

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8436 SENATE RESOURCES

Section 1 of B closes that unintended loophole by extending the reach of the 1986 legislation to the state's share of federal royalty gas. The inserted words "or a lessee of federal land under applicable federal law" extend the section's protections to federal lessees. The insert words "or accept" reflect the fact that the federal government will ultimately set the royalty "value" for its leases; DNR, however, would be required (under the standards of the section) to "accept" the federal government's use of the utility contract as the measure of "value," if the federal government itself proposed to use that value.

In fact, the Department of Interior's Minerals Management Service ("MMS"), in two recent audit decisions, decided to use arms-length utility contract prices as the value of Beluga River Field gas for the period 1984-87. DNR is attempting to appeal those rulings, claiming a higher "value" exists. Under Section 1 of the bill, and upon the lessee's application, DNR would be required (except in the circumstances articulated in existing §180(aa)) to withdraw those appeals and "accept" MMS' decision.

Section 1 also deletes the word "prospective" in existing AS 38.05.180(aa). As is discussed with regards to sections 3 and 4 of the bill, the 1986 legislation applied prospectively only as far as *state* leases were concerned. Sections 3 and 4 of this bill retain the prospective element of the legislation for state leases; so, as to those leases, the word "prospective" in AS 38.05.180(aa) is redundant. However, this bill extends AS 38.05.180(aa) to federal leases (and utility contracts with federal lessees) that were executed before the effective date of the legislation, and under which royalties have already been paid.

As a result, while the word "prospective" isn't necessary to retain the limited reach of the 1986 legislation, it is inconsistent with the reach of this bill, and therefore must be deleted.

Section 2. AS 38.05.180(aa) requires the use of the utility contract price as the value of "the state's royalty share of gas production," a term defined in existing §180(a)(3). In order to extend that valuation rule to the state's share of federal royalties, it is necessary to amend that definition to include "payments on federal leases under 30 U.S.C. 191." 30 U.S.C. §191 is the federal statute under which 90% of federal gas royalties are distributed to the states.

Sections 3. Section 5 of the 1986 law (Ch. 55, SLA 1986) made it clear that, as to state leases, DNR was only required to use *new* utility contracts as the royalty "value." This was done for three reasons: (1) DNR, in its March, 1985 announcement, proposed to reject utility contracts as the royalty value only prospectively--beginning April 15, 1985; (2) DNR, during the 1986 session, had already settled with all its lessees under the then-existing utility contracts, pending passage of the law; and (3) even though the law applied prospectively only, DNR assured the legislature that it would use enactment of the law as

statutory justification for completing its settlements under existing utility contracts.

In other words, the "valuation" issue with respect to then-existing utility contracts had already been taken care of amicably, and there was no need to reopen those matters.

None of those considerations exist with respect to the valuation of federal royalties. DNR is currently attempting to compel MMS to retroactively reject utility contract prices as far back as 1984. It has engaged in no settlement discussions that might amicably dispose of prior-year valuation issues. And, it has taken the position that, unless AS 38.05.180(aa) is amended to require use of the utility contract price for prior year federal royalties, it must continue to urge rejection of that price for those years.

As a result, Section 3 of B amends the "prospectivity" section of the 1986 law to make it clear that its "prospective-only" rule applies only to AS 38.05.180(aa) *as that section was originally enacted through Section 2 of the 1986 legislation*--in other words, only to state leases. Without this section, Section 5 of the 1986 legislation would continue to exist as a temporary and special law of Alaska, and would say that AS 38.05.180(aa) has a prospective-only application, even though AS 38.05.180(aa) was amended (through this bill) to include federal leases, for which the "prospective-only" rule was not meant to apply. Conversely, through this section the "prospective-only" rule will continue to apply to the original reach of §180(aa) (i.e. as written in Section 2, Chapter 55, SLA 1986) but not to the federal leases covered by this legislation.

Section 4. Under AS 01.10.090, "no statute is retrospective unless expressly declared therein." In truth, this legislation has no "retroactive" effect. It amends no pre-existing leases--as to federal leases, only the federal government can do that. It merely sets out the "value" of royalty gas which the state must "accept" in federal royalty proceedings.

Even so, AS 01.10.090 argues for caution, and suggests that the legislation should expressly state that, as to federal royalty valuation, the law does apply to pre-existing leases, and pre-existing utility contracts.

Section 4 should create no legal problems. Governmental policies towards defining royalty "value" have changed over the years, without any serious argument that the changes constitute unilateral amendments to pre-existing leases. Moreover, here the use of utility contracts is at the lessee's option.

Section 5. This section gives the legislation an immediate effective date.

SB

132

Senate Resources
Committee

2 pages.

Testimony - SB132

3.15.93

2 pgs.

JERE T. MURRAY, Ph.D.
P.O. Box 237, Seldovia, Alaska 99663-0237
(907) 234-7646 (Voice or FAX)
March 16, 1993.

Alaska Legislature
Senate Resources Committee
Chairman Senator Mike Miller
Vice-Chairman Senator Loren Leman
Members: Senators Steve Frank, Drue Pearce, Albert Adams, Dave
Donley, Fred Zharoff

Via FAX Only: 465-3883

Dear Mr. Chairman and Members of the Committee:

Thank you for this opportunity to comment on SB132 which concerns IFQ financing.

Please consider all the following facts. Last session the Alaska House of Representatives unanimously rejected the IFQ plan by passing HJR61. A companion measure in the Senate had similar wide support but was kept from the floor by the actions of a single Senator who is no longer in office. Our Congressional delegation members each have serious concerns about this plan and are maneuvering against it in Washington. The Commerce Department has not yet published this plan as a "Final Rule" and it may still be rejected by the Office of the President and or the Congress where opposition is growing daily. Even if the plan passes these hurdles and survives legal challenges sure to be mounted, it will not be implemented until after one or more additional sessions of the Alaska Legislature.

Then, surely, the best one can say for SB132 is that it is very premature and sends the wrong message concerning the thoughts of the legislature on this plan (assuming last session's sentiments remain).

I know you will receive considerable testimony on the economic aspects of these proposed loans and I will not attempt to duplicate those here. Let me only pass on to you the comment one of the staunchest proponents of IFQs made to me when I brought up the subject of a loan program such as that envisioned by SB132 during the December 1991 meeting of the North Pacific Fisheries Management Council in Anchorage. Mr. Clem Tillion, whom I'm sure you all know, said "I wouldn't want to loan them money they won't be able to repay!" There it is - "right from the horses mouth."

At this time the best thing the Alaska State Legislature can do for Alaska in connection with IFQs is to reaffirm the position of last session's House and pass a resolution similar to HJR 61 which includes the additional resolve of the Senate companion, SJR 90, "FURTHER RESOLVED that the Alaska State Legislature opposes the use of state agency resources, state operated facilities, state funds, or other forms of cooperation to implement an Individual Fishery Quota

management system" and send copies of the resolution to the appropriate federal officials in the executive and legislative branches as soon as possible.

There will be plenty of time to attempt to ameliorate the many adverse effects the IFQ plan will have on Alaskan citizens and communities if and when it is implemented. Passage of HB132 at this time can do no good and may do harm in the continuing battle against this devastating plan. First things first, please.

Sincerely,

Jerre L. Murray

2nd Page
Testimony on
SB 132
3.15.93

RECEIVED MAR 19 1993

CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

P.O. Box 88, St. Paul Island, Alaska 99660-0088

Telephone: 907-546-2313 Fax: 907-546-2366

March 15, 1993

Senator George Jacko FAX 465-2997
Juneau, Alaska 99811

Dear Senator Jacko,

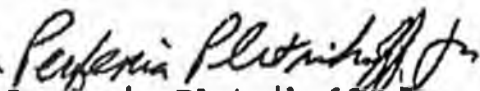
Please add our name to the list of groups supporting Senate Bill No. 132, making loans available for the purchase of IFQ.

When this IFQ program begins, a considerable amount of consolidation will take place in the fishery, and some will be displaced from the fishery. Small amounts of IFQ will be available and Alaskan fishermen should have an opportunity to vest themselves in the fishery, or supplement their own IFQ allocations. This loan assistance may make the difference between having enough fish to keep fishing, or giving up fishing altogether because of limited IFQ.

In our own case, we anticipate the need to purchase IFQ from Seattle vessels which will no longer be interested in fishing in 4C halibut waters around the Pribilofs after IFQ quotas are awarded. These quotas will be lost to our islands forever, if cash resources and credit are not available to purchase them when the time comes.

We support this amendment to AS 16.10, and commend you for its introduction.

Sincerely,



Permenia Pletnikoff, Jr.
President
Central Bering Sea Fishermen's Association



Coastal Villages Fishing Cooperative

204 N. Franklin, Suite 1 • Juneau, AK 99801 • Phone 907-586-2360 • Fax 907-586-2331

March 15, 1993

Senator Mike Miller, Chair
Senate Resources Committee
State Capitol, Room 423
Juneau, AK 99811

SUBJECT: SB 132

Dear Senator Miller:

The Coastal Villages Fishing Cooperative (CVFC) is an Alaska corporation formed for the purpose of participating in the western Alaska Community Development Quota (CDQ) program. The membership of CVFC is composed of 17 communities along the Bering Sea coast of the Yukon-Kuskokwim Delta from Scammon Bay in the north to Platinum in the south.

CVFC has reviewed SB 132 introduced by Senator Jacko. This bill amends the Commercial Fisheries Revolving Loan Fund to include provisions for matching loans provided by a CDQ group for the purchase of Individual Fishing Quotas (IFQ). By expanding the loan fund to include loans for purchase of IFQ and for matching loans equal to amounts loaned to fishermen by CDQ groups, the fund will greatly increase the ability of western Alaska fishermen to purchase IFQ and become active members in the fisheries subject to IFQ programs.

CVFC supports the passage of SB 132 and recommends that the Senate Resources Committee pass the bill out to the Senate Finance Committee.

If we can provide any further information, please contact me at your convenience.

Very truly yours,

Norman A. Cohen
Executive Director

cc: Senator Jacko ✓

Henry and Linda Blake
Joe, Hugh, and Ron Blake
F/V Neptune
F/V Hunter
P.O. Box 6336
SITKA, AK 99835

LIO-SITKA

March ^{15th} 1, 1993

Senator Miller
Resources Committee

Re: Senate Bill # 132

Dear Sir;

If this bill is passed it will appear that the State of Alaska has given it's approval to the I.F.Q. program.

If this plan is implemented it will have disastrous consequences to the fishing industry in the State. There are many of the details of the program that are not as they appear on the surface. It is not a management program, it is an allocation and surrender of management.

The Alaska Dept. of Fish and Game is the proper agency of management for these resources. The state should not give that responsibility to the federal government. Additionally it will give the factory/processor boats access to areas where they are not presently allowed to fish. Giving the right for I.F.Q. holders to take unlimited bycatch of Rockfish and Pacific Cod is not at all fair or right. These are presently being well managed by the State.

Additionally, there is already a moratorium that does not permit any new boats to enter the fishery. The I.F.Q. program will allow no more of the smaller catcher boats, in fact many will be not given quotas, but about 100 large boats will be given quotas. The processor boats will also be allowed to hydrate the halibut when the small boats will not.

The processor boats typically off load their catch either in Seattle or on the high seas. The smaller catcher boats are the residents of the coastal communities of Alaska and their catch is sold to local processors who employ local people. These boat owners buy their fuel and groceries in the local communities. Their repairs and upkeep are generally taken care of in these communities. This is the backbone of many of the people here.

At the very least there should be more study done to determine the effect of this program on the people of Alaska. The Natives are opposed to it as well as a large majority of the citizens, especially when they become aware of what it will

At the very least let's wait until the final implementation is approved before we jump into this plan. Look at who will be allowed to buy I.F.Q.'s

Henry, Linda, Joe, Hugh, and Ron Blake

Linda Blake

10f1

Alaska Longline Fishermen's Assoc.

P.O. Box 1229 Sitka, AK 99835 (907) 747-3400

March 17, 1993

S.B. 132: a Bill to provide funding to Alaska residents for the purchase of fishing quota shares.

Senator Miller, Chair
Senate Resource Committee
Juneau, AK 99801-1182

Dear Chairmen Miller and members of the Committee,

I am testifying on behalf of the Alaska Longline Fishermen's Association (ALFA) in support of providing State loans to fishermen for the purchase of fishing quotas.

Quotas share management offers an opportunity for Alaskans that the State can not afford to miss. By providing affordable loans, State financing will increase Alaskan participation in the fisheries of the Bering Sea and North Pacific. Increased participation by Alaskans will, in turn, ensure that the on-shore seafood processing industry, the seafood support industry, and the coastal communities as a whole continue to prosper, bringing revenue to the State both directly (through raw fish tax) and indirectly (through enhanced socioeconomic health). Financing the purchase of quotas shares can also be expected to provide a direct financial benefit to the State through interest payments.

Predictably, a significant number of QS will change hands during the early years of the program, hence it is essential that the loan program be in place before IFQs are implemented. ALFA urges the State to move forward with the financing program as quickly as possible.

One further point that I would like to make clear to the committee: while ALFA's membership firmly supports HB 123, the companion bill to SB 132, the Association has not yet had an opportunity to discuss the language in SB 132 that addresses loans to CDQ recipients. Hence at this point I will withhold comment on that section, and state only ALFA's support for proceeding with a State loan program for quota shares.

Thank you for the opportunity to comment.

Sincerely,

Linda Behnken

Linda Behnken
(exec. director, ALFA)

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 132

Revision Date: _____

Department Affected: Commerce and Economic Development

Title: Loans for IFOs

BRU: Investments

Sponsor: Senator Jacko

Component: _____

Requestor: Senate Resources

COMPONENT SERIAL NO. 0384

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSO'IAL SERVICES	48.2	144.5	144.5	144.5	144.5	144.5
TRAVEL	2.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	11.3	33.9	33.9	33.9	33.9	33.9
SUPPLIES	1.5	1.5	1.5	1.5	1.5	1.5
EQUIPMENT	13.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	76.5	185.9	185.9	185.9	185.9	185.9

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:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER C/F LOAN 1036	76.5	185.9	185.9	185.9	185.9	185.9
TOTAL	76.5	185.9	185.9	185.9	185.9	185.9

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Martin J. Richard
Division: Investments

Phone: 465-2510
Date: 7/2/92

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 132

ANALYSIS: (continued)

This fiscal note assumes that the IFQ program will go into effect on March 1, 1994 as estimated by the United States Department of Commerce. The operating expenses for FY 94 have been adjusted accordingly.

PERSONAL SERVICES

The passage of SB 132 will require the addition of two Loan Examiner II positions and a Loan Closer I position. The loan examiners will process loan requests generated as a result of this legislation. They will also handle inquiries, outreach, loan extensions and other collection activity associated with these loans. The loan closer will develop the documentation used to complete loans processed by the loan examiners and will obtain signatures, record collateral documents and disburse loan proceeds.

TRAVEL

It is estimated that loan examiners will make an average of six outreach trips to rural Alaska each year, at an average cost of \$1.0 per trip. In FY 94 a total of two trips are anticipated.

CONTRACTUAL

The office space rental for three additional employees is estimated at \$8.9 per year. In addition, the Department anticipates spending an additional \$25.0 per year on outside contractors to help in its outreach efforts in rural communities throughout the State.

SUPPLIES

The Department estimates \$1.5 per year to cover costs of miscellaneous office supplies and printing of application packages and brochures.

EQUIPMENT

The Department estimates a one-time cost of \$13.5 to cover the costs of office furniture and computer equipment for three new employees.

SB 132: "An Act relating to loans for the purchase of individual fishery quota shares, and providing for an effective date."

SB 132 amends the Commercial Fishing loan program to allow Alaskan residents to finance the purchase of individual fishery quota shares. The bill establishes two different eligibility sections under which applicants can qualify. In order to be eligible under AS 16.10.310(a)(1)(C) an applicant must:

1. have been a two-year resident;
2. had a crew member or commercial fishing license or a permit and have actively participated in a fishery for the year immediately preceding the date of application and any other two of the past five years; and
3. qualify as a transferee under applicable law.

In order to be eligible under AS 16.10.310(a)(1)(D) an applicant must:

1. have been a two-year resident;
2. received a loan for the purchase of individual fishery quota shares from the recipient of a community development quota that equals or exceeds the amount of the loan requested under this program; and
3. qualify as a transferee under applicable law.

SB 132 also allows the Department to prequalify applicants for the purchase of fishery quota shares. Under this portion of the program an applicant can obtain a 60-day commitment to finance fishery quota shares prior to locating the specific shares to be purchased.

In addition, the bill establishes loan limits based on the eligibility of the borrower. For those borrowers qualifying under AS 16.10.310(a)(1)(C) the total balances outstanding on loans made to purchase individual fishery quota shares cannot exceed \$300,000. For borrowers qualifying under AS 16.10.310(a)(1)(D) the total balances outstanding on loans made to purchase individual fishery quota shares cannot exceed the amount of loans received from a recipient of a community development quota.

SB 132

It should also be noted that some applicants will qualify for both AS 16.10.310(a)(1)(C) and AS 16.10.310(a)(1)(D) and would be eligible to apply for loans under both sections.

In keeping with the mission of the Commercial Fishing program, this legislation will assist Alaskans in their efforts to participate in the halibut and sablefish fisheries in Alaska.



Paul Fuhs, Commissioner
Date: 3/2/93

honors a wide diversity of opinion. I shall let others decide whether or not my views reflect theirs.

But as one human being, I have a need to express an apology to all of the persons in our community who happen to be gay or lesbian. Many of you are my friends and colleagues; all of you are my brothers and sisters. Any one of you could be my son, my daughter, my family.

I am deeply grieved by the embarrassment and ridicule to which you have been and continue to be subjected. I am sorry — especially if we have allowed you to feel that the angry, strident voices have represented us all. There are many gentle persons in our community who choose to use their energy and resources to be there for others in quiet ways — who are not always adept at controversy. Forgive us for what may have seemed to be a lack of caring.

We offer our love and support in ways that we hope will be more lasting than debates, won or lost. Your pain is our pain! You are not alone!

— Wes Veatch

3/3/93

Column needs clarification

I am writing in response to a Compass piece by Carol Thomassen titled "Quota system delivers cruel blow to many fishermen," which ran on Feb. 20. I wish to clarify some aspects of the IFQ program to which Ms. Thomassen refers.

Ms. Thomassen implies that future fishing rights will go to "those lucky enough to have won a quota," and further that vessel owners who leased their vessels to others would receive the credit for landings made by the leasee.

The North Pacific Fishery Management Council, after struggling with the issue for more than five years, passed their individual fishing quota (IFQ) management system for the fixed gear halibut and sablefish (black cod) fishery in December 1991. That plan was approved by the U.S. Secretary of Commerce on Jan. 29, 1993. It will be implemented by the National Marine Fisheries Service (NMFS), and should be in place no later than the start of the fishing season in 1995.

The plan allocates transferable fishing rights to persons (individuals or corporations) who owned or leased vessels that landed halibut or sablefish with fixed gear during the years 1988, 1989 or 1990. While it is true that hired skippers and crew will not receive quota shares, it should be noted that qualified leaseholders, not the vessel owner, will receive the credit for their landings. Individuals who do not qualify to receive quotas initially, will be able to purchase them if they have participated as a member of a harvesting crew in any U.S. commercial fishery for five or more months.

If Ms. Thomassen, or other readers, would like more information regarding the IFQ plan, they can contact the council staff in Anchorage or call the NMFS in Juneau.

— Chris Oliver, deputy director
North Pacific Fishery Management Council

State's sell

What do you inhabitants sell that is so, the inhabitants of t said to Lady a famous argume: mined what yo: merely discussi.

It is now ove quip was made, the more they r Sam and Lady price of the sale personal respor hallmarks of a : to be in serious: legislature. This whether or not cycle helmet la: federal legislat. this as an issue discussion of th: lends itself attr ter(s)!

Abortionist

Once again, missed the poi: tion: Hospital : (Feb. 20), the

SB

153

FAX MESSAGE

FROM: ALASKA SAUSAGE CO., INC
2914 ARCTIC BOULEVARD
ANCHORAGE, ALASKA 99503 USA

CONT: Herbert Eckmann

TO: Senator Mike Miller, Chair
Senate Resource Committee
Juneau, Alaska

March 23, 1993

Ref: SB 153

Dear Senator Miller,

I urge the Committee to approve SB 153.

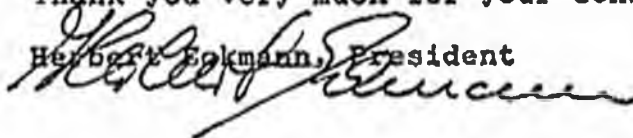
Background: We have been in the fish smoking business for 30 years and we are not doing the best job possible for our customer/fishermen.

We need to be able to exchange the custom caught fish out of a pool of custom fish and return a secondary processed fish to the tourist who then takes it along and consumes it or gives it away as gifts.

We can see many benefits including promoting the "Alaska Made" products, creating demand for mail order sales and using the resource for maximum benefit.

Thank you very much for your consideration.

Herbert Eckmann, President



cc. Senator Fayler



TELEFAX

Royal Cruise Line
One Maritime Plaza #1400
San Francisco, California 94111
Phone (415) 688-7200
FAX (415) 688-1368

Fax # 666

To: Ketchikan Legislative Affairs Office 907-225-8546

From: Bruce Good RCL/SFO

PAGE 1 OF 1

Date: March 23, 1993

Subject: Senate Bill 153

To: Alaska Senate Resource Committee

Dear Sirs:

As a cruise ship operator selling fishing excursions in Ketchikan during the summer tourist season, we urge the passage of this bill in support of the local fishing industry.

In our opinion the bill, if passed, would increase the appeal and sales of sportfishing tours, and also increase the sales of processed fish (being traded by visiting sportfishers) during the tourist season, thus providing a positive effect on both the sport and commercial fishing industry and the fish processing industry in your community.

We thank you for your anticipated support of this important bill when the opportunity arises.

Sincerely,


Bruce Good
Director, Cruise Product

KETCHIKAN SPORTFISHING
P.O. BOX 3212, KETCHIKAN, AK 99901
(907) 225-7526, FAX 225-7525, 1-800-488-8254

March 23, 1993

page 1

To Whom it May Concern:

Ketchikan Sportfishing supports Senate Bill No. 153 to permit the exchange of sport caught fish for processed products.

Many people flock to Southeast Alaska each year to sightsee and SPORTFISH. After they arrive they usually get a surprise, the price of touring or living in Alaska. The very high cost of processing sport caught fish is sometimes enough to deter people from fishing. What is the use of going fishing if you cannot afford to keep your fish.

Tourism is one of the top three industries in the State of Alaska. Ketchikan Sportfishings primary business is providing charter fishing and related services to Cruise Ship passengers. It is a well know fact that in Southeast Alaska the Cruise Ship industry brings in the majority of the tourists. There are very few independent travelers in comparison to Cruise travelers. The ability to trade raw fish for processed product would greatly enhance our processing services to the Cruise Ships. It would increase the Cruise passengers opportunity to sample Alaskan Seafood products and promote future sales of fishing charters and fish products possibly increasing revenue to two of the States industries.

Each year Ketchikan Sportfishing accommodates over seven thousand Cruise Ship passengers on fishing charters here in Ketchikan. We estimate that these sport anglers bring in approximately 45,000 to 50,000 pounds of raw fish seasonally. Each year approximately 28,000 pounds of fish is turned in for custom processing locally and shipped to the customer at a later date. In order for the processing facilities to remain viable they must place a minimum poundage on each order. This combined with the high costs of shipping drives the price so high that many of our clients refuse the service and give their fish away.

Processing and shipping a twenty pound order costs over \$100.00. Approximately fifty percent of this cost is for shipping. Allowing people to trade raw fish for processed products will greatly reduce the cost to the tourist as well as our local folks. It would eliminate the need for a minimum amount of pounds per order, it would also eliminate the need to ship non residents their fish at a later date and therefore would reduce the overall cost of processing services.

page 2

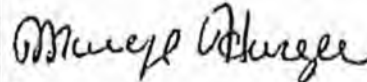
This would increase local processing jobs by decreasing the amount of raw fish being removed from the state and increasing the amount of fish for processing.

The Cruise Ship Industry has had to cope with many problems operating in Alaska. Accommodating their passengers fish is one of the smaller problems that the Cruise Companies face. Allowing a trade program would eliminate present problems with Cruise passengers getting their fish home in proper condition. There would be no more minimums on pounds, high shipping cost, lost products due to shipping problems, and far less upset and angry tourists.

On the following page I have outlined some positive points to Senate Bill No. 153. I cannot think of any negatives concerning this bill.

If you have any questions please feel free to contact me at the above address and phone numbers.

Thank You
for your consideration



Marge Hanger

Owner

KETCHIKAN SPORTFISHING
P.O. BOX 3212, KETCHIKAN, AK 99901
(907) 225-7526, FAX 225-7525, 1-800-488-8254

March 23, 1993

POSITIVE POINTS OF TRADING RAW FISH FOR PROCESSED PRODUCTS:

An improved relationship between Southeast Alaska and the Cruise Industry.

Will make processing of sport and subsistence caught fish affordable to the general public "local & non-resident".

Less raw fish being removed from the State, therefore retaining more fish in state for processing.

Increased revenue for processing businesses.

Increased local & state job opportunity.

Increased local sales tax revenue:

Because custom processes are shipped they are not taxable in the city of Ketchikan & Borough. The service for traded product would begin and end in the city and would be taxable thereby increasing local sales tax revenue.

Protecting the general public:

We believe that being able to trade products for raw fish would lessen the chance of poisoning due to improper handling of delicate fish and seafood by the general public. All it takes is one small poisoning scare to affect the whole of the Alaskan seafood market.

Improved control of resource:

Would provide more complete information on the fishery resource by retaining records.

NEGATIVES:

None.

E & H SEAFOODS
BOX 422
SOLDOTNA, AK 99669
PHONE 262-8765

MARCH 23, 1993

SENATOR MIKE MILLER
JUNEAU, AK
PHONE 465-4907
FAX 465-3885

SUBJECT: SENATE BILL 153, FISH EXCHANGE

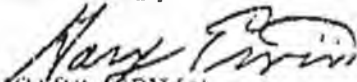
PLEASE BE ADVISED THAT WE STRONGLY SUPPORT SENATE BILL 153 AND
ASK THAT IT BE PASSED AS SOON AS POSSIBLE.

IT IS IN THE INTEREST OF THE QUALITY ALASKAN RESOURCE THAT WE
SUPPORT THIS BILL AND KNOW THAT ITS PASSAGE WILL IMPROVE THE
QUALITY EVEN FURTHER AS IT RELATES TO FISH HANDLING AND
PROCESSING.

BOTH ALASKAN'S AND TOURISTS WILL BENEFIT FROM THE QUALITY AND
PRICE VALUE OF FISH HANDLED UNDER THE EXCHANGE METHOD OF
PROCESSING.

THANK YOU FOR YOUR SUPPORT OF BILL 153 AND PLEASE DO NOT HESITATE
TO CONTACT US IF WE CAN BE OF FURTHER HELP IN GETTING A YES VOTE.

REGARDS,


GARY ERVIN
OPERATIONS

Public Opinion Message

Only those single messages delivered by the signing individual to the Legislative Information Office by phone or fax, hand-delivered or written at the Legislative Information Office will be accepted for transmission via electronic mail as a Public Opinion Message. We require the following information to be held confidential: (1) name address and phone number of sender, (2) who the PGM should be addressed to, (3) the text of the PGM (50 words or less), and (3) when possible, the bill number referenced in the PGM. Your message may be directed to any individual or combination of the following members of the Legislature.

Delegations
Anchorage Delegation (*)
Fairbanks Delegation (+)
Mat-Su Delegation (^)
Busn Caucus (#)

Senate	
Adams*	Lincoln*
Conley*	Litke
Duncan*	Miller*
Ellis*	Pearce*
Frank*	Phillips*
Halford**	Riegar*
Jackson*	Sale*
Kelly*	Sharp*
Kerula**	Taylor*
Laman*	Zharoff*

House		
Barnes*	Hoffman*	Ciberg*
Brice*	Hudson*	Parnell*
Brown*	James*	Phillips*
Bunde**	Kerr*	Porter*
Carney*	Larson*	Sanders*
Davidson*	Mackler*	Sison*
Davies*	MacLennan*	Therault*
Davis, S.*	Mason*	Tecrey*
Davis, G.	Manard*	Ulmer
Finkelstein*	Moses*	Vazzy*
Foster*	Mulder*	Williams
Green*	Nevada*	Willis*
Grossendorf*	Nicolet*	
Hazley*	Nordlund*	

Committees
Indicate H for House or S for Senate.
Community & Regional Affairs
Finance
Health, Education & Social
Judiciary
Labor & Commerce
<input checked="" type="checkbox"/> Resources
Rules
State Affairs
Transportation

Mr., Mrs., Ms., Dr., Etc.

Name	Stella Callentine	Phone	225-1700
Address	5660 S. Tongass		
City	Ketchikan, AK 99901	ZIP	99901

Subject: Senate Bill 153

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	32
33	34	35	36
37	38	39	40
41	42	43	44
45	46	47	48
49	50		

Please vote in favor of Senate Bill 153. I feel it would help both locals and K.P.P. tourists and would keep more jobs in Alaska.

Support Oppose Amend None

Signature: Stella Callentine

Date: _____

01/15/92

To Sen Taylor
 Date 3/23 Time 4:00

WHILE YOU WERE OUT
 M Dick Hamm
 of AK Seafood - Marketing
 Phone _____

	Area Code	Number	Extension
TELEPHONED		<input checked="" type="checkbox"/>	PLEASE CALL
CALLED TO SEE YOU			WILL CALL AGAIN
WANTS TO SEE YOU			URGENT

RETURNED YOUR CALL

Message Supports SBISS.

Operator _____



AMPAD
EFFICIENCY®

23 023

To 3/23 Senator Taylor
 Date _____ Time 4:30

WHILE YOU WERE OUT
 M Jacqueline Forbergman
 of Alaska Butcher
 Phone _____

	Area Code	Number	Extension
TELEPHONED		<input checked="" type="checkbox"/>	PLEASE CALL
CALLED TO SEE YOU			WILL CALL AGAIN
WANTS TO SEE YOU			URGENT

RETURNED YOUR CALL

Message Senate Bill 153.
Want his support.

Operator _____



AMPAD
EFFICIENCY®

23 023



ALASKA VISITORS ASSOCIATION

3201 C Street, Suite 403 • Anchorage, Alaska 99503

Tel: (907) 561-5733 • Fax: (907) 561-5727

1992-93

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Anchorage CVB

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Mariner, Inc.

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Frontier Flying Service

Loren Lounsbury

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Delta Air Lines

Gary Odle

HAL-Westours Inc.

Ray Pedersen

Princess Tours

Brad Phillips

Phillips Cruises & Tours

Stan Stephens

Stan Stephens Charters

Brad Walker

Alaska Airlines

Tim Worthen

Regency Cruises

Karen C. wart

Executive Director

March 24, 1993

Senator Robin Taylor
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Senator:

In 1991, the AVA Board of Directors adopted a resolution in support of the goals and objectives of HB60, and urged passage of this measure. We have attached resolution #91-02.

We have reviewed SB153 and believe it is conceptually similar to HB 60. Please accept this letter as indication of our support for SB153 - "An Act relating to the exchange of certain fish for seafood products, custom processing of certain fish, and use of certain fish for charitable purposes."

This measure will enhance the attraction of visitors to Alaska, will lead to an increase in value added processing and allow us to be more competitive with other sport fishing destinations.

Sincerely,

Robert N. Jacobsen
President

enclosure: AVA Resolution #91-02



ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1990-91

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Alaska Travel Adventures

Cathy Dunbar

Mat-Su CVB

Bill Elander

Anchorage CVB

Bob Engelbrecht

TEMSCO Helicopters

Len Laurance

Mariner, Inc.

Lynn Leary

Frontier Flying Service

John Litten

Silka Tours

Linda McLaughlin

Delta Airlines

Ralph Nestor

Travel Industry

Management, UAF

David Palmer

Alaska Airlines

Brad Phillips

Phillips Cruises & Tours

Terry Underwood

HAL-Westours Inc.

Richard West

Alaska Sightseeing Tours

Tim Worthen

Regency Cruises

Karen Cowart

Executive Director

#91-02

A RESOLUTION

RELATING TO THE EXCHANGE OF RAW SPORT AND PERSONAL
USE CAUGHT FISH FOR PROCESSED PRODUCTS AS AN
ALTERNATIVE TO CUSTOM PROCESSING.

WHEREAS, the number of tourists visiting Alaska to
enjoy our sport fishery is growing rapidly; and

WHEREAS, the number of non-resident sport fishing
licenses issued in 1990 increased by 34 percent to
176,433; and

WHEREAS, a growing percentage of these sport
fishermen arrive via cruise ships with limited time
in port; and

WHEREAS, fisherman visiting in this manner have a
problem dealing with any fish they catch; and

WHEREAS, while some communities have custom
processing available, the service is often limited
and time consuming; and

WHEREAS, Representative Robin Taylor has introduced
HB60 to allow for the exchange of raw sport caught
fish for processed fish of the same species; and

WHEREAS, this measure will not only enhance the
attraction of visitors to Alaska, but will also lead
to an increase in value added processing, bringing
with it increased employment for Alaska residents;

NOW THEREFORE BE IT RESOLVED that the Alaska
Visitors Association Board of Directors fully
supports the goals and objectives of HB60 and urges
passage of this measure.

Adopted by the Board of Directors on February 7,
1991.

Alaska State Legislature



Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8008
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT

SENATE BILL 153

March 24, 1993

TO: Senate Resources Committee

FROM: Senator Robin L. Taylor

This legislation provides for the exchange of sport or personal use caught fish for processed fish of the same species and was introduced at the suggestion of commercial processors, native corporations, economic development groups and other interested parties.

Current ADEC regulations (18 AAC 34.090) require the segregation of sport and personal use caught fish from commercial fish; maintenance of records to maintain the identity of all non-commercial fish processed throughout all aspects of processing and (18 AAC 34.170) the labeling of all non-commercial fish and fishery products with the words "NOT FOR SALE".

This legislation would allow for a modification of those regulations, with a positive economic impact in both the processing and tourism industries.

This legislation was introduced in 1991 as House Bill 60. It had the approval of ADEC and McKie Campbell testified on behalf of Commissioner Rosier (ADF&G) in support of the concept.

The non-resident sport fishery has experienced phenomenal growth. There were 132,008 non-resident sport fishing licenses issued in 1987. In 1992, that number swelled to 208,516. What happens to all that fish? In most cases it gets boxed up and taken home! Most people do not take advantage of custom processing because of 1) the time required, 2) limited capacity of the processors to accept custom work, and 3) the excessively high shipping costs for the finished product.

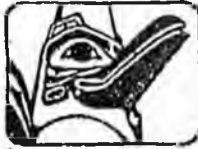
SB153 SPONSOR STATEMENT
PAGE TWO

SB 153 would simply allow the sport fisherman to exchange his or her catch for already processed fish of the same species. It has been estimated that the value added processing which could occur in Ketchikan alone would add \$1 million to the local economy. Multiply that with the potential around the state and the benefits of this legislation become clear.

It is only in the initial round of exchange that processors would be allowed to exchange commercially caught fish for sport caught fish. After that, the sport caught fish received in the exchange would be processed and used only for future exchanges. SB 153 contains language assuring the quality of both the exchanged and processed fish.

SB 153 should have no effect on the volume of fish caught. It would provide a mechanism by which those fish currently being shipped out of state could be processed in Alaska with all of the inherent economic benefits.

I ask your support for Senate Bill 153.



KETCHIKAN
VISITORS BUREAU

RESOLUTION IN SUPPORT OF SB153

WHEREAS, the number of tourists visiting Alaska to enjoy our sport fishery is growing rapidly; and

WHEREAS, the number of nonresident sport fishing licenses issued in 1990 increased by 34 percent to 176,433; and

WHEREAS, a growing percentage of these sport fishermen arrive via cruise ships with limited time in port; and

WHEREAS, fishermen visiting in this manner have a problem dealing with any fish they catch; and

WHEREAS, while some communities have custom processing available, the service is often limited and time-consuming; and

WHEREAS, Senator Robin Taylor has introduced SB153 to allow for the exchange of raw sport caught fish for processed fish of the same species; and

WHEREAS, this measure will not only enhance the attraction of visitors to Alaska, but will also lead to an increase in value-added processing, bringing with it increased employment for Alaska residents; and

AND WHEREAS, the Ketchikan Visitors Bureau Board of Directors supported a resolution adopting the merits and content of SB153 in February of 1991 when Senator Robin Taylor was a State Representative introducing HB60;

BE IT THEREFORE RESOLVED, that the Ketchikan Visitors Bureau fully supports the goals and objectives of SB153 and urges passage of this measure.

Reconfirmed by the Ketchikan Visitors Bureau on March 23, 1993.

Don Clothier, Executive Director
Ketchikan Visitors Bureau

Phone: (907) 225-6106
131 Front Street, Ketchikan, Alaska 99901

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 153 (RES)

Revision Date: 7-Apr-93
 Title: Exchange of certain fish for
seafood products
 Sponsor: Senator Taylor
 Requestor: Senate Resources

Department Affected: Environmental
Conservation
 BRU: Environmental Health
 Component: Seafood

COMPONENT SERIAL NO. 648

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	5.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING:

1002 FEDERAL RECEIPTS	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF MATCH	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	5.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECPT	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

The bill requires that the Department determine the yield difference between raw and processed fish. There would be a one time contractual requirement to develop these standards.

Prepared by: Kit Ballentine, Acting Director
 Division: Environmental Health

Phone: 465-5280
 Date: 3/24/93

Approved by Commissioner: *James Blair for John Sandoe*
 Agency: Department of Environmental Conservation

Date: 3/24/93

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

FISCAL NOTE

BILL NO. SB-153

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Fish and Game

Title: Exchange of Raw Fish for Seafood Product BRU: Sport Fish

Sponsor: Senator Taylor Component: Sport Fisheries

Requestor: Senate Resources COMPONENT SERIAL NO. 464

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
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 (FY '93) impact: \$ 0

AM 'SIS: If the Board of Fisheries takes action to limit the number of fish that individuals can export a system to monitor numbers and species of fish exchanged would be required. Implementing and operating such a system would have some associated costs.

Prepared By: Rocky Holmes *N* Phone: 465-6187

Division: Sport Fish Date: March 23, 1993

Approved by Commissioner: *Carl L. Resien*

Agency: Department of Fish and Game Date: March 23, 1993

2/7/91
House RES

NUMBER 292

REP. TAYLOR DESCRIBED HB 60 AS PROVIDING FOR A VALUE ADDED PROCESS FOR SPORT CAUGHT FISH, BY EXCHANGING SPORT FISH FOR CAUGHT FISH. STUDIES SHOW THAT IN THE KETCHIKAN AREA ALONE, AS MUCH AS 650,000 POUNDS OF FISH COULD BE PROCESSED WHICH, WITH VALUE ADDED WOULD SIGNIFICANTLY ENHANCE THE LOCAL ECONOMY, WITH POSSIBLY LARGER VOLUMES IN HOMER, KENAI, AND MANY OTHER COMMUNITIES HAVING COMMERCIAL PROCESSORS.

REP. TAYLOR PRESENTED AN AMENDMENT TO HB 60 AS FOLLOWS: PAGE 4, LINE 20, FOLLOWING "AS 03.05.020." INSERT "THE QUALITY OF SEAFOOD PRODUCTS PROVIDED IN EXCHANGE FOR RAW FISH SHALL BE APPROXIMATELY EQUIVALENT TO THE QUALITY OF SEAFOOD PRODUCTS MANUFACTURED FROM RAW FISH OF THE SAME QUALITY AS THE RAW FISH ACTUALLY PRESENTED FOR EXCHANGE." THIS AMENDMENT IS PRIMARILY TO ENSURE AN INDIVIDUAL BRINGING IN GOOD QUALITY FISH FOR EXCHANGE DOES NOT END UP WITH POOR QUALITY FISH.

REP. TAYLOR ADDED THERE HAS BEEN SIGNIFICANT SUPPORT FOR HB 60.

NUMBER 370

DICK PFIEFER OF E.C. PHILLIPS & SONS, A SEAFOOD PROCESSING FIRM THAT HAS BEEN IN BUSINESS IN KETCHIKAN SINCE 1926, TESTIFIED IN SUPPORT OF HB 60. MR. PFIEFER BELIEVED HB 60 WOULD PROVIDE A VERY VALUABLE SERVICE TO THE LARGE NUMBER OF VISITORS TAKING ADVANTAGE OF THE SPORT FISHERIES EVERY YEAR, AND WOULD ALSO RETAIN MORE OF THE VISITOR DOLLARS IN THE STATE. FROM CONVERSATIONS WITH SEVERAL MAJOR CHARTER OPERATORS, MR. PFIEFER WAS ADVISED THAT THE CURRENT QUANTITY OF CUSTOM PROCESSED FISH WOULD, AT THE VERY MINIMUM, BE TRIPLED BY THE SERVICE. HB 60 WOULD ALSO EXPOSE A LARGE NUMBER OF PEOPLE TO ALASKAN ADDED VALUE FISHERY PRODUCTS, AND PROVIDE REVENUES FOR THE SMALL ADDED VALUE PROCESSING INDUSTRIES THAT ARE BEGINNING TO DEVELOP WITHIN THE STATE. HB 60 WOULD PROVIDE JOBS FOR THE PEOPLE NECESSARY TO DO THAT PROCESSING, AND WOULD PROTECT THE JOBS OF THOSE PEOPLE IN SOUTHCENTRAL ALASKA THAT HAVE BEEN PROCESSING SINCE THE EARLY 1970'S WHO WOULD BE PROHIBITED FROM CONTINUING THIS SERVICE, IF THE LEGISLATION WERE NOT PASSED. FOR ALL THESE REASONS, MR. PFIEFER URGED PASSAGE OF HB 60.

NUMBER 459

REPRESENTATIVE PAT CARNEY QUESTIONED WHETHER MR. PFIEFER HAD READ THE PROPOSED AMENDMENT. MR. PFIEFER REPLIED IN THE AFFIRMATIVE. MR. PFIEFER AGREED THAT IN SIMPLE TERMS, THE PROPOSED AMENDMENT MEANT THE QUALITY OF THE RAW MATERIAL HAD TO BE EQUAL TO THE QUALITY NORMALLY USED TO CREATE THE PRODUCT.

2/7/91
H. REC

REP. CARNEY WONDERED WHY THE AMENDMENT WAS NECESSARY. MR. PFIEFER DISCERNED SOME CONCERN THAT A PROCESSOR MAY USE A LESSER QUALITY FISH THAN HE WAS RECEIVING TO PRODUCE A PRODUCT.

NUMBER 493

REP. LEMAN INQUIRED WHETHER MR. PFIEFER HAD BEEN PREVIOUSLY ASSOCIATED WITH SEAFOODS OF ALASKA. MR. PFIEFER REPLIED IN THE AFFIRMATIVE. REP. LEMAN DISCLOSED A POSSIBLE CONFLICT OF INTEREST, SINCE HE HAD DONE SOME BUSINESS IN THE PAST WITH SEAFOODS OF ALASKA.

REP. LEMAN QUESTIONED THE MANAGEMENT OF THE INVENTORY. ACCORDING TO HB 60, FISH BEING EXCHANGED COULD BE EITHER FROM COMMERCIAL, SPORT OR PERSONAL USE FISHERIES, AND EXCHANGED FISH COULD NOT BE SOLD. REP. LEMAN WONDERED WHETHER FISH TAKEN FROM COMMERCIAL FISHERIES WERE EXCHANGED OR PURCHASED FISH THAT WOULD NOT LATER BE SOLD IN EXCHANGE. MR. PFIEFER POINTED OUT THE INTENT OF THAT PARTICULAR LANGUAGE WAS THAT AN INITIAL INVENTORY OF GOODS WOULD HAVE TO BE PROVIDED.

NUMBER 546

REP. HUDSON NOTED PUBLIC SAFETY, FISH AND WILDLIFE, AND PROTECTION ENFORCEMENT PERSONNEL ESTIMATE TWO EXTRA ENFORCEMENT PERSONNEL WOULD BE NEEDED, ONE IN SOLDOTNA AND ONE IN KETCHIKAN, FOR AN ADDITIONAL \$26,000.

MR. PFIEFER EXPRESSED SURPRISE AT THE NEED FOR ADDITIONAL ENFORCEMENT PERSONNEL, PARTICULARLY SINCE HB 60 REQUIRED THAT AUDITABLE RECORDS BE MAINTAINED AND INVENTORIES COULD BE ASSESSED TO SHOW EXACTLY WHAT WAS AND WAS NOT OCCURRING IN TERMS OF THE EXCHANGE PROCESS.

REP. HUDSON ASKED IF AN ADDITIONAL FINISHED PROCESS TAX COULD BE INSTITUTED TO PAY FOR THE ADDITIONAL PERSONNEL. MR. PFIEFER STATED THAT ANY ADDITIONAL TAX WOULD BE TRANSFERRED ON TO THE CONSUMER, AND HE WAS NOT NECESSARILY CONVINCED OF THE NEED FOR THE ADDITIONAL ENFORCEMENT.

REP. HUDSON EXPRESSED HIS UNCERTAINTY AS TO WHETHER THE ADDITIONAL ENFORCEMENT PERSONNEL IS REALLY NEEDED.

NUMBER 567

REP. TAYLOR POINTED OUT DEC AND ADF&G HAD BOTH SUBMITTED ZERO FISCAL NOTES. REP. TAYLOR ASSERTED HE WAS TOTALLY UNAWARE OF THE FISCAL NOTE CONTAINING THE NEED FOR TWO PROTECTION OFFICERS, SINCE THAT NOTE HAD BEEN SUBMITTED TO THE COMMITTEE DURING THE MEETING. REP. TAYLOR RECOMMENDED THE COMMITTEE DISREGARD THE FISCAL NOTE AND SUGGESTED THAT IF AND WHEN HB 60 PASSED OUT OF THE COMMITTEE IT DID NOT CONTAIN A FISCAL NOTE.

2/7/91
H. RES

ON THE TAX ASPECT, REP. TAYLOR COMMENTED THAT IF THE VALUE ADDED PROCESS WERE TO BE TAXED, THEN MAYBE THE ENTIRE FISHING INDUSTRY OUGHT TO BE TAXED IN SUCH A WAY THAT IT PAY FOR ALL THE COSTS OF FISH AND GAME ENFORCEMENT.

TAPE HRES 91-6, SIDE B
NUMBER 000

CHAIRMAN DAVIDSON BELIEVED IT WAS PRESENTLY AGAINST THE LAW FOR COMMERCIAL CANNERIES TO PROCESS SPORTS FISH. MR. PFIEFER STATED THAT WAS NOT THE CASE WITH CUSTOM PROCESSING.

CHAIRMAN DAVIDSON WONDERED HOW HB 60 WOULD ENSURE LARGE ORGANIZATIONS DO NOT TAKE ADVANTAGE OF THE LEGISLATION. MR. PFIEFER AGREED THERE WERE SEVERAL ISSUES THAT COULD BE OF CONCERN, E.G., THE RECOVERY USED FOR THE EXCHANGE HAS TO BE CONSISTENT WITH THE AVERAGE RECOVERY BEING OBTAINED. IF A CUSTOMER IS SHORTED, AN INVENTORY OF MATERIALS COULD BE BUILT UP THAT COULD BE DIVERTED, AND THAT IS WHY IT IS NECESSARY TO HAVE PROCESSING RECORDS. MR. PFIEFER ADDED AN UNSCRUPULOUS PERSON COULD FIND A WAY TO BEAT THE SYSTEM, BUT THAT IS THE WAY IT WAS IN ANY BUSINESS.

NUMBER 078

REP. HUDSON PERCEIVED THE PROPOSED AMENDMENT IMPROVED AND DISCOURAGED THE OPPORTUNITY FOR PROCESSORS TO SET ASIDE THE GOOD QUALITY FISH AND PEDDLE THE POOR QUALITY FISH.

NUMBER 092

KEN DOLE, MANAGING PARTNER OF WATERFALL RESORT, TESTIFIED IN SUPPORT OF HB 60. MR. DOLE PERCEIVED HB 60 WOULD SUBSTANTIALLY BENEFIT THE GUESTS OF WATERFALL RESORT, AND WOULD ALSO DRAMATICALLY INCREASE THE AMOUNT OF CUSTOM PROCESSING. CONSEQUENTLY, THOSE JOBS AND DOLLARS THAT WOULD STAY IN THE STATE WOULD BE MEANINGFUL.

2/7/91
H RE'

MR. DOLE ADDED HE WAS ALSO CHAIRMAN OF THE KETCHIKAN VISITORS' BUREAU, AND THE EXECUTIVE COMMITTEE OF THE VISITORS' BUREAU HAS VOTED IN FAVOR OF SUPPORTING HB 60. ADDITIONALLY, THE BOARD OF THE ALASKA VISITORS' ASSOCIATION UNANIMOUSLY PASSED A RESOLUTION IN SUPPORT OF HB 60.

CHAIRMAN DAVIDSON INQUIRED INTO THE POUNDAGE FROM WATERFALL RESORT IF HB 60 WERE TO PASS. IT WAS MR. DOLE'S ESTIMATION THAT IN THE LAST TWO YEARS WATERFALL RESORT HAS AVERAGED APPROXIMATELY 6,200 POUNDS OF CUSTOM PROCESSED FISH, AND PERCEIVED THEIR OPERATION INCREASING TEN-FOLD WITH THE PASSAGE OF HB 60.

NUMBER 126

CHAIRMAN DAVIDSON ANNOUNCED HB 60 WOULD BE HELD IN COMMITTEE FOR FURTHER CONSIDERATION. HE THEN INFORMED THE COMMITTEE OF INCLUSION OF THREE TRANSITIONAL REPORTS FROM THE DEPARTMENTS OVER WHICH THE RESOURCES COMMITTEE HAD JURISDICTION, IN THEIR PACKETS.

House Resources 2/19/91

THE COMMITTEE NEXT ADDRESSED HB 60, SPONSORED BY REP. TAYLOR. CHAIRMAN DAVIDSON NOTED THERE WAS A COMMITTEE SUBSTITUTE TO HB 60.

CHAIRMAN DAVIDSON STATED HIS INTENT TO APPOINT A SUBCOMMITTEE TO CLARIFY SOME OF THE ISSUES RELATING TO HB 60. HE THEN APPOINTED REP. HUDSON TO CHAIR THE SUBCOMMITTEE WITH REPS. FINKELSTEIN AND LEMAN AS MEMBERS.

NUMBER 416

REP. TAYLOR RESERVED HIS COMMENTS FOR THE NEXT HEARING ON HB 60 SINCE A SUBCOMMITTEE HAD BEEN APPOINTED.

NUMBER 456

DICK PFIEFFER TESTIFIED VIA TELECONFERENCE FROM ANCHORAGE ECHOING REP. TAYLOR'S COMMENTS. MR. PFIEFFER SUPPORTED HB 60.

NUMBER 487

KIT BALLANTINE OF THE DIVISION OF ENVIRONMENTAL HEALTH AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC), TESTIFIED IN SUPPORT OF THE CONCEPT OF HB 60. DEC HAS THREE SPECIFIC CONCERNS WITH HB 60. DEC RECOMMENDS AMENDING SUBSECTION (11) ON PAGE 2 BY INSERTING "THERMALLY PROCESSED, VACUUMED PACKAGED, SMOKE, CURED, OR PICKLED" BEFORE "SEAFOOD PRODUCTS". DEC IS ALSO CONCERNED THAT HB 60 DOES NOT SPECIFICALLY ADDRESS BYVALVE, MOLLUSK AND SHELLFISH. DEC ALSO RECOMMENDS ADDING TO PAGE 6, LINE 5, AFTER "SHELLFISH," THE WORDS "EXCEPT BYVALVE, MOLLUSK AND SHELLFISH." IT IS THE OPINION OF DEC THAT THERE WOULD BE MINIMAL EFFORT TO INTEGRATE ACTIVITIES REQUIRED UNDER HB 60 INTO THEIR PRESENT INSPECTION ACTIVITIES. THEREFORE, DEC WOULD BE PRESENTING A ZERO FISCAL NOTE, ACCORDING TO MS. BALLANTINE.

NUMBER 574

CHAIRMAN DAVIDSON INQUIRED WHETHER DEC HAD DISCUSSED OVERSIGHT TO ENSURE FAIR EXCHANGE. ACCORDING TO MS. BALLANTINE, DEC HAS PROPOSED DOING AN INDUSTRY SURVEY TO ESTABLISH OVERSIGHT STANDARDS.

NUMBER 603

LT. VALENTINE OF DPS HAD NO PREPARED COMMENTS ON HB 60 BUT WAS AVAILABLE TO ANSWER QUESTIONS. IT WAS LT. VALENTINE'S OPINION THAT HB 60 IMPROVES THE STATE'S ABILITY FOR OVERSIGHT OVER SEAFOOD EXCHANGES.

NUMBER 630

2/19



MCKII CAMPBELL TESTIFIED, ON BEHALF OF COMMISSIONER ROSIER OF THE DEPARTMENT OF FISH AND GAME (ADF&G), IN SUPPORT OF THE CONCEPT OF HB 60. MR. CAMPBELL SUGGESTED AN AMENDMENT TO PAGE 4, LINE 39, INSERTING ", THE DATE OF THE TRANSACTION," AFTER "OR EXCHANGE."

ACCORDING TO MR. CAMPBELL, ADF&G HAD PREVIOUSLY SUBMITTED A ZERO FISCAL NOTE AND THAT WOULD REMAIN UNCHANGED.

NUMBER 682

REP. LEMAN SUGGESTED INSERTING THE PROPOSED AMENDMENT AFTER THE WORD "INCLUDING" ON LINE 29. CHAIRMAN DAVIDSON REQUESTED REP. LEMAN ADDRESS THAT ISSUE WITH THE NEWLY APPOINTED SUBCOMMITTEE.

NUMBER 700

REPRESENTATIVE TOM HOYER MOVED TO ADOPT CS HB 60. HEARING NO OBJECTIONS, CHAIRMAN DAVIDSON ADOPTED CS HB 60.

NUMBER 719

CHAIRMAN DAVIDSON VOICED HIS CONCERN OF ENSURING THAT LARGE QUANTITIES OF SPORT CAUGHT FISH DO NOT END UP IN A COMMERCIAL OR QUASI COMMERCIAL TYPE OF ESTABLISHMENT.

TAPE HRES 91-12, SIDE A
NUMBER 000

MR. UTERMOHLE, ADDRESSING THE CHAIR'S CONCERN, STATED THAT WOULD BE A MATTER OF ENFORCEMENT. ON THE OTHER HAND, SUBSECTION (J) OF CS HB 60 ADDRESSES THE QUESTION OF HOW MUCH FISH AN ASSOCIATION MAY DONATE TO CHARITABLE PURPOSES, WHICH PUTS A LIMIT ON THE AMOUNT OF EXCHANGED FISH THAT CAN BE DEVOTED TO THIS PURPOSE BEFORE OVERSIGHT BY ADF&G WOULD BE REQUIRED. MR. UTERMOHLE ADDED THESE ISSUES NEEDED FURTHER INVESTIGATION.

NUMBER 025

HEARING NO FURTHER TESTIMONY, CHAIRMAN DAVIDSON ADJOURNED THE MEETING AT 4:57 P.M.

SB

159



ALASKA MINERS ASSOCIATION, INC.

501 West Northern Lights Boulevard, Suite 203, Anchorage, Alaska 99503 fax: (907) 273-7997 telephone: (907) 276-0347

March 23, 1993

Honorable Mike Miller
Chairman
Senate Resources Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: SB-159, Multiple Use & Administrative Mineral Closures of
Areas Larger Than 640 Acres

Dear Senator Miller,

I am writing on behalf of the Alaska Miners Association in support of Senate Bill 159. The practice of closing State lands to mineral entry and mineral leasing is a very important issue and we heartily endorse this bill that would place some reasonable restrictions on the ability of the Department of Natural Resources to make administrative mineral closures.

There are actually three mechanisms by which state lands can be closed to mineral entry and mineral leasing. First, the Legislature can pass bills to establish State parks, refuges, sanctuaries, recreation areas, etc. and in some instances these areas are closed to mineral entry. To date, more than 3.2 million acres have been closed to mineral development by Legislative action. This authority and prerogative is very rightly held by the Legislature.

The second mechanism for restricting mineral development is the application of Title 16 by ADF&G to areas where fisheries resources may be affected. The application of Title 16 applies to all activities on State lands, not just mining, and gives the ADF&G authority to insure that fisheries are not adversely affected.

The third mechanism is the use of administrative closures by the Department of Natural Resources. From the time of statehood until the mid or late 1970's, administrative closures of land to mineral entry and mining were limited to 640 acres (one section) or less. Then came a series of DNR commissioners who closed large areas of state lands to mineral entry with little or no justification. The statute requires a "finding of incompatibility" but this has been very broadly interpreted and abused. These closures were often the result of State Area Plans developed by DNR with massive pressure from groups and agencies that wanted to close State lands to development. To add insult to injury, some of these lands that have been closed administratively were actually selected by the State because of their mineral potential.

The enclosed Appendix A lists some examples where excessive mineral closures have been implemented under state area plans without Legislative action. In each of these examples administrative closures were used to close areas that could have been restricted on a case by case basis under Title 16 rather than simply placing the area totally off limits. State agencies and the industry can work out potential problems on a site specific basis. However, such administrative closures will mean that many companies will simply not go out in that area to explore and the minerals will never be found.

I would stress that the need for this bill is not attributable to actions of the current Administration. The Hickel Administration has generally used mineral



ALASKA MINERS ASSOCIATION, INC.

closures in the true spirit that was envisioned at the time of Statehood. If we could be certain that this attitude would continue in future administrations, then there would be no need for this legislation. However, that cannot be assured and legislation limiting administrative closures by the DNR is therefore necessary.

The challenge is to tighten the rules on DNR without making it impossible to make closures that are legitimate and justifiable. We need to stop massive mineral closures and still ensure that the requirement will not be too restrictive for DNR to do its job properly. We believe that by limiting administrative closures to 640 acres SB-159 makes the necessary changes. This limit does not apply where mineral closures are made for land disposals or infrastructure including ports, airports, roads, railroads, pipelines, and powerlines.

In conclusion, the changes proposed in this bill are needed to correct the problem of excessive closures of lands to mineral entry, and at the same time insure that legitimate closures are allowed in a way that is efficient for DNR. If this latter part was not included, state land disposals and infrastructure projects would require individual approval by the Legislature. This would be very cumbersome and inefficient.

Thank you for your consideration of this matter.

Sincerely,

Steven C. Borell, P.E.
Executive Director

enclosure

cc: Senator Steve Franl:

**ALASKA MINERS ASSOCIATION, INC.****Appendix A**

Examples of mineral closures implemented under state area plans.

1. Tanana Basin Area Plan

- 7,600 acres along the Nenana River from Rex to Healy.
- 21,440 acres in the area of Fielding Lake.

2. Northwest Area Plan

- 3,070 acres along 12 streams including a 200 foot upland buffer on either side of the streams.

3. Bristol Bay Area Plan

- Approximately 213,000 acres closed along 64 streams with a 200 foot upland buffer on either side of the streams. These closures were made irrespective of the facts that: the areas were not of highest fisheries value; Title 16 authority could have been used to place necessary restrictions for certain periods of the year; the area was known mineral terrain. To quote from the Bristol Bay Plan:

"The streams closed to new mineral entry by the plan are not necessarily the most productive from a fishery standpoint. They are however, the streams most likely to encounter mining pressure as a result of their location within or near identified mineral terrains."

4. Kuskokwim Area Plan

- 3,917 acres closed along 499.4 miles of streams including a 50 foot upland buffer on either side of the streams.

5. Copper River Basin Area Plan

- 108,000 acres closed along 24 rivers, streams, and lakes including a 200 foot upland buffer on either side of the streams.



USIBELLI COAL MINE, INC.

MARKETING

122 First Avenue, Suite 302

Fairbanks, Alaska 99701

(907) 452-2625 FAX (907) 451-6543

March 19, 1993

RECEIVED
MARCH 21 1993

Senator Steve Frank
State Senate
State Capitol
Juneau, Alaska 99801

Dear Senator Frank:

On behalf of Usibelli Coal Mine, Inc., I would like to offer support for passage of SB159. The bill will assure that closure of large acreage's of state lands will not be done without the review and consent of the legislature. This will satisfy both the spirit and intent of Alaska's multiple-use statutes.

As we look to the future, maintaining a land base for multiple-use including mineral development will be critical to the state's economic health. Passage of SB159 will be an important step in assuring our multiple-use lands remain available for economic development.

Sincerely,

A handwritten signature in black ink, appearing to read "John Sims", written over a faint circular stamp.

John Sims

Vice President Marketing

JS/me

Charles B. Green
P.O. Box 71805
Fairbanks, Alaska 99707

March 19, 1993

Senator Steve Frank
State Senate
State Capitol
Juneau, Alaska 99801

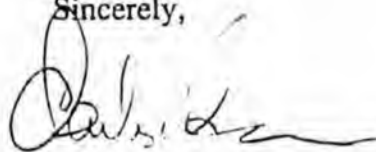
Dear Senator Frank:

I would like to express my appreciation to you and to your co-sponsors for introducing SB159 and would like to offer support for its passage.

As a member of the Alaska Minerals Commission and a 20 year resident of the state who has been involved in mining and resource development for most of that time, I cannot over emphasize the importance of maintaining a true multiple-use land base. This is especially important at a time when there will be increasing pressure to restrict and close Alaska's federal lands to mineral development.

The economic benefits of mineral development will become increasingly important to Alaska's economy. It is critical that closures to mineral development should be minimized and only be undertaken with the consent of the legislature.

Sincerely,



Charlie Green

CG/me

Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

SPONSOR STATEMENT FOR SB 159

TO: Senator Mike Miller, Chairman
Senate Resources Committee

FROM: Senator Steve Frank, Co-Chairman
Senate Finance Committee

DATE: 15 March, 1993

A handwritten signature in black ink, appearing to be "Steve Frank", written over the "FROM:" line.

SB 159, the companion bill to HB 213, addresses one of the recommendations found in the 1993 Alaska Minerals Commission report. Namely, this bill would amend AS 38.05.300(a) to prohibit the commissioner of natural resources from classifying state land, water, or land and water so that mining, mineral entry and location, mineral prospecting, and/or mineral leasing are precluded or are designated an incompatible use without an act of the legislature if the area involved contains more than 640 acres (except in certain situations).

Currently, Title 38 prohibits such land closure to "multiple purpose use." In the past, this phrase has been subject to interpretation which has at times precluded mineral exploration and development. As a response, the net effect of SB 159 would be to re-establish the original, inclusive concept of multiple use as the basis for state land classification and management (i.e., multiple use should not be construed to exclude competing uses that are compatible).

The change proposed by SB 159 would appear to be both timely and necessary, and I strongly encourage your support.

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

BILL NO. SB159
 Department Affected: Natural Resources
 BRU: Resource Development
 Components: Land Development
 Component Serial No. 431

Revision Date Original
 Title: "An Act prohibiting the commissioner from precluding mining if the area involved contains more than..
 Sponsor: Frank, Sharp, Miller, Pearce, Taylor, Halford
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Recelots						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ No fiscal impact anticipated

ANALYSIS: (Attach a separate page if necessary)
 Requires legislative approval of any administrative order closing more than 640 acres of land in an area to mining except when related to land disposal or for the development of utility or transportation corridors. The department does submit an annual report to the legislature which identifies such closing orders. This report shows annual and cumulative land classification and mineral orders. Requiring legislative approval of all mineral orders over 640 acres will result in delays in proper land management. Perhaps if the legislature wants to review and approve all land actions the language of the bill should be changed to have the classification automatically take affect unless the legislature takes some positive action to void the classification within a specified time period.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Development Date: 15-Mar-93
 Approved by Commissioner: Glenn A. Olds Date: 15-Mar-93
 Agency: Department of Natural Resources

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Sec. 38.05.290. Selection practice. (a) The selection of grant, lieu and indemnity land shall conform to this chapter and the policy, orders and regulations adopted by the commissioner. The commissioner shall give preference of selection to the land which will provide the maximum benefits to the people of the state.

(b) Consistent with the best interests of the state, in the selection of general grant land it is the policy of the state to make available the maximum land area from which municipalities may fulfill land entitlements under AS 29.65 or former AS 29.18.201 — 29.18.213. (§ 1 art XI ch 169 SLA 1959; am § 4 ch 180 SLA 1978; am § 58 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment inserted "AS 29.65 or former" near the end of subsection (b). **Collateral references.** — 63A Am. Jur. 2d, Public Lands, §§ 113 to 121.

Article 10. Parks and Recreation Areas.

Section

295. Parks and recreation areas

Sec. 38.05.295. Parks and recreation areas. The commissioner shall establish a policy and adopt regulations by which parks and recreation areas, including public scenic overlooks and cultural sites, shall be developed and managed in a manner that will best serve the interests of the people of the state. The commissioner may classify public land as parks, scenic overlooks, cultural sites and recreation areas as long as the general intent of this chapter is maintained. (§ 1 art XII ch 169 SLA 1959)

Collateral references. — 59 Am. Jur. 2d, Parks, Squares, and Playgrounds, § 1 et seq.; 63A Am. Jur. 2d, Public Lands, § 1 et seq. **Uses to which park property may be devoted; power of legislature or state officers,** 18 ALR 1266; 63 ALR 484; 144 ALR 486.
73A C.J.S., Public Lands, § 1 et seq.

Article 11. Classification of Land.

Section

300. Classification of land
321. Restriction on sale, lease or other disposal of agricultural land

Sec. 38.05.300. Classification of land. (a) The commissioner shall classify for surface use land in areas considered necessary and proper. This section does not prevent reclassification of land where the public interest warrants reclassification, nor does it preclude multiple purpose use of land whenever different uses are compatible. State land, water, or land and water area may not, except by act of the state

legislature, be closed to multiple purpose use if the area involved contains more than 640 acres.

(b) Not later than February 1 of each year, the commissioner shall submit a written report to each house of the legislature which describes and shows the location of all classifications of state land made under (a) of this section during the preceding year. (§ 1 art III ch 169 SLA 1959; am § 2 ch 31 SLA 1964; am §§ 33, 34 ch 85 SLA 1979; am § 40 ch 152 SLA 1984)

Cross references. — For state land and water restricted to use as public recreation areas and state parks, see AS 41.21.

Editor's notes. — Section 16, ch. 75, SLA 1987, provides that "[l]and that was classified for disposal or other purposes before August 29, 1986, remains subject to the classification order in effect on that date until the land is reclassified under AS 38.04.065, as amended by §§ 1 — 7 of this Act (ch. 75, SLA 1987), and AS 38.05.300."

Section 17, ch. 75, SLA 1987 provides that "[a] land management and disposal decision, including a disposal under AS 38.05.057, AS 38.08, or AS 38.09, or a commercial agricultural project under AS 38.05.020(b)(6), made before June 16, 1987, under a classification order under AS 38.05.300 is valid, notwithstanding the adoption of the classification order before the adoption of the regional land use plan, if other requirements of law were met."

NOTES TO DECISIONS

Department of Natural Resources agricultural classification of lottery parcels proper. — The requirement that an act of the legislature is required where multiple purposes are closed in parcels exceeding 640 acres applied to the management of retained state land, not the disposal of it; thus, Department of Natural

Resources agricultural classification of lottery parcels was proper, even though it did foreclose multiple purposes. *State v. Weidner*, 684 P.2d 103 (Alaska 1984).

Quoted in *Southeast Alaska Conservation Council, Inc. v. State*, 665 P.2d 544 (Alaska 1983).

Sec. 38.05.301. [Renumbered as AS 38.05.830.]

Sec. 38.05.305. Notice and review. [Repealed, § 45 ch 113 SLA 1981. For current law see AS 38.05.945.]

Sec. 38.05.310. [Renumbered as AS 38.05.840.]

Sec. 38.05.315. [Renumbered as AS 38.05.810.]

Sec. 38.05.320. [Renumbered as AS 38.05.820.]

Sec. 38.05.321. Restriction on sale, lease or other disposal of agricultural land. (a) The sale, lease or other disposal of state land classified as agricultural land transfers only rights for agricultural purposes, and all other interests in the land remain with the state unless otherwise required by law.

DRAFT
State Lands Withdrawn
from Mineral Entry
by
Legislation or Administrative Action

A Report to the Division of Mining
Department of Natural Resources

ASR 90-0018

C. C. Hawley
April 30, 1990

Hawley Resource Group, Inc.
Anchorage, Alaska

#300, 941 E. Dowling
Fx 562-7284

Hawley Report Summary

procedural difficulties in first, not quantifying buffer procedures that will be used, and second, in not rectifying text and maps so that each indicates the same acreage. According to the plats, the acreage opened is about 28,000 not 42,000 acres. This type of action sets up a "Tract Book" problem, where text not book should rule.

Perhaps this issue could be resolved by using a buffer of mineral leasehold locations. At the least a time should be specified for surveying and correcting the text and graphic records.

CONCLUSIONS AND RECOMMENDATIONS

A substantial amount, about 8.5 million acres or about 10 percent of the state's land has been closed to mineral location. Only about 3 million acres of this total are closed by legislation. Because of loose definitions and problems raised by apparent incompatibility of uses, there appears to be potential to administratively close extensive acreage. Because of this it is timely to review 38.05.300 and establish guidelines for closures.

Closures should be reviewed periodically both to see if the reason for the closure still exists and also to see if there has been a change in knowledge of resource base that justifies reconsideration.

Although mineral potential is very difficult to assess, nevertheless there are procedures for determining mineral potential, and it is proposed that all large tracts proposed for either legislative or administrative closure be reviewed and, in many cases, studied in the field before an action is taken.

ACKNOWLEDGEMENTS

Many people in and out of state government furnished information or clarified policy during different administrations. Various parts of the report, including the interpretation of 38.05.000 were discussed with former Commissioners of Natural Resources Phil Holdsworth, C. F. Herbert, John Katz, and Esther Wunnicke, named chronologically in their service to the state.

Larry Bullis in the Department of Land and Waters keeps track of MCO-MOO (orders) for the Southcentral District and coordinates the sequence of numbers statewide. Larry has maintained these records for many years, and was always helpful in understanding the records. Bob Craig in the northcentral office helped on the northern land orders and specifically about the confused status of pipeline acreage. The office of Status Graphics in DNR in Anchorage also tracks orders statewide and Bud May, who has recently retired, was knowledgeable and helpful about orders in his section. John Wiles of the Division of Parks and Bob Stuvic

of Division of Mining furnished information used in the report.

REFERENCES CITED

DNR, Division of Land and Water Management (Gary C. Stein and others), 1987, Promised Land: A history of Alaska's Selection of its Congressional Land Grants: Special Publication, DNR, 250 p. issued May 1987

Leshy, John, 1987, The Mining Law; a Study in Perpetual Motion: Resources for the Future, Washington, D. C.

of Division of Mining furnished information used in the report.

REFERENCES CITED

DNR, Division of Land and Water Management (Gary C. Stein and others), 1987, Promised Land: A history of Alaska's Selection of its Congressional Land Grants: Special Publication, DNR, 250 p. issued May 1987

Leshy, John, 1987, The Mining Law; a Study in Perpetual Motion: Resources for the Future, Washington, D. C.

SB

165

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

Sponsor Statement for Senate Bill 165

the Alyeska Settlement Fund

This bill appropriates \$28,200,000 to several projects around the State from the Alyeska Settlement Fund. These appropriations are to the projects that are recognized in the agreement and consent decree made between the State and the Alyeska Owner companies.

The sum of \$20,500,000 is appropriated from this fund to the Department of Commerce and Economic Development for payment as a grant to the Chugach Alaska Corporation to be allocated for the following two projects:

\$14,500,000 for the construction of storage facilities and docks at Tatitlek and Chenega for oil spill response equipment. Oil spill response equipment will be prepositioned at these storage facilities.

\$6,000,000 for the construction of a road from Cordova to Shepard Point. Oil spill equipment storage facilities and an oil spill response staging area will be constructed at Shepard Point. Oil spill response equipment will be prepositioned at these storage facilities.

The sum of \$7,500,000 is appropriated from this fund to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association, the Timber Trading Company, and CIRI within Kachemak Bay State Park

The sum of \$200,000 is appropriated from this fund to the Department of Environmental Conservation for the acquisition and installation of communications equipment at the Valdez Emergency Operations Center.

COMMENTS OF CHARLES W. TOTEMOFF
On Behalf of SENATE BILL #165

Chenega Corporation and the Chenega Bay IRA Council, support the concepts contained in Senate Bill #165. The project is of the utmost importance to my community and to the people of Alaska.

The need for oil spill equipment and positioning was clearly demonstrated four (4) years ago, when the Exxon Valdez struck Bligh Reef, polluting Prince William Sound with 11 million gallons of oil. The oil industry was woefully unprepared and we will continue to experience the impact of that unpreparedness for many more years. The next potential oil spill disaster is waiting in the wings. The Alyeska Settlement's requirement for a strategically located oil spill response facilities addresses the needed level of preparedness.

The legislation as proposed recognizes the importance of response capability strategically located. It also recognizes the importance of local involvement. The Settlement emphasizes removal of the old Saltery at Chenega Bay as part of the staging effort for the oil spill response dock at Chenega Bay. The old Saltery is an environmental hazard, and its removal is vital to the success of the staging of response equipment at Chenega Bay. Village involvement in the planning, designing and construction phases of the project is important to our community. We are hopeful that this is the legislative purpose, as well.

Thank you.

CHENEGA BAY MARINE SERVICE CENTER (CBMSC) EXECUTIVE SUMMARY

Presented by Chenega Bay IRA Council

Introduction

Chenega Bay is located just north of Sawmill Bay on Evans Island in Prince William Sound (PWS), Alaska. The village of Chenega Bay, with a population of 96, was reestablished at this site in 1984 because the historic village site on Chenega Island, some 20 miles to the north, was destroyed by the 1964 earthquake and resulting tsunami.

The community of Chenega Bay has embarked upon a plan to seek significant funding for dock and port improvements with the goal of enhancing three natural advantages:

- 1) an excellent harbor, already recognized as a safe haven in bad weather;
- 2) a unique location, closer than any other settlement to the heart of the salmon-spawning habitat where the Prince William Sound fishing fleet harvests 48% of all salmon taken in Alaska;
- 3) a gateway for tourists and recreational boaters to the western part of Prince William Sound. At present, the visitor market is shut out of this whole area due to lack of harbor, fuel, and supply services. Chenega Bay is approximately 75 statute miles from both Seward and Whittier, one day's voyage for most power boats.

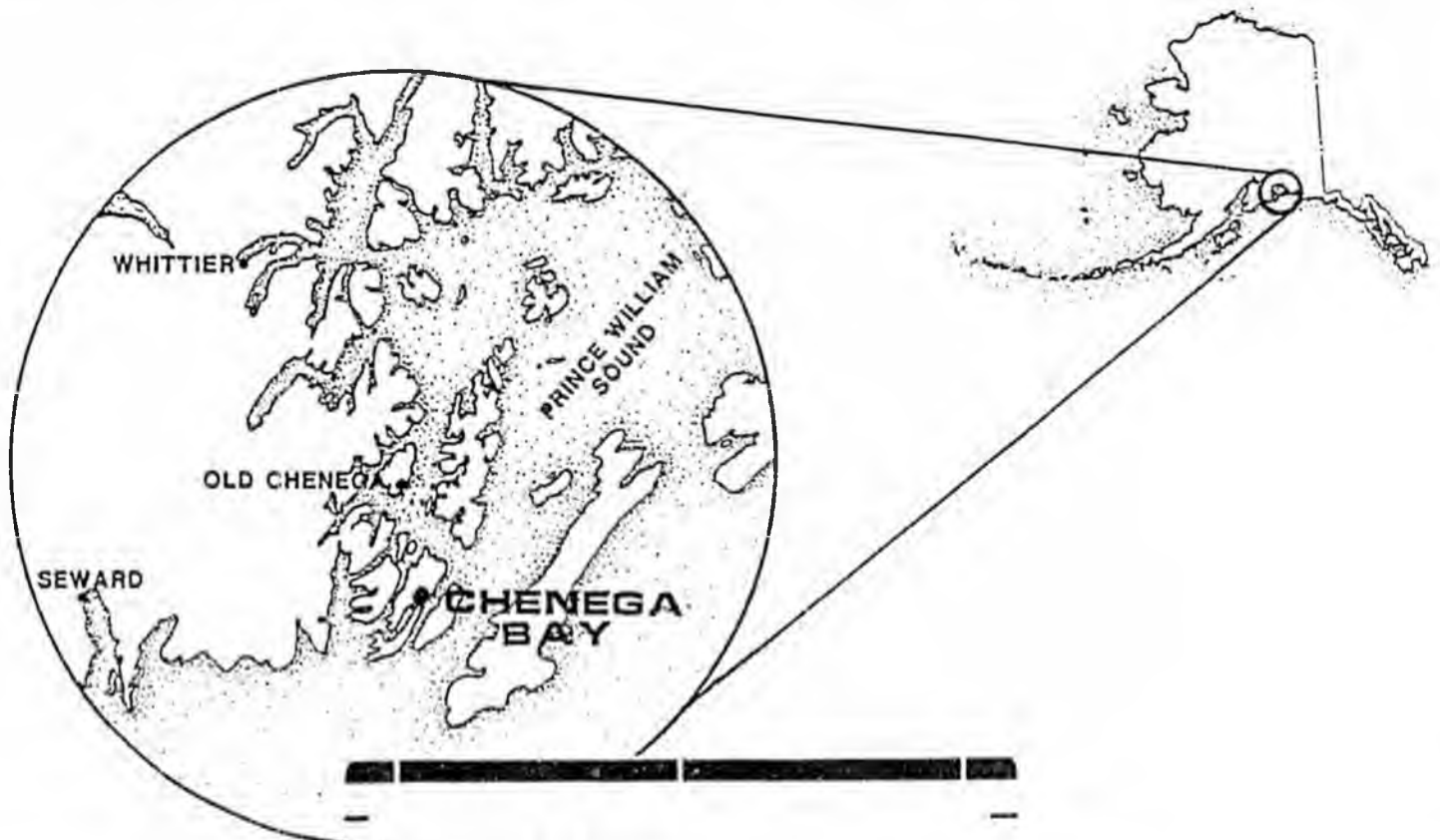
Background

The Chenega Bay IRA Council has been planning for the development of the CBMSC since 1987. The Council initiated several planning studies beginning in 1990. The

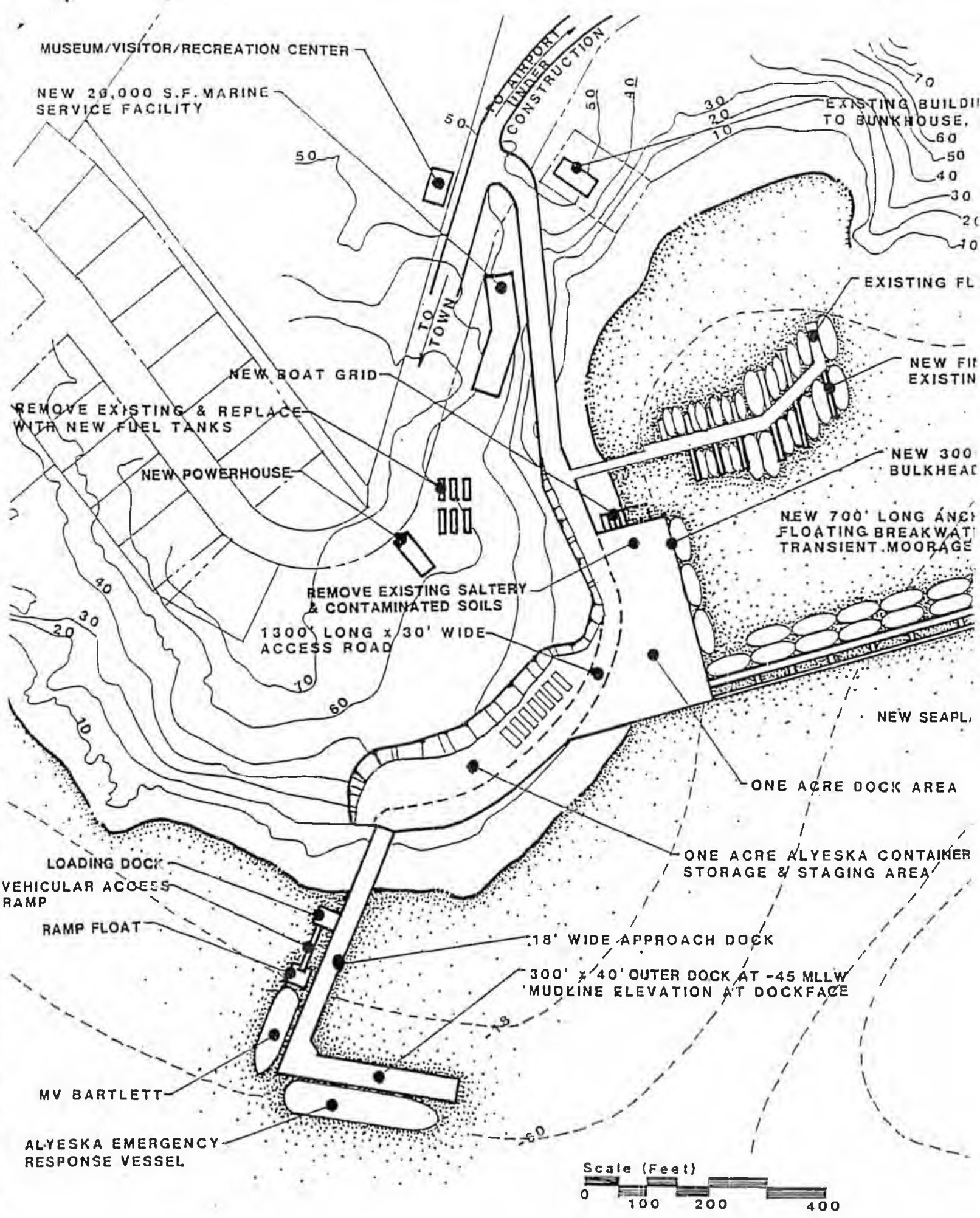
planning has been coordinated by the Council and consists of market study of PWS fishery (1991), a market demand study of fishery and recreation markets (1992), an economic forecasting and financial planning (1992), and marine facility planning and engineering (1993). The results of the planning and studies are briefly highlighted here.

The PWS and the adjacent waters of the Gulf of Alaska are important harvest areas for commercial fishermen. There are 243 salmon purse seine vessels, with crews of four to six people, operating in PWS, and hundreds of larger longline vessels operating in the northern Gulf of Alaska. Fishing begins in April-May, peaks in August, and ends in October-November. The above-referenced studies attest to a strong and growing demand for marine services at Chenega Bay during the May-October period.

Again, according to the marketing studies, more than 420 noncommercial boats now moored in Seward and Whittier are powerful enough to make a trip to Chenega Bay a pleasant outing. In addition, the marinas of both communities dispatch thousands of boaters annually aboard vessels as diverse as kayaks and 120-foot boats outfitted for week-long excursions. As an example of demand for services in Chenega Bay, tour operators and kayak rental businesses contacted in the demand study expressed an interest in 720 hotel rooms per 120-day season. Power and sail boat clientele demand exists for 1,012 nights of lodging per season. This equates to a total need of 15 rooms per night.



CHENEGA BAY PLAN



MUSEUM/VISITOR/RECREATION CENTER

NEW 20,000 S.F. MARINE SERVICE FACILITY

50

50

50

30

20

10

EXISTING BUILDING TO BUNKHOUSE, 60 50 40 30 20 10

TO AIRPORT UNDER CONSTRUCTION

TO TOWN

EXISTING FL

NEW BOAT GRID

NEW FILL EXISTING

REMOVE EXISTING & REPLACE WITH NEW FUEL TANKS

NEW POWERHOUSE

NEW 300' BULKHEAD

NEW 700' LONG ANCHORAGE FLOATING BREAKWATER TRANSIENT MOORAGE

REMOVE EXISTING SALTARY & CONTAMINATED SOILS

1300' LONG x 30' WIDE ACCESS ROAD

NEW SEAPLANE

ONE ACRE DOCK AREA

ONE ACRE ALYESKA CONTAINER STORAGE & STAGING AREA

LOADING DOCK

VEHICULAR ACCESS RAMP

RAMP FLOAT

.18' WIDE APPROACH DOCK

300' x 40' OUTER DOCK AT -45 MLLW MUDLINE ELEVATION AT DOCKFACE

MV BARTLETT

ALYESKA EMERGENCY RESPONSE VESSEL

Scale (Feet)

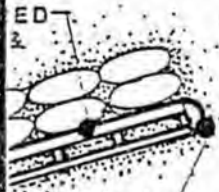


RENOVATE
POWER & LAUNDRY

TS

R FLOATS ON
FLOAT SYSTEM

ONG FILLED
DOCK



FLOAT

NAVIGATION LIGHT
ON FIXED TOWER

CHENEGA BAY MARINE SERVICE CENTER PHASED CONSTRUCTION DEVELOPMENT PLAN

Phase I of the development plan focuses on removal of the abandoned saltery and construction of the outer main dock, bulkhead dock, adjacent uplands, breakwater, access road, area lighting and power, and water supply. The outer dock will allow berthing of the state ferries MV Bartlett and MV Tustemena and also Ayleska Emergency Response Vessels. The bulkhead dock will be constructed to contain fill removed to develop the one acre uplands needed for spill response supply storage and will serve as an important staging and work area for shoreside harbor activities.

Phase II of the development consists of improvements to the small boat harbor including a finger float addition to existing floats, boat grid, marine crane and a new seaplane float.

Phase III focuses on improvements to the village's supporting infrastructure and includes new fuel storage and distribution and improved power generation.

Phase IV-A creates upland amenities to service the needs of visitors and includes modification of an existing building into a bunkhouse with a shower/laundry facility, and also a museum/visitor/recreation center.

Phase IV-B completes the Chenega Bay Marine Service Center Development Plan and includes construction of the marine service facility a full service building which will provide supplies, food and lodging.

CHENEGA BAY MARINE CENTER DEVELOPMENT PLAN



Peratrovich, Nottingham & Drage, Inc.

Engineering Consultants

**CHENEGA BAY MARINE SERVICE CENTER
DEVELOPMENT PLAN
ENGINEERS ESTIMATE (FEBRUARY 1993)**

Algonquin
PHASE I - OUTER DOCK & UPLAND DEVELOPMENT

ITEM	UNIT	QUANTITY	PRICE	AMOUNT
SALTRY DEMOLITION	L.S.	ALL REQ'D	\$600,000	\$600,000
REMOVE CONTAMINATED SOILS	L.S.	ALL REQ'D	\$400,000	\$400,000
ACCESS ROAD	L.F.	1,300	\$150	\$195,000
ROCK EXCAVATION	C.Y.	25,000	\$12	\$300,000
BULKHEAD DOCK	L.F.	400	\$3,000	\$1,200,000
NAVIGATION MARKING	L.S.	ALL REQ'D	\$30,000	\$30,000
OUTER MAIN DOCK	S.F.	20,000	\$120	\$2,400,000
LOADING DOCK	S.F.	3,000	\$150	\$450,000
VEHICULAR RAMP	L.S.	ALL REQ'D	\$600,000	\$600,000
RAMP FLOAT	L.S.	ALL REQ'D	\$500,000	\$500,000
BARTLETT FENDERS	L.S.	ALL REQ'D	\$400,000	\$400,000
WATER TO DOCKS	L.S.	ALL REQ'D	\$300,000	\$300,000
AREA LIGHTING & POWER	L.S.	ALL REQ'D	\$300,000	\$300,000
TOTAL ESTIMATED CONSTRUCTION COST				<u>\$7,675,000</u>
ENGINEERING, INSPECTION, & ADMINISTRATION				<u>\$1,151,250</u>
TOTAL PHASE I COST				<u>\$8,826,250</u>

Wagon Point
PHASE II - SMALL BOAT HARBOR DEVELOPMENT

ITEM	UNIT	QUANTITY	PRICE	AMOUNT
FLOATING BREAKWATER	L.F.	700	\$2,500	\$1,750,000
SEAPLANE FLOAT	L.S.	ALL REQ'D	\$50,000	\$50,000
FINGER FLOATS	L.S.	ALL REQ'D	\$150,000	\$150,000
MARINE CRANE	L.S.	ALL REQ'D	\$50,000	\$50,000
BOATGRID	L.S.	ALL REQ'D	\$200,000	\$200,000
TOTAL ESTIMATED CONSTRUCTION COST				<u>\$2,200,000</u>
ENGINEERING, INSPECTION, & ADMINISTRATION				<u>\$330,000</u>
TOTAL PHASE II COST				<u>\$2,530,000</u>

Quinn Point
PHASE III - UPLAND INFRASTRUCTURE IMPROVEMENTS

ITEM	UNIT	QUANTITY	PRICE	AMOUNT
NEW FUEL STORAGE & LINES	L.S.	ALL REQ'D	\$250,000	\$250,000
FUEL DISTRIBUTION AT DOCK	L.S.	ALL REQ'D	\$50,000	\$50,000
NEW POWER HOUSE & GENERATORS	L.S.	ALL REQ'D	\$250,000	\$250,000
TOTAL ESTIMATED CONSTRUCTION COST				<u>\$550,000</u>
ENGINEERING, INSPECTION, & ADMINISTRATION				<u>\$110,000</u>
TOTAL PHASE III COST				<u>\$660,000</u>

Wagon Point
PHASE IV - MARINE SERVICE FACILITIES - PART A

ITEM	UNIT	QUANTITY	PRICE	AMOUNT
MUSEUM/VISITOR/REC. CENTER	S.F.	4,000	\$120	\$480,000
RENOVATE EXISTING BLDG.	L.S.	ALL REQ'D	\$250,000	\$250,000
WATER & SEWER TO STORE	L.S.	ALL REQ'D	\$50,000	\$50,000
TOTAL ESTIMATED CONSTRUCTION COST				<u>\$780,000</u>
ENGINEERING, INSPECTION, & ADMINISTRATION				<u>\$156,000</u>
TOTAL PHASE IV COST				<u>\$936,000</u>

Wagon Point
PHASE IV - MARINE SERVICE FACILITIES - PART B

ITEM	UNIT	QUANTITY	PRICE	AMOUNT
MARINE SERVICE FACILITY	S.F.	20,000	\$120	\$2,400,000
TOTAL ESTIMATED CONSTRUCTION COST				<u>\$2,400,000</u>
ENGINEERING, INSPECTION, & ADMINISTRATION				<u>\$480,000</u>
TOTAL PHASE IV COST				<u>\$2,880,000</u>

OVERALL PROJECT COST

\$16,832,250

JUSTIFICATION AND PROPOSED DEVELOPMENT PLAN
for a grant to
CHUGACH ALASKA CORPORATION
from the
ALYESKA SETTLEMENT FUND

The Agreement and Consent Decree which set up the Alyeska Settlement Fund specifies that:

- (a) \$14,500,000 be used for the construction of response storage facilities and docks at Tatitlek and Chenega and the pre-positioning of oil spill response equipment at both locations... and
- (b) \$6,000,000 for the construction of a road from Cordova to Shepard Point and, when appropriate, for work related to the construction of a response storage facility and the pre-positioning of oil spill response equipment at that location...

Justification. The residents of Prince William Sound (PWS) were severely economically damaged by the Exxon Valdez oil spill. The settlement serves to protect the interests of the communities in the event of a future spill, and restore a portion of the economic losses suffered by the region. Therefore, maximizing the involvement of the impacted communities in the work which will result from the agreement is essential.

There are two vehicles being discussed to build the projects: 1) Appropriate the funds to the Department of Transportation and Public Facilities (DOT/FP), or 2) Appropriate the funds to the regional corporation, Chugach Alaska Corporation (CAC), in the form of a grant.

A grant to CAC is the preferred vehicle for the following reasons:

1. CAC and the village corporations would be exempt from the state procurement code. Therefore:
 - a) The projects can proceed much faster, there would be much less administrative costs, much greater local hire, and each construction dollar

would go further in Alaska.

- b) A grant would guarantee that Alaskan consultants, contractors and residents perform the work. (Note that the Alaska Native Hospital in Anchorage is being built by a Canadian firm). In addition, the contracts would mandate maximum involvement by the village residents in terms of both local hire and subcontracting. This ensures that the economic benefit to the residents of the region is maximized. Additionally, in this manner, the pride of building remains with the community injured by the oil spill.
2. CAC and the village corporations of Chenega, Tatitlek, and Eyak own virtually all of the property (surface and subsurface) on which these projects are to be constructed. Coordination meetings have already taken place and all entities involved have expressed support for this vehicle of appropriation.
 3. CAC and the village entities (village corporations, IRA councils, or a combination thereof) would work very closely together on the planning and management of these projects. This would insure that the end product and work priority would be in accordance with village needs and desires. CAC is better able to communicate with and reach consensus with the villages entities.
 4. CAC and the village corporations share common shareholders and all are tied to the IRA Councils which represent Native residents. Therefore, all entities involved have a vested interest in ensuring each project is completed timely, economically, in an environmentally safe manner, and to the maximum benefit of the residents.
 5. There is a possibility that archeological artifacts or complete sites may be discovered during the construction phase. All entities involved have a strong interest in preserving the cultural heritage of the Chugach people. CAC has a staff with extensive experience in Prince William Sound archeology. In the past, the villages have entrusted much of this responsibility to CAC.

Proposed Development Plan. Each project will be constructed to State Department of Transportation and Public Facilities (DOT/PF) standards and according to commercial construction industry management practices. The designs will be reviewed by DOT/PF prior to the start of construction to ensure the standards are met.

In addition to the development of facilities which will greatly benefit Tatitlek, Chenega Bay and Cordova, well over 100 jobs will be created this year if the funds were made available relatively soon.

Assuming the funds were available about mid-April, and the permitting and State design review process is timely, all three projects could be substantially complete by the end of the 1993 construction season (end of November). The permitting period should be relatively short since CAC and the village corporations own virtually all of the land affected. Delaying the release of funds much beyond mid-April could delay construction, and most of the jobs which would be created, until next year.

Figure 1 is a time line which shows the proposed schedule of project activities to complete the work in 1993. This schedule is preliminary in nature. It is for all three projects, any of which could vary a few weeks from what is shown in the final schedules. It also assumes that review by DOT/PF and the permitting process for each project is completed in a timely manner.

Financial Considerations. Funds from this grant will be deposited into a segregated, interest bearing account. A concise procedure for the release of funds will be written and followed. It will include progress payments similar to construction lending principles.

Organization. CAC proposes to use a team approach to construct the dock facilities and road. Preliminary designs for each project are set up according to community needs and plans. The team will include at a minimum representatives from CAC, the villages of Chenega Bay and Tatitlek, and The Eyak Corporation. In addition, during construction, a local on-site representative for each project will be selected.

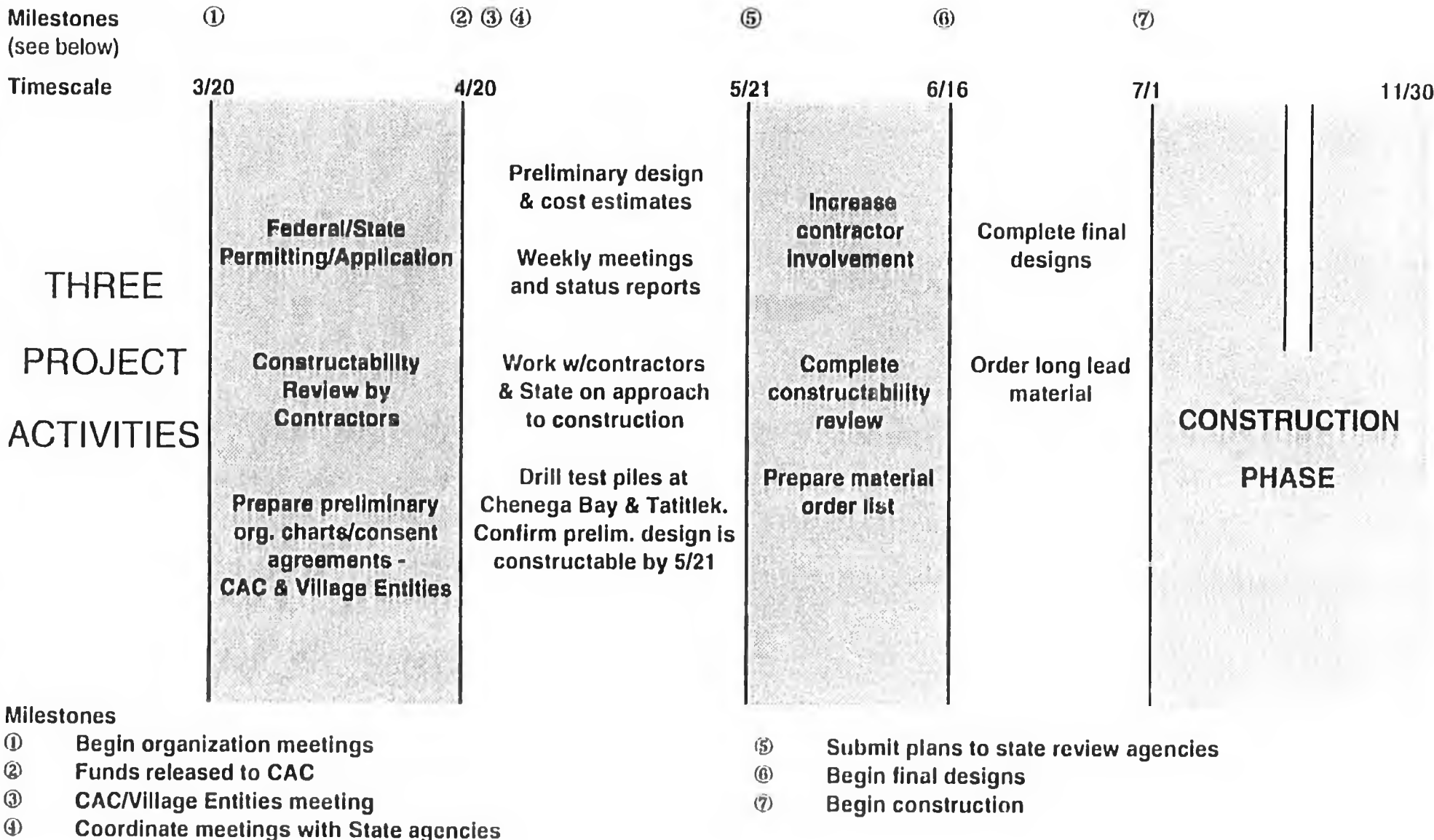


FIGURE 1

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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By _____ Deput

CHARLES E. COLE
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

Attorney for Plaintiff State of Alaska

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

In re:

the EXXON VALDEZ

)
)
) No. A89-095 Civil
) (Consolidated)

)
) Re: Case No. A92-175 Civil

)
) AGREEMENT AND
) CONSENT DECREE

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& KURTZ
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(907) 271-6100

AGREEMENT AND
(324.1) DISTRICT COURT: AGREEMENT AND
CONSENT DECREE

UNITED STATES OF AMERICA,

Plaintiff,

v.

EXXON CORPORATION, EXXON SHIPPING
COMPANY, EXXON PIPELINE COMPANY,
ALYESKA PIPELINE SERVICE
COMPANY, AMERADA HESS PIPELINE
CORPORATION, ARCO PIPE LINE COMPANY,
MOBIL ALASKA PIPELINE COMPANY,
PHILLIPS ALASKA PIPELINE CORPORATION,
BP ALASKA PIPELINES, INC., and
UNOCAL ALASKA PIPELINE
COMPANY, in personam, and the
T/V EXXON VALDEZ, in rem,

Defendants.

Case No. A91-082 CTV

AGREEMENT AND
CONSENT DECREE

AGREEMENT AND CONSENT DECREE

This Agreement and Consent Decree (this "Agreement") is made and entered into by the State of Alaska (the "State") and the United States of America (the "United States") (collectively referred to as the "Governments"), on the one hand, and Alyeska Pipeline Service Company ("Alyeska"), Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company (collectively, except for Alyeska, referred to as the "Alyeska Owner Companies"), on the other hand.

Introduction

Late in the evening of March 23 or early in the morning of March 24, 1989, the T/V EXXON VALDEZ, owned by Exxon Shipping

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Company, went aground on Bligh Reef in Prince William Sound, Alaska. As a result of the grounding, several of the vessel's cargo tanks ruptured and approximately 11 million gallons of crude oil owned by Exxon Corporation spilled into Prince William Sound (hereinafter as further defined in Paragraph 6(g), the "Oil Spill").

Alyeska responded to the Oil Spill pursuant to its 1987 Contingency Plan. Prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the State as being in compliance at the time of approval with all applicable statutes and regulations, including without limitation AS 46.04, and the Right-Of-Way Lease for Trans-Alaska Pipeline with the State, including all Stipulations thereto. In addition, prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the United States as being in compliance at the time of approval with all applicable federal statutes and regulations, including without limitation 43 U.S.C. §§ 1651 et seq., and the Grant and Agreement of Right-of-Way for Trans-Alaska Pipeline with the United States, including the Stipulations thereto.

In August 1989, the State filed an action in the Superior Court for the State of Alaska, Third Judicial District, identified as State of Alaska v. Exxon Corporation, et al., Civil No. JAN-89-6852, against, inter alia, Alyeska and the Alyeska Owner Companies, asserting claims arising from the Oil Spill. Alyeska and the Alyeska Owner Companies asserted counterclaims

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against the State in that action. Exxon Pipeline Company subsequently stipulated to the dismissal with prejudice of its counterclaim. In February 1992, that action was removed to the United States District Court for the District of Alaska, and in August 1992, the State's motion to remand was denied except with regard to the remaining counterclaim filed against the State, which was remanded to the Superior Court. Thus, with the exception of the counterclaim filed against the State (hereinafter the "Alyeska Counterclaim"), the action now is pending in the United States District Court for the District of Alaska, where it has been assigned Case No. A92-175 CIV (hereinafter the "State Action").

On March 13, 1991, the United States filed a complaint in the United States District Court for the District of Alaska against, inter alia, Alyeska and the Alyeska Owner Companies, asserting civil claims relating to or arising from the Oil Spill (hereinafter the "U.S. Action"). Exxon Pipeline Company asserted counterclaims against the United States in its response to the United States' complaint in the U.S. Action. The counterclaim of Exxon Pipeline Company was dismissed with prejudice on January 15, 1992. The U.S. Action remains pending against Alyeska and the Alyeska Owner Companies.

The parties to this Agreement recognize and acknowledge (1) that the payments called for in this Agreement are compensatory and remedial in nature and do not include any payment for or in consideration of claims for punitive damages, the Governments

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AGREEMENT AND CONSENT DECREE

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having concluded, based on consideration of their claims, that an award to the Governments of punitive damages would not be sought, (2) that the payments are made to the Governments in response to their pending civil claims for compensatory damages and other civil relief against Alyeska and the Alyeska Owner Companies arising from the Oil Spill, (3) that the monies paid by Alyeska pursuant to this Agreement are to compensate the State for damages suffered as the result of the Oil Spill, and (4) that the projects to be funded with these monies are not undertaken to fulfill requirements of state law.

NOW, THEREFORE, the parties hereto agree and stipulate, and it is hereby ORDERED, ADJUDGED, AND DECREED, as follows:

Jurisdiction

1. The Court has jurisdiction over the subject matter of the claims set forth in the State Action and the U.S. Action and over the parties to this Agreement pursuant to, among other authorities, 28 U.S.C. §§ 1331, 1333 and 1345. This Court has personal jurisdiction over the State of Alaska, which solely for the purposes of this Agreement, waives all objections and defenses that it may have to the jurisdiction of this Court, including all objections and defenses to the jurisdiction of this Court it may have asserted previously.

Parties

2. "United States" means the United States of America, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent

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boards, administrations, natural resource trustees, and agencies of the federal government.

3. "State" means the State of Alaska, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent boards, administrations, natural resource trustees, and agencies of the state government.

4. "Alyeska" means Alyeska Pipeline Service Company.

5. "Alyeska Owner Companies" means Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company.

Definitions

6. Whenever the following capitalized terms are used in this Agreement, they shall have the following meanings:

(a) "TAPL Fund" means the Trans-Alaska Pipeline Liability Fund, a federally chartered corporation, organized and existing under the laws of the State of Alaska.

(b) "Joint Trust Fund" means the trust fund established by the Memorandum of Agreement and Consent Decree between the State and the United States entered in August 1991 in United States of America v. State of Alaska, Civil Action No. A91-081 CIV.

(c) "Natural Resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and

other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976, 16 U.S.C. §§ 1801 et seq.), the State, or both the United States and the State.

(d) "Natural Resource Damages" means compensatory and remedial relief recoverable by the Governments in their capacity as trustees of Natural Resources on behalf of the public for injury to, destruction of, or loss of any and all Natural Resources resulting from the Oil Spill, whether under the Clean Water Act, 33 U.S.C. §§ 1251, et seq., the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. §§ 1651, et seq., or any federal or state statute or maritime or common law relating to the environment, including (1) costs of damage assessment, (2) compensation for loss, injury, impairment, damage or destruction of Natural Resources, whether temporary or permanent, or for loss of use value, non-use value, option value, amenity value, bequest value, existence value, consumer surplus, economic rent, or any similar value of Natural Resources, and (3) costs of restoration, rehabilitation or replacement of injured Natural Resources or the acquisition of equivalent resources.

(e) "Party" or "Parties" means Alyeska, the Alyeska Owner Companies and each of them, the United States, and the State, or any of them.

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(f) "Exxon Consent Decree" means the Agreement and Consent Decree entered in State of Alaska v. Exxon Corporation, et al., Case No. A91-083 CIV, and in United States of America v. Exxon Corporation, et al., Case No. A91-082 CIV, and approved by this Court on October 8, 1991.

(g) "Oil Spill" means the occurrence described in the first paragraph of the Introduction above, and all consequences caused by or arising from that occurrence, including, without limitation, response, cleanup, damage assessment and restoration activities.

(h) "Effective Date" shall mean the earliest date on which all Parties have signed this Agreement.

(i) "Final Approval" shall mean the earliest date on which all of the following have occurred: (1) the Court has approved and entered this Agreement as a judgment, without modification materially adverse to any Party prior to or at the time of approval; and (2) the time for appeal from that judgment has expired without the filing of an appeal, or the judgment has been upheld on appeal and either the time for further appeal has expired without the filing of a further appeal or no further appeal is allowed.

(j) "Funding Date" means the later of (1) 10 days after Final Approval, or (2) 10 days after the receipt by Alyeska of both (i) written instructions as to payment consistent with Paragraphs 11 - 14 of this Agreement signed jointly by the Attorney General of the State of Alaska and the Assistant

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Attorney General, Civil Division, of the United States Department of Justice, and (ii) written certification by the Attorney General of the State of Alaska of the establishment of a separate expendable trust fund within the State's Treasury ("Alyeska Settlement Fund") to receive and hold those settlement proceeds designated by Paragraphs 11 and 12 of this Agreement to be paid into this separate fund pending disbursement pursuant to the terms of this Agreement.

Effect of Entry of Decree

7. Upon approval and entry of this Agreement by this Court, this Agreement and Consent Decree constitutes a final judgment between the Governments, on the one hand, and Alyeska and the Alyeska Owner Companies, on the other hand, in accordance with its terms.

Description of Projects and Establishment of Separate Fund

8. The State shall establish the Alyeska Settlement Fund for the purpose of receiving, holding and disbursing certain of the settlement proceeds to be paid hereunder. The monies shall be deposited into the Alyeska Settlement Fund pursuant to the terms of this Agreement and shall be disbursed solely for the following purposes and subject to the following allocations:

(a) \$14,500,000 for the construction of response storage facilities and docks at Tatitlek and Chenega and the pre-positioning of oil spill response equipment at both locations, as described in more detail in Appendix A hereto;

(b) \$6,000,000 for the construction of a road from Cordova to Shepard Point and, when appropriate, for work related to the construction of a response storage facility and the positioning of oil spill response equipment at that location, as described in more detail in Appendix B hereto;

(c) \$7,500,000 for the acquisition of land to be included in and made a part of the Kachemak Bay State Park, as described in more detail in Appendix C hereto; and

(d) \$200,000 for the acquisition and installation by the State of communications equipment to be owned by the State, and to be used by the United States Coast Guard and the State and to be installed at the Valdez Emergency Operations Center ("VEOC") when it is constructed, with \$120,000 of the \$200,000 allocated for equipment to be selected and used by the United States Coast Guard and \$80,000 of the \$200,000 allocated for equipment to be selected and used by the State, as described in more detail in Appendix D hereto.

9. (a) The projects described in subparagraphs (a) and (b) of the preceding paragraph ("response projects") are intended to enhance the capability to respond in the event of future oil spills or other catastrophic events in Prince William Sound, as is the project described in subparagraph (d) of the preceding paragraph.

(b) The allocations of settlement proceeds to the response projects as described in the preceding paragraph are based on good faith estimates and are preliminary only. If the

actual costs of a specific response project are less than the allocated sum, together with interest, if any, earned on the allocated sum after monies are received by the State, the excess funds may be used to pay for any of the other response projects whose actual cost may exceed the initial estimate. If the actual costs of the response projects are less than the combined allocation of \$20,500,000, then the excess funds will be paid into the Joint Trust Fund.

(c) The response projects will require further detailed planning and are subject to various land acquisition issues and state and federal permitting requirements that have yet to be resolved. Subject to an appropriation by the Alaska State Legislature, the State will make a good faith effort to design, construct and complete the response projects. If the Attorney General of the State of Alaska determines that either of the response projects is impossible or impracticable for any reason, including the fact that the revised estimated cost would exceed the allocation (and other identified sources of funding, if any) or that the State is unable to obtain appropriate permits or acquire appropriate sites, the funds allocated for that particular response project will be treated as excess funds under subparagraph (b) above. If either of the response projects is rendered impossible because appropriations from the Alyeska Settlement Fund for the purposes specified are not enacted on or before September 15, 1993, then the monies not appropriated will be treated as excess funds under subparagraph (b) above.

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(d) If the acquisition of land described in subparagraph (c) of the preceding paragraph is rendered impossible either because of the inability of the interested parties to finalize a purchase and sale, the lack of sufficient additional sources of funding, or otherwise, the funds allocated for this project will be paid into the Joint Trust Fund. If the acquisition is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1993, the funds allocated for this project will be paid into the Joint Trust Fund.

(e) If the acquisition and installation of communications equipment described in subparagraph (d) of the preceding paragraph costs less than the money allocated for that project, the balance remaining shall be paid into the Joint Trust Fund. If the acquisition and installation is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1995, the funds allocated for this project will be paid into the Joint Trust Fund.

(f) The State will have final authority and responsibility for the design, specification and implementation of the response projects. The State will have final authority to utilize the funds allocated to the acquisition project described in subparagraph (c) of the preceding paragraph. The United States will have final authority to select communications equipment for use by the United States Coast Guard, as described in subparagraph (d) of the preceding paragraph, up to \$120,000;

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and the State will have final authority to select communications equipment for use by the State, as described in subparagraph (d) of the preceding paragraph, up to \$30,000.

Payment Terms

10. The payments to be made by Alyeska pursuant to the terms of this Agreement total \$31,700,000. The payments shall be made in accordance with the provisions and schedules set forth below.

11. Payments with respect to the projects described in Paragraphs 8(a), 8(b) and 8(c) above shall be made in accordance with the following provisions:

(a) Alyeska shall pay \$28,000,000 into the Alyeska Settlement Fund in accordance with the following schedule:

- (1) \$4,500,000 shall be paid on the Funding Date;
- (2) \$10,500,000 shall be paid on the first anniversary of the Funding Date; and
- (3) \$13,000,000 shall be paid on the second anniversary of the Funding Date.

(b) If, at any time prior to the second anniversary of the Funding Date, there should be insufficient funds in the Alyeska Settlement Fund to enable payments to be made which are necessary in order for these projects to proceed, the State may give written notice to Alyeska of the amount of the shortfall and Alyeska shall, within 30 days of its receipt of that notice, deposit in the Alyeska Settlement Fund the amount of that

shortfall; provided, however, that in no event shall Alyeska be required to contribute more than \$28,000,000 to the Alyeska Settlement Fund with respect to these particular projects. In the event any accelerated payments are requested and made pursuant to the provisions of this subparagraph, Alyeska shall be entitled to deduct the amount of each accelerated payment from the next payment due under the payment schedule set forth in subparagraph (a) above.

12. Upon the Funding Date, Alyeska shall pay into the Alyeska Settlement Fund the sum of \$200,000 to be used as described in Paragraph 8(d) above.

13. Upon the Funding Date, Alyeska shall pay to the State the sum of \$1,500,000 for 1989 tax revenues under AS 43.75 (Fisheries Business Tax), which would be refunded to local governments under AS 43.75.130. This sum shall be in addition to any amount which has been or will be allowed to any party by the TAPL Fund and shall not be used by the TAPL Fund as an offset against claims by any party for such tax revenues.

14. Upon the Funding Date, Alyeska shall pay to the United States, or to such other person or persons as the United States may direct, the sum of \$2,000,000 for expenses incurred by the United States in response to the Oil Spill which would have been subject to reimbursement from the Joint Trust Fund.

Other Consideration

15. Alyeska and the Alyeska Owner Companies previously have committed to build the VEOC either within the City of Valdez at

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the Valdez Port or at the Alyeska Terminal. Alyeska and the Alyeska Owner Companies hereby reaffirm that commitment. In addition to that undertaking, Alyeska and the Alyeska Owner Companies commit as follows:

(a) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the VEOC will be constructed in the City of Valdez, at a presently estimated approximate cost of \$14,000,000, and not at the Alyeska Terminal;

(b) The VEOC will include a reasonable amount of space for the United States Coast Guard and State of Alaska communications center in which the equipment to be purchased by the Governments as contemplated by Paragraph 3(d) will be located;

(c) The VEOC will be designed to support the Ship Escort Response Vessel System ("SERVS"), which will remain based in Valdez;

(d) The VEOC will be designed so that it can be used to provide oil spill response training; and

(e) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the construction of the VEOC will begin no later than June 1, 1994.

Releases and Covenants Not to Sue by the Governments

16. Effective upon Final Approval, the Governments, in addition to the releases contained in Paragraphs 15 and 23 of the

Exxon Consent Decree, release and covenant not to sue or to file any administrative claim against Alyeska, the Alyeska Owner Companies, or their parents or affiliates with respect to any and all civil claims relating to or arising from the Oil Spill, including claims for any civil relief of a compensatory and remedial nature which have been or may be asserted by the Governments, or either of them, including without limitation any and all civil claims under all federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on, or could in the future arise from, relate to, or be based on: (1) any of the civil claims asserted in the State Action, including a claim for tax revenues which would have been or would be collected under existing AS 43.75 but for the Oil Spill, (2) any of the civil claims asserted in the U.S. Action, or (3) any other civil claims that could be asserted by either or both of the Governments against Alyeska, the Alyeska Owner Companies, or their parents or affiliates relating to or arising from the Oil Spill; provided, however, that nothing in this Agreement shall affect or impair the following:

(a) claims by either Government to enforce this Agreement;

(b) claims by the State against the TAPL Fund for tax revenues which would have been or would be collected under existing AS 43.75 (Fisheries Business Tax) but for the Oil Spill;