government impose stringent regulations on the fishing industry?"

The Legislature will have to consider this from a philosophical as well as a practical standpoint. From my perspective, this matter, at the very least, deserves formal consideration.

According to the attorney general, a pre-season price requirement is within the parameters of the state constitution.

The last time this issue came before the Legislature was during 1973, when the limited entry system was being crafted. A general belief existed then that salmon processors still maintained a significant hold over individual fishermen. Through credit and financing arrangements, they had the power to decide who would fish for a particular company.

Elements of collusion still remain. Although at a preliminary stage, the Department of Law is investigating allegations of price fixing in Bristol Bay and has already indicated that persuasive evidence exists regarding the setting of prices.

As the salmon industry undergoes fundamental change, it is important that the Legislature thoroughly examine what state government can do to provide direction and support. Policy guidelines will need to be established, so we don't find ourselves frantically trying to institute emergency measures as we are doing now.

Ultimately, I hope my legislation will facilitate discussion between fishermen and processors so that meaningful marketing information can be provided before the first opening of the season. Certainly no one wants the events of last summer to be repeated.

The industry is changing before our eyes—no one knows that better than fishermen and processors, many of whom are facing a long winter. In order to confront future challenges, they will need to work together, along with financiers, marketers and everyone else, to meet the increasing demands of a rapidly changing marketplace.

George Jacko Jr., a Democrat, represents Bristol Bay in the state House of Representatives.



**HOUSE BILL NO. 369**

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JACKO

Introduced: 1/13/92

Referred: Resources, Labor &amp; Commerce, Finance

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the price paid to fishermen for salmon."

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

3 \* Section 1. AS 16.05.690 is amended by adding a new subsection to read:

4 (c) A fish ticket recording the purchase of salmon must include the price paid per pound  
5 for each species of salmon purchased.

6 \* Sec. 2. AS 16.10 is amended by adding new sections to read:

7 Sec. 16.10.277. PUBLICATION OF PROPOSED SALMON PRICE. (a) A fish  
8 processor, primary fish buyer, or cooperative corporation organized under AS 10.15 shall set and  
9 publish a proposed price for salmon at least 120 days before the start of a salmon fishing season  
10 in an administrative area in which the fish processor, primary fish buyer, or cooperative  
11 corporation intends to purchase salmon from fishermen. At least 110 days before the start of a  
12 salmon fishing season, a fish processor, primary fish buyer, or cooperative corporation that has  
13 set a proposed price for salmon shall

14 (1) mail a notice of the proposed price to all newspapers and salmon tender

1 operators in the administrative area in which the fish processor, primary fish buyer, or  
2 cooperative corporation intends to purchase salmon from fishermen; and

3 (2) prominently post the notice of the proposed price on the premises where the  
4 salmon will be purchased.

5 (b) A salmon tender operator who receives a notice of a proposed price for salmon under  
6 (a) of this section shall prominently post the notice at the location where salmon are received for  
7 tendering.

8 (c) For the purposes of this section, the Department of Fish and Game shall designate  
9 the start of the salmon fishing season for each salmon fishery in the state. The start of a salmon  
10 fishing season is the earliest date on which a salmon fishing season may reasonably begin under  
11 commercial fishing regulations.

12 (d) A fish processor, primary fish buyer, or cooperative corporation who violates (a) of  
13 this section is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000.

14 (e) In this section, "administrative area" means an administrative area established by the  
15 Alaska Commercial Fisheries Entry Commission under AS 16.43.200.

16 Sec. 16.10.278. POSTING OF CURRENT SALMON PRICE. A fish processor, primary  
17 fish buyer, or cooperative corporation organized under AS 10.15 shall prominently post the  
18 current price being paid for salmon at each location where salmon are purchased.

§ 16.10.267

not hold a landing permit  
not hold a permit  
issued or transferred in  
accordance with AS 16.45 as  
subsection.

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"an entry permit"  
paragraph (a)(1).

**Sec. 16.10.268. Notice of liability.** (a) The commissioner of labor shall print posters that contain notice of the requirements of AS 16.10.265. The commissioner shall distribute the posters to fish processors, primary fish buyers, and cooperative corporations organized under AS 10.15 for the purpose of buying fish.

(b) A fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15 for the purpose of buying fish shall display in a prominent place on its business premises posters provided by the commissioner of labor under (a) of this section. (§ 2 ch 94 SLA 1982)

**Sec. 16.10.270. Purchase of fish by the pound.** (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The weight of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique which will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

NOTES TO DECISIONS

Cited in *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

**Sec. 16.10.275. Regulations.** The commissioner may adopt regulations to carry out the provisions of AS 16.10.270 — 16.10.296. (§ 1 ch 18 SLA 1981)

**Sec. 16.10.280. Price disputes between fishermen and fish processors.** In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as estimated by the Department of Fish and Game on the basis of information available to the department, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 120 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970; am § 1 ch 59 SLA 1980; am § 27 ch 132 SLA 1984)



Revisor's notes. — Enacted as AS 16.10.290. Renumbered in 1970. amendment substituted "estimated" for "certified" and inserted "on the basis of information available to the department."  
Effect of amendments. — The 1984

MAR 09 1992 B



March 7, 1992

Representative George Jacko Jr.  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Re: HB 369

Dear Representative Jacko:

Sitka Sound Seafoods is a medium size seafood processing company with plants in Sitka and Yakutat. Besides other products, we handle seine, troll and gillnet caught salmon of all species. Several hundred salmon fishermen sell to our company.

I am a third generation fish-buyer and have lived in Southeast Alaska all of my life. I have fished and tendered fish extensively in the past. Most of my friends are fishermen. It is a rare case when a fisherman will even ask the price of fish before he delivers, because we have a history of fairness. Consequently, your proposed legislation is very hard to understand or appreciate. Obviously Bristol Bay is a different case. From what I read, there is a fundamental lack of trust between the fishermen and processors in that region. In our area, where fish generally come in over a longer period of time in smaller amounts, fishermen have options ranging from running to another port in Southeast to sell, to running to Canada or Washington to sell or joining the Sitka-based fisherman's cooperative.

I can appreciate the fisherman's natural suspicion toward the fish buyer. All too often, prices are set in a vacuum of good solid market information. Many times the wholesale buyer will not even offer a price until it is known what the size of the harvest is going to be. This tends to make fish buyers conservative. Your bill would probably have the affect of making us even more so. If I had to post a price 120 days before our season, I would simply post a very conservative guess and tell our fishermen that we'll raise it if possible if the market warrants it. This practice could possibly have the effect of lowering wholesale market expectations. Another problem I see with this is that the market can and has fallen during a fishing season. What do we do if we have a posted, guaranteed price that is suddenly too high? Do we stop buying and go broke or keep buying and go broke?

Page 1

(907) 747-6662

TELEFAX (907) 747-6268

Telex 090-45-391 SSSEAFOOD SIK A

FRESH AND FROZEN SALMON, COD, BLACK COD, HALIBUT, ROCK FISH, CRAB, HERRING

One of the common misconceptions that fishermen have is that just because fish prices from company to company often end up being the same, that is evidence of collusion. The reason for this is simple - fish buyers are forced to match up in price to the most optimistic of major competitors if they want to keep their fleet. Hundreds of times a year, I'm informed by fishermen that X company is paying more than we are. In almost all cases, we elect to match that price. That's the reason that most fish companies average profits are less than other type companies, and why many go broke. As an example, our company, which has good, consistent volume and a wide variety of products, has averaged less than 1% profit on sales over the past ten years.

I do appreciate the frustration of salmon fishermen facing grave financial problems, due to the current weak markets. We see it with many of our fishermen too, but I think it's a big mistake to think that this approach is part of the solution. We should instead focus our attention on the real problems of the industry which include poor quality in some areas and lack of meaningful funding for marketing. I would be more than happy to discuss this with you further and share any information I have to give you a better appreciation of our side of the situation. Thanks for taking the time to consider this.

Sincerely yours,



Harold Thompson  
President

cc: Senator Eliason  
Representative Grussendorf

# BUSINESS

Feb 21, 1992

ANCHORAGE DAILY NEWS

SECTION C

LACE

## Salmon price fixing found

### Investigator cautions that manipulation wasn't sole cause of crash

By **BRUCE MELZER**  
and **HAL BERNTON**  
Daily News business reporters

The state lawyer investigating allegations of price manipulation in Alaska's salmon market said he found evidence of price fixing but won't say where, when, how or by whom.

Jim Forbes, head of the state's antitrust office, also said the price fixing was far from the only cause of last year's dram-

atic plunge in the price of salmon paid to Alaska fishermen.

"At the same time there are indications that there had been market manipulation," Forbes said.

The investigators have demanded records from more than 16 U.S. and foreign-owned fish-processing businesses.

Rick Lauber, from the industry trade group Pacific Seafood Processors Association, said it

was irresponsible for Forbes to comment on a pending investigation.

"Until such time as he's ready to seek indictment or civil action, I think it's inappropriate for him to make such a snippet of a statement that throws suspicion over a broad group of people," Lauber said.

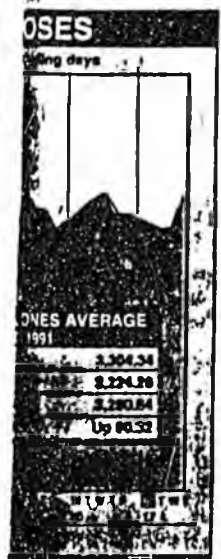
Since last February, Forbes has been leading the state's antitrust investigation of Alaska's

processors and others in the salmon industry. Forbes would not say when it would end.

Last July, Forbes said the state was looking at whether the same people sit on the boards of competing fish companies, alleged attempts to monopolize markets and alleged attempts at price rigging among processors.

Fishermen alleged collusion

Please see Page C-6, SALMON



The Associated Press commodity reports Treasury's key 32 point, or \$1,000 face 91 percent.

50 points investors market

### The trade balance

#### For 1970-91

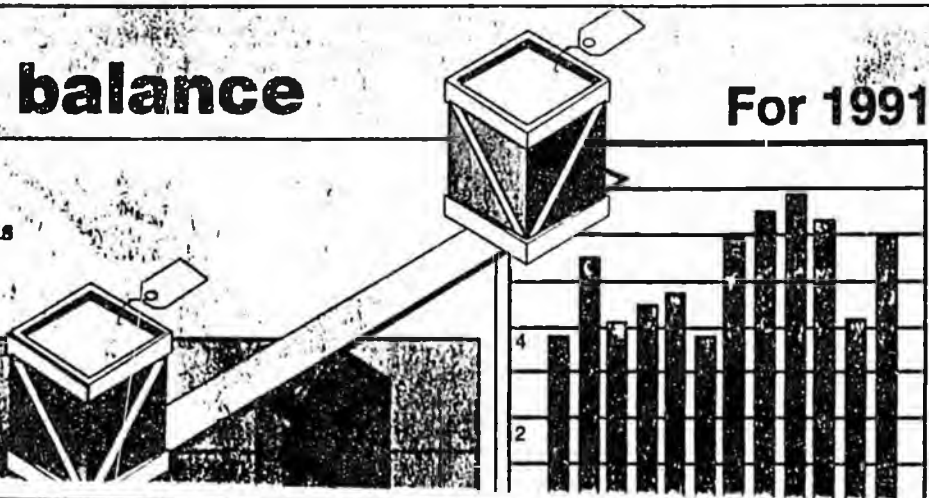
The \$66.2 billion in 1991 marks the lowest imbalance since \$52.4 billion in 1983.

\$100

Billions of dollars

1975

#### For 1991



## Gas line rebates in works

### Plans try to lure pipeline investors

By **GEORGE FROST**  
Daily News reporter

Alaska's top natural resources official, in a bold bid to encourage investment in

because they use the gas to help pump their crude oil.

Neither buyers nor sellers have publicly committed to investing a penny in the \$13 billion project.

A copy of Heinze's handwritten draft, almost a year old, was furnished to the

Hickel, and \$200 million a year from new property tax assessments.

Legislators must approve any deal, Heinze said.

Rep. Kay Brown, the Anchorage Democrat who once ran the state's oil and gas division, says Heinze's plan

project or worse than marginal viability and you are asking people to pay money up front for the right to invest," Tussing said. "I can't conceive of any reason why somebody would pay money up front, even on an option that is refundable,

pipeline... his 12 percent Yukon Pacific stock holding to settle ethics charges.

Yukon Pacific officials did not return telephone messages Wednesday and Thursday to discuss the gas sales proposal.

## SALMON: Evidence of price fixing found

Continued from Page C-1

among processors and went on strike last summer at Bristol Bay to protest prices. Processors responded that a glut of fish in Japan, Alaska's biggest salmon buyer, caused prices to plummet.

Forbes' tantalizing glimpse into the investigation came in response to a question at a legislative budget hearing on Tuesday. Lauber, of the processors trade group, said the comment was a way for the agency to seek more funds.

For some fishermen, Forbes' remarks echo their hunches. "We have felt that way for a long time. Everyone (of the processors) is paying the same price, and it doesn't mesh with what the consumers are paying here or in Japan," said Theo Matthews of the United Cook Inlet Drift Association.

Japanese companies that own some of Alaska's largest processors have long maintained they do not discuss price with each other.

But in the early '80s the federal government brought

antitrust cases against a number of Japanese companies in the Alaska crab trade.

In 1982, more than a half-dozen companies signed consent decrees negotiated with the Justice Department. In those documents, the companies did not admit wrongdoing, but they agreed not to exchange certain price information. The list of compa-

nies included Nippon Suisan, Taiyo Fishery and Kyokuyo — all major players in Alaska's salmon industry.

Jay Hastings, a lawyer for the Japan Fisheries Association in Seattle, said the companies learned the crab lesson well and are now wary of any discussions of price with each other.



Dan Wolf, Associate Broker, holds the Certified Residential Specialist designation. He has sold more than fifty homes per year for the past 6 years. Dan's among the top 1% in the U.S.A.

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AT 3**

**MA**

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OF BENSON

SALE ENDS

2-29-82

MON-FRI



2550 Denali Street, Suite 1201  
P. O. Box 92070  
Anchorage, Alaska 99509-2070  
(907) 276-2007

MAR 11 1992 B

March 9, 1992

Representative George Jacko, Jr.  
Alaska State House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Dear George,

Thank you for your February 27 letter concerning HB 369.

I believe I understand, and endorse, your purpose in proposing HB 369 and its concepts. I am skeptical that it would get the desired results, though.

That is not to say I would characterize myself as "opposed" to HB 369 (in the event anyone else cared enough to ask me!). I also recognize that, as a legislator, you must be responsive to constituents' expectations and don't enjoy the privilege of sitting back in a relatively objective and independent mode and popping off the way I can. So my comments, following, are only to express my views to you and to maintain a dialog; they're not intended to persuade you to do something other than push HB 369.

I feel very strongly that, if fishermen are to survive economically in the changing world, new relationships between fishermen and processors must emerge and/or be established. I don't know how that can happen other than as the result of continuing economic pressure on both sides. It will likely happen slowly, beginning with a single processor and a small group of individual fisherman, and will probably be scoffed at initially by other fishermen. I truly believe there is a desperate need for it to happen soon, and I wish we could find the key to awakening and enlightening the "right" handful of fishermen leaders and the "right" couple of processor executives.

George, I believe we're on the brink of potential lasting disaster, such as I've seen several times in other places and in other commodity groups. My fear is especially germane to Bristol Bay and Prince William Sound. It's that before or after this upcoming season, as a result of disruptive and tumultuous relationships with fishermen (and having nothing to do with "right" or "wrong"), one or two major processors might decide "to hell with it -- it's not worth the risk," and simply shut down the plants. History suggests that any plant shut down under those

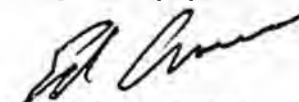
Representative George Jacko, Jr.  
March 9, 1992  
Page 2

circumstances is likely to never operate again -- or, if it operates, it will only be under very special circumstances. Yes, the fish will continue to return; and yes, we can argue that floaters or others will show up to at least partially fill the void; but you can be certain that it would not be at a level which would support the same number of fishermen in an acceptable way.

If I were going to be critical of HB 369, of you, of your colleagues, of other leaders, it would be because no one is taking steps to help fishermen understand that the world has changed and that they must act to change with it. We're just sending them distracting signals of approval, letting them believe that State government or somebody else is going to come up with just the right kind of muscle to beat the "bad guys" into submission and everything will be like it used to be. We provide forums and encouragement for the demagogues -- the Reverend Jim Joneses of Bristol Bay -- to harangue and incite fishermen like labor leaders of the early 1900's, serving up their own special kind of slow-acting Koolaid to unsuspecting followers!

George, Bryce included with your letter a copy of your February 21 press release about HB 369. The final paragraph is a powerful statement, I believe, and so is the second prior paragraph. I wish the Governor's Salmon Strategy Task Force had truly committed itself to the realities you express in those two paragraphs. It didn't. But the need is still there. I hope you realize that, no matter what you do with HB 369, CFAB as an institution and I as an individual are ready and committed to work with you -- or anybody -- in addressing those realities (and others) in some way.

Very truly yours,



Edward E. Crane  
President

P.S. Please excuse my apparent tardiness in responding -- I received your letter just shortly before leaving for an "outside" business trip, and didn't have time to put an answer together.

MAR 18 1992 B

SOUTHEAST ALASKA SEINERS ASSOCIATION  
P.O. BOX 9579  
KETCHIKAN, ALASKA 99901  
\_\_\_\_\_(907) 225-5156\_\_\_\_\_

March 12, 1992

Representative George Jacko  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

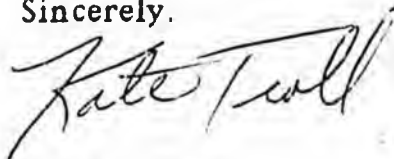
Dear George.

As a follow up to our previous phone conversation, I am writing to elucidate Southeast Alaska Seiners (SEAS) Association's position on HB 369. We agree with the intent of HB 369 as outlined by you. However, SEAS will not be supporting HB 369 nor will we be advocating amendments. There are two primary reasons. The first reason is that HB 369 appears impractical given the market dynamics of the salmon industry. We know that posting a price 120 days or even 30 days before the season would only result in the posting of a low ball guess on price and this may in the end generate more instead of less dissension between fisherman and processor.

Secondly, we would like to see how this season goes before asking the legislature to get involved. All the major processors in Southeast are meeting with their respective fleet of seiners well before the start of the 1992 season. This is a new development which is in step with the intent of HB 369, i.e. fostering timely communication about fish prices. Who knows, maybe the filing of HB 369 helped to spur this current effort of better communication between processors and fishermen.

We appreciate your concern for all salmon fishermen. Your intent is admirable.

Sincerely,



Kathryn Troll  
Executive Director

MAR 16 1992 B

Institute of Social and Economic Research  
University of Alaska Anchorage  
3211 Providence Drive  
Anchorage, Alaska 99508  
(907) 786-7717

March 16, 1992

Rep. George Jacko, Jr.  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Dear George:

I apologize for responding so belatedly to your request for comments on HB 369.

I don't seem to have a copy of the bill, although I do have your letter of February 20. I really don't think I ever received one in the mail, so my comments are based on my understanding of what the bill contains, rather than the actual language.

#### Comments

1. I'm not particularly knowledgeable about this subject, since I don't know that much about how and when processors post prices or how fishermen interact with processors (that's the price we academics pay for being locked up here in our ivory towers). Probably lots of other people could give you better comments.
2. In principle, the logic of the bill makes sense to me: requiring a price to be posted in advance of the season should help communication between fishermen and fishbuyers, and should also encourage competition.
3. I am still not clear on what the meaning of the preseason "posted price" and its relationship to the prices that fishermen eventually actually get paid. There are several different possible interpretations:
  - (a) A price for which the buyers expect to buy fish, but without any legal obligation (in other words, solely informational).
  - (b) A price at which buyers are currently offering to make binding contracts for the season. There are a lot of variations on this depending on how and when fishermen or fishbuyers are able to back out of these contracts or demand or offer higher or lower prices.

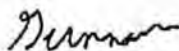
If it is (a), then it may be quite useful in increasing communication--unless processors don't take it seriously (except that not taking it seriously could lead to hard feelings).

If it is (b), then I think there is a risk that early posted prices might be lower just because there is more risk in posting a price so long in advance of the season. That

wouldn't matter, of course, if prices came up by the time of the season.

I hope that by offering the bill you do get some useful discussion of the idea with people more knowledgeable than me. I especially hope that you can get people to pay attention, what with the budget to distract them.

Sincerely,



Gunnar Krapp  
Associate Professor of Economics

**UCIDA****UNITED COOK INLET DRIFT ASSOCIATION**P.O. Box 4649 • Kenai, Alaska 99611  
(907) 283-3600 • FAX (907) 283-3306

February 24, 1992

Sent by telefax - hard copy to follow

Rep. George Jacko, Jr.  
State Capital  
Juneau, Alaska 99811-1182

Dear Rep. Jacko,

I would like to address HB 369 on behalf of the United Cook Inlet Drift Association (UCIDA). UCIDA represents the 585 salmon drift permit holders in Upper Cook Inlet. Some 350 permit holders are current members of our Association. UCIDA is also active at the state and federal levels as a member of the Executive Committee of United Fishermen of Alaska (UFA).

HB 369 has been discussed by the UCIDA and UFA Board of Directors. These comments are being sent on behalf of UCIDA. There is strong support for the intent behind HB 369 - for the need for better communication between fishermen and their processors and concern over the abuses inherent with "open" fish tickets. On the other hand, there is some concern that it will be difficult to legislate a requirement that prices be agreed upon in advance of the season. Indeed, it is our experience that a base price is established at the start of the season and the price generally rises as run strength and other factors become known. Further, in Cook Inlet many processors make their current sockeye price "retroactive". That is to say that up to a specified date, the "current" price is paid for all sockeye purchased prior to that date - even though the price on the prior fish ticket is lower than the current price.

UCIDA does NOT negotiate prices in Cook Inlet. We have established a system of "cannery representatives", and UCIDA serves as an information clearing house to coordinate information between the various "cannery fleets". Besides general agreement that processors and fishermen need to communicate more prior to the season, the phenomenon of the "open

ticket" is of major concern to fishermen in Cook Inlet and, I believe, fishermen statewide. During the price disputes of the 1991 season, one of the major demands of the cannery fleets in Cook Inlet was that all canneries post their base price for the season PRIOR to the first fishing period. The strength of this concern was clearly seen by the support many "independent or small cannery" fishermen showed by not fishing until the "majors" posted the \$1/pound base price that the small cannery operations had already agreed to.

I'll briefly discuss each section of HB 369 and try and incorporate our concerns expressed above:

**Section 1: Amend AS 16.05.690, add new subsection (c).**

UCIDA would suggest adding the word "current" before price so that the subsection reads "(c) A fish ticket recording the purchase price of salmon must include the current price paid per pound for each species of salmon purchased".

This language is meant to address our concerns that the price on the fish ticket is a guaranteed minimum. However, the language does not preclude the price going higher with retroactive payments. Further, such language should also assure the state of a minimum price for the purposes of collecting the raw fish tax. Finally, in areas like Bristol Bay where fishermen often sell on the "grounds", at least fishermen will know the minimum they will be paid. If the price doesn't "sound right" fishermen will have the option of shopping around on the grounds. We are aware of many instances, where fishermen return to town with open tickets, only to be told that "their processor" is paying less than the competition.

**Section 2: Amend AS 16.10 to add new sections 16.10.277 and 16.10.278.**

• **Section 16.10.277:**

As noted, UCIDA concurs with the intent, but does not feel this can be legislated. We also note that the existing Section 16.10.280 is similar and "on the books".

Proposed subsections 16.10.277 (a)(2) and (b) merit and could be tied in with the proposed Section 16.10.278 discussed below.

• **Section 16.10.278:**

We note that the language "current price" is used here and refer you to our comments above on Section 1. In general, everyone is better served if there is a posted "base price" prior to the season and if the "current price" is posted at the time of purchase during the season.

UCIDA appreciates the efforts you have taken to improve conditions for the industry by the introduction of HB 369. We hope our comments are useful and feel that fishermen and processors will benefit from better communication and the elimination of the "open" fish ticket while at the same time not committing processors to a final price either prior to or during the season.

Sincerely,



Theo Matthews  
Administrative Assistant

cc: Sen. Fischer  
Sen. Kerttula  
Rep. Navarre  
Rep. Phillips  
Rep. Zawacki  
House Resources Committee  
Senate Resources Committee  
UFA

FISCAL NOTE

No. 2

Bill Version: CSHB 369 (RES)

(H) Publish Date: 3-27-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: March 19, 1992

Title: Price Paid to Fishermen

Sponsor: Rep. Jacko

Requestor: \_\_\_\_\_

Department Affected: Department of Revenue

BRU: Revenue Operations

Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>FUND SOURCE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0.0

ANALYSIS:

This bill requires fish processors and buyers to publish a proposed price for salmon at least 120 days before the start of a salmon fishing season.

Prepared By: Paul E. Dick *PE Dick* *LEM* Phone: (907) 465-2320

Division: Income and Excise Audit Date: March 19, 1992

Approved by Commissioner: Darrel J. Rexwinkel *DJR* *Paul*

Agency: Department of Revenue Date: 13/19/92

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

FISCAL NOTE

No. 1  
 Bill Version: CSHB 369 (RES  
 (H) Publish Date: 3-27-92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Revision Date: 1/7/92 Department Affected: Fish and Game  
 Title: Price Paid To Fishermen For BRU: Commercial Fisheries  
Salmon Component: Commercial Fisheries  
 Sponsor: Representative Jacko  
 Requestor: House Resources Committee COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	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	0	0	0	0	0	0
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210  
 Division: Commercial Fisheries Date: 1/7/92  
 Approved by Commissioner: [Signature]  
 Agency: Fish and Game Date: 3/23/92

H B

3 9 3

REPRESENTATIVE  
JERRY MACKIE

P. O. BOX 73  
CRAIG, ALASKA 99821  
(907) 826-3008 OFFICE  
(907) 826-2930 HOME

CHAIRMAN,  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 485-4925

## House of Representatives

### SPONSOR STATEMENT

CN

CS HB 393 (RES) AM

I introduced HB 393 to correct a long standing situation that exists particularly in the rural areas of Alaska. This situation occurs when an Alaskan who is dependent on fish and game resources is unable to harvest those resources because of infirmities associated with advancing age or other disabilities. Oftentimes a family member, friend, or neighbor will illegally supply these individuals with fish and game resources as a purely humanitarian service. HB 393 establishes a manner of legal access to the state's common property fish and game resources for those Alaskans that are effectively denied because of physical condition.

HB 393 would allow proxy hunting and fishing in behalf of senior Alaskan citizens, 65 years or older, and Alaskan residents with physical disabilities. Its enactment will legalize an activity that I believe is prevalent and necessary for many senior and disabled Alaskans. HB 393 is patterned after existing law allowing proxy hunting on behalf of the blind, AS 16.05.405.

Many improvements to the original version are incorporated into CS HB 393 (RES) AM that I fully endorse. Most of the improvements dealt with fish and game management and enforcement concerns expressed by house members in the HESS, RES, and FIN committees and by the management agencies. Attached is a sectional of the resource committee substitute. Its main features are the following:

1. A proxy hunter or fisherman must have in possession the individual's license or permit to harvest fish or game. In addition, the proxy hunter or fisherman must have in possession the individual's signed authorization to hunt or fish in behalf of the individual.

2. A proxy hunter or fisherman can only harvest for one additional person at any particular time. The possibility of a hunter or fisherman harvesting for him or herself and multiple proxy permits is prohibited.

3. All of the fish and game harvested by proxy must be delivered to the individual in whose behalf it was taken.

4. The Board of Fisheries and the Board of Game have specific authority to regulate seasons, areas, species, methods, et. al. for the occurrence of proxy hunting and fishing. A July 1, 1993 effective date for the bill allows the boards time to establish the regulatory structure prior to proxy hunting and fishing taking place.

This bill has great value for the health and welfare of our senior citizen and disabled Alaskans. It legitimizes what oftentimes occurs as a humanitarian act. Yet from the very beginning, I have maintained that strict enforcement and management tools are included to protect against potential abuses of proxy hunting and fishing. I believe these protections are in CS HB 393 (RES) AM.

SENATE COMMITTEE REPORT

DATE: 4/1/92

FURTHER: Judiciary

142

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

Resources Committee considered CS FOR HOUSE BILL NO. 393 (RESOURCES) am

"An Act relating to the taking of fish or game by proxy for a person who is blind, for a person with physical disabilities, or for a person who is 65 years of age or older; and relating to licenses and permits for a person who is blind, for a person with physical disabilities, or for a person who is 65 years of age or older; and providing for an effective date."

mg dep

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

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

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

- 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

zero fiscal notes (H) DPS (H) REC

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

**DO PASS:**

*[Handwritten signatures]*

**OTHER RECOMMENDATIONS:**

*Rick Halford NO REC*  
*Jim Costello NO REC*

*[Signature]*  
Chair, Signature and Recommendation

# 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 4, 1992

**SUBJECT:** Sectional Summary: CSHB 393 (Resources);<sup>AM</sup> Relating to the taking of fish or game by proxy and to special fish and game licenses and permits

**TO:** Representative Jerry Mackie

**FROM:** George Utermohle,<sup>GU</sup>  
Legislative Counsel

This memorandum is a sectional summary of CSHB 393 (Resources),<sup>AM</sup> relating to the taking of fish and game by proxy and to special fish and game licenses and permits.

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

Section 1 of the bill adds a new section to AS 16.05, consolidating provisions relating to special licenses or permits for a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older.

Under current law (AS 16.05.405(b)), a person who is blind can obtain a special hunting license indicating that the licensee is blind. The bill maintains this privilege to receive a special hunting license, but does not extend it to include a special fishing license or fishing permits.

Under current law (AS 16.05.340(f)), a person with physical disabilities can obtain a certificate stating that the bearer is a person with physical disabilities. This certificate is to be carried in conjunction with a hunting license when the licensee is participating in a hunt for persons with physical disabilities. The bill eliminates the need for a special certificate by providing for issuance of a resident hunting license, resident sport fishing license, resident subsistence fishing permit, or resident personal use fishing permit that indicates that the licensee or permittee is a person with physical disabilities.

The bill also provides for issuance of a resident hunting license, resident sport fishing license, resident subsistence fishing permit, or resident personal use fishing permit

Sectional Analysis

Representative Jerry Mackie

March 4, 1992

Page 2

that indicates that the licensee or permittee is a person who is 65 years of age or older. This provision allows a person who is 65 years of age or older to obtain a special resident hunting license or resident sport fishing license if the person wanted to pay the usual license fee, but does not prevent the person from qualifying for the exemption from the resident hunting or sport fishing licensing requirement under AS 16.05.400(b).

By providing for the issuance of special licenses and permits, it will be easier for the Department of Public Safety to police the taking of fish and game by proxy by eliminating the need for the enforcement officers in the field to determine whether the person for whom the fish or game is being taken is qualified to benefit under AS 16.05.405, as amended by sec. 2 of the bill.

Section 2 of the bill repeals and reenacts AS 16.05.405. AS 16.05.405 currently provides for the taking of certain game species by proxy for a person who is blind. The bill rewrites AS 16.05.405 so that the requirements for taking of fish or game by proxy are virtually uniform regardless of whether the fish or game is taken for a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older.

**Subsection (a)** provides that the taking of fish and game by proxy is subject to regulations adopted by the Board of Fisheries or the Board of Game.

**Subsection (b)** provides that a resident who holds a valid hunting license may take game on behalf of a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older if the resident possesses (1) a document signed by the person for whom the game is to be taken which states that the resident possesses the person's hunting license or permanent identification card in order to take game on behalf of the person and (2) the person's resident hunting license or permanent identification card and the necessary tags or permits.

**Subsection (c)** provides that a resident who holds a valid noncommercial fishing license may take fish on behalf of a person with physical disabilities, or a person who is 65 years of age or older if the resident possesses (1) a document signed by the person for whom the fish is to be taken which states that the resident possesses the person's fishing license, fishing permit, or permanent identification card in order to take fish on behalf of the person and (2) the person's resident sport fishing license, resident subsistence or personal use fishing permit, or permanent identification card.

*person who is  
blind, or a*

Representative Jerry Mackie

March 4, 1992

Page 3

**Subsection (d)** provides that a resident who takes fish or game by proxy shall do so as though the resident was the person for whom the resident is taking the fish or game.

**Subsection (e)** provides that a resident who takes or attempts to take fish or game on behalf of another person may engage in fishing or hunting for himself but may not take fish or game for a third person while the resident possesses the person's license, permit, identification card and the person's signed document or while the resident possesses fish or game taken on behalf of the person. This subsection does not require physical possession of the license, permit, identification card, signed document, or fish or game, but requires mere custody and control of the license, permit, identification card, signed document, or fish or game, in order to bar the resident from engaging in hunting or fishing for a third party.

**Subsection (f)** requires the resident who takes fish or game on behalf of a person to submit reports as required by the commissioner of fish and game, to deliver fish or game within a reasonable time to the person on whose behalf it was taken, and to retain documents authorizing the taking of fish or game by proxy until the fish or game is delivered to the appropriate person.

Section 3 of the bill repeals AS 16.05.340(f) which provides for the issuance of a certificate to a person with physical disabilities. AS 16.05.340(f) is no longer needed as the result of Sec. 16.05.403(b), as added by sec. 1 of the bill.

Section 4 of the bill provides that the bill takes effect July 1, 1993.

Violations of the provisions of AS 16.05.403 and 16.05.405, as enacted by secs. 1 and 2 of the bill, are misdemeanors punishable under AS 16.05.430(a)<sup>1/</sup> by a penalty not to exceed six months imprisonment, or a fine of not more than \$1,000, or both.

If I may be of further assistance, please advise.

GU:pl  
92-156.plm

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<sup>1/</sup> AS 16.05.430(a) states:

(a) Except as provided in AS 16.05.420(b), a person who violates AS 16.05.330 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

FISCAL NOTE

No. 1

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: CSHB 393 (HES)

(H) Publish Date: 2/7/92

Revision Date: \_\_\_\_\_ Department Affected: Public Safety

Title: "An Act relating to the taking of BRU: Fish & Wildlife Protection

fish and game by proxy. . ." Component: Enforcement & ISU

Sponsor: Rep. Mackie, et. al.

Requestor: House HES COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

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

CAPITAL	0	0	0	0	0	0
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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: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated with passage of this bill.

Prepared By: Captain Conrad G. Seibel Phone: 269-5509

Division: Fish & Wildlife Protection Date: 1/20/92

Approved by Commissioner: Wayne Huettski for Richard L. Burton

Agency: Department of Public Safety Date: 1/20/92

Distribution (by preparer): Fiscal Notes & Impacted Agency(ies): \_\_\_\_\_

FISCAL NOTE

No. 2  
 Bill Version: CSHB 393 (RES)  
 (H) Publish Date: 3-11-92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Fish and Game

Title: An Act relating to the taking of fish and game by proxy

BRU: Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Representative Mackie

Requestor: House Health Ed. and Social Ser. COMPONENT SERIAL NO. 

4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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: No impact on current year.

ANALYSIS: (Attach a separate page if necessary.)

Although the bill could result in some increased license sales to physically disabled persons and increase revenue from drawing permit hunt applicants, no significant change can be predicted or is anticipated.

Prepared By: Phil Koehl

Phone: 465-4190

Division: Division of Wildlife Conservation

Date: 1/17/92

Approved by Commissioner: Carl R. Rosen

Agency: Department of Fish and Game

Date: 1/21/92