

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**8748 HOUSE RESOURCES**

HJR

38

# HOUSE COMMITTEE REPORT

(9)

Date Referred: April 18, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/27/95

The RESOURCES Committee considered:

HJR 38

HOUSE JOINT RESOLUTION NO. 38

MAGNUSON FISHERY CONSERVATION & MGMT' ACT

Relating to reauthorization of the Magnuson Fishery Conservation and Management Act.

recommends it be replaced  
with the following committee substitute CS HJR 38 (FSH)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

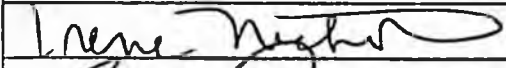



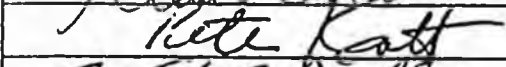
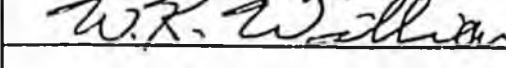

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) ADF+G, 4/18/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Nicholiz	X			
	Davies	X			
	Green			✓	
	Barnes	X			
	Austerman	X			
	Kott	X			
	Williams	X			
		(6)		(1)	

CHAIR'S SIGNATURE W.R. Williams

Williams, Co Chair



# Alaska State Legislature

## House of Representatives Special Committee on Fisheries

### SPONSOR STATEMENT

HJR 38 - "Reauthorization of the Magnuson Act"

April 10, 1995

House Joint Resolution 38 speaks to the upcoming Magnuson Fishery Conservation and Management Act reauthorization which was last re-authorized in Congress for a period of three years and is set to expire at the end of this year. The Act serves two purposes: 1) to make a national claim on the fisheries resources of the continental shelf in the band of marine waters from 3 to 200 miles offshore -- the exclusive economic zone (EEZ); and 2) to set up a system for managing and conserving the fisheries resources within the zone. To meet this management and conservation aim, Congress created the Regional Fishery Management Council system. Alaska is represented on the North Pacific Fishery Management Council.

In creating the Council system, Congress recognized the strong interest coastal states had in the fisheries resources of the EEZ off their shores. Congress charges the Councils with the primary responsibilities for determining management policy, within the EEZ, and mandates that the voting members of each of the eight regional Councils be drawn from the relevant coastal states. There is only one voting member representing the federal government on each



# Alaska State Legislature

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## House of Representatives Special Committee on Fisheries

Council.

The North Pacific Fishery Management Council is unique among the eight regional Councils created by Congress. This Council is the only one assigned the EEZ lying directly and entirely off the coast of a single state -- Alaska. All of the other Councils' regions of authority span multiple state coastlines. Congress recognized this uniqueness, as well as the historic participation in the fisheries off Alaska by residents of Washington and Oregon, when prescribing the voting membership of the North Pacific Fishery Management Council. There are 6 votes from Alaska, 3 from Washington, 1 from the National Marine Fisheries Service.

Maintaining that Alaska majority on the NPFMC is one of the principal issues during this and former Magnuson Act reauthorizations and is addressed in this resolution. This resolution also suggests several provisions for the state's best interest be included within the reauthorization.

Thank you for your consideration of this resolution.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HJR 38

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Magnuson Fishery Conservation & BRU: CFMD  
 Management Act \_\_\_\_\_ Component: Fisheries Management  
 Sponsor: Rep. Austerman  
 Requester: House FSH COMPONENT SERIAL NO. 1941

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	0.0	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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

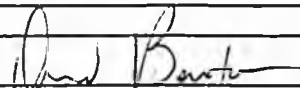
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Geron Bruce Phone: 465-6143  
 Division: Commissioner's Office Date: 4/9/95  
 Approved by Commissioner:  Date: 4/10/95  
 Agency: Fish and Game

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# STATE OF ALASKA MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION ISSUES AND CONCERNS

March 15, 1995

The following represents the position of the State of Alaska on key issues related to the reauthorization of the Magnuson Fishery Conservation and Management Act. This paper was developed in concert with the State of Alaska's Citizens Advisory Committee on federal legislation. Specific reference is made to HR 39 and S. 39 as introduced.

1. Council Membership

The State supports maintaining the current makeup of the North Pacific Fishery Management Council.

2. Conflict of Interest and Recusal

The State supports a recusal process for Council members to address perceived conflicts of interest. The standard should be such that recusal is required only if the decision before the council could provide a direct and significant personal financial benefit to that Council member, their family, company, etc. All Council members should be able to participate in deliberations, and recusal should be required only for the final vote.

The State can support the recusal provisions in either S. 39 or HR 39 as explained below:

The State supports the recusal process outlined in S. 39. The standard for recusal is acceptable so long as the "designated official" is chosen by the Secretary with the concurrence of the Council. This provides for a proper balance between the Secretary and the councils, and will prevent the Secretary from abusing this process. In addition, the State recommends the deletion of provisions requiring the Secretary to establish rules governing the recusal process.

The State can also support the recusal process outlined in HR 39. The definition of "an interest that would be significantly affected" as presented at page 18 should be retained. NOAA General Council ultimately represents the Secretary at the council, so this definition must be retained if NOAA General Council is going to make these determinations.

3. Conservation, Bycatch and Full Utilization

The State supports provisions to control, reduce, and minimize bycatch and discard waste in our nation's fisheries. Legislation should require that fishery management plans include measures to give priority to, or provide other incentives for the use of fishing practices within a gear group which result in the lowest bycatch and discards for the given harvest of a particular target species. Both HR 39 and S. 39 provide useful

Post #	Fax No	7871	Date	4-10	Rec'd	4
To	Ally Dougherty		From	Jay Nelson		
Co/Dept	Alaska Dep. Wildlife		Co	nan		ADF+G
Phone #			Phone #			
Fax #	4956		Fax #	5232		

direction to the councils by establishing new definitions, new national standards and new requirements that Fishery Management Plans include incentives and allocation preferences to address the problem.

The State supports both the Senate and House definitions of "bycatch" and "economic discards." The State supports the national standard on conservation in HR 39. In addition, the State recommends S. 39 national standard on overfishing be added to HR 39. The State recommends replacing the proposed FMP language in HR 39 for Sec. 303 (a)(7)(E)(12), with the following: "conservation and management measures shall, to the maximum extent practicable, minimize economic discards, minimize bycatch and the mortality of living marine resources cause by bycatch;" and the State supports the general requirement for bycatch reduction measures to be adopted in FMPs as presented in HR 39 and S. 39.

The State supports language in S. 39 relating to the North Pacific Fisheries Conservation at page 19, and recommends that similar language be added to HR 39.

4. Optimum Yield

The State supports the Senate definition of optimum yield and recommends this language be added to HR 39.

5. Fishery Dependent Communities

The State supports the national standard on fishery dependent communities in S. 39 and recommends that it be added to HR 39.

6. Community Development Quotas

The State strongly supports statutory authorization which protects the Bering Sea Community Development Quota program.

7. Habitat

The State supports provisions in both HR 39 and S. 39 to strengthen the habitat conservation provisions in the Act. The State supports the definition of essential fishery habitat in S. 39 and recommends this language be added to HR 39.

While the State is supportive of the need to conserve fisheries habitats, we are also concerned about the ability of the Councils to effectively address habitat issues, given their present workload addressing fisheries conservation and management. The primary habitat protection role should be vested in the Secretary, with an enhanced opportunity for the councils to identify, review, and make recommendations on habitat issues.

8. Nationwide Data Collection and Vessel Registration

The State is strongly opposed to any centralized nationwide vessel registration system which would disrupt the comprehensive systems that already exist on the West Coast and in Alaska. Legislation should specifically include the states and councils as full partners and provide for regional data management systems.

A centralized national fisheries data collection system is also redundant for the West Coast/Alaska, and could disrupt data collection systems currently operated by federal, state, and tribal entities. The State supports the language in S. 39 only if the new Sec. 402.(a) data collection provisions include language similar to that in the new Sec. 401.(a) (2), (3), and (4). Data management systems must include the states, councils, and tribal entities as full partners, and provide for regional systems.

9. Fishery Rationalization Programs

Overcapitalization of the nation's fisheries has become a major problem on both coasts. The State believes that the goal of achieving economic efficiency in the harvest of our fishery resources is important, but should be balanced along with the need to achieve full utilization, reduce bycatch, maintain diversity in the fisheries and parity among the various segments of industry, as well as the necessity of meeting the economic and social needs of coastal fishing communities.

Both the House and Senate are struggling with the criteria for implementing limited access programs, including IFQ programs. The State recommends that the following be considered:

(i) requirements for full retention and utilization of target species, provisions establishing individual incentives to reduce bycatch, and specific measures to prevent high-grading;

(ii) criteria for transfer of limited access rights requiring 75 percent U.S. ownership (Sec. 802 (a)-(c) of Title 46 U.S.C.) of companies and corporations receiving such rights to reduce the extent of foreign ownership and control of private fishing rights in U.S. waters;

(iii) notwithstanding the MFCMA's confidentiality standards, provisions should be added to ensure that data such as cumulative catch histories by vessel are available to the Councils and the public when designating quota systems. This information is vital to determine "who gets how much" under different management options. Such information is necessary in order to meet the requirements of National Standard 4 to ensure that no individual or corporation receive an excessive share or quota allocation;

(iv) requirements to minimize negative economic impacts on coastal communities and provide increased economic opportunities for coastal communities which are dependent on fisheries;

(v) clear authority to provide for processing quotas if appropriate and necessary to maintain parity between segments of the processing sector, as well as between harvesters and processors;

(vi) strict requirements for effective monitoring and enforcement programs, including provision for catch inspection before leaving fishery management areas or waters under U.S. jurisdiction; and

(vii) include strict penalties for violations of quota share systems such as provisions for revocation of fishing rights or quota shares for serious infractions.

10. Fees

The State supports provisions to assess reasonable fees on IFQ fisheries to cover the costs of fishery management. The IFQ transfer fee proposed by the Senate should be on the value of the quota, not the ex-vessel value of the fish. The State would also support an alternative fee system tied to vessel licenses or registration. Any fee system should provide a credit for federal, state, and local fishing assessments and fees.

Fees collected should go to management and enforcement in the region collected. An industry oversight advisory committee system should be created to assure that funds received from fees are appropriately spent.

11. State Jurisdiction

Amend section 306 accordingly:

(a)(3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries unless:

(A) the vessel is registered under the laws of that State;

(B) there are no federal fishing regulations established for the fishery pursuant to an approved fishery management plan; or

(C) pursuant to an approved fishery management plan.

12. Emergency Actions

The State supports provisions in both the Senate and House bills granting emergency regulation authority for 180 days with provision for an additional period of not more than 180 days. The State supports a provision excluding the NMFS regional director or his designee from voting on emergency actions for which a unanimous vote is required.

HJR

46

# HOUSE COMMITTEE REPORT

(9)

Date Referred: April 26, 1995

FURTHER REFERRALS:

Date of Committee Action: 4-27-95

The RESOURCES Committee considered:

HJR 46

HOUSE JOINT RESOLUTION NO. 46

ENDORISING FALLS CREEK HYDROPOWER PROJECT

Endorsing development of the Falls Creek hydropower project.

recommends it be replaced with the following committee substitute CS HJR 46 (RES)  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>WITH RECOMMENDATIONS</u>	DP	DNP	NR	AM
<i>W. M. Nichols</i>	X			
<i>James W. Perry</i>			X	
<i>Robert Ford</i>	X			
<i>Alma Olute</i>	X			
<i>Samuel Barnes</i>	X			
<i>W. K. Williams</i>	X			
<i>Joseph ...</i>	X			

CHAIR'S SIGNATURE *W. K. Williams*

# Alaska State Legislature

REPRESENTATIVE  
**JERRY MACKIE**

ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-4925

PO. BOX 795  
CRAIG, ALASKA 99921  
(907) 926-3008 OFFICE  
(907) 826-2930 HOME

## House of Representatives

### SPONSOR STATEMENT

ON

HJR 46

The location of a hydroelectric site at Fall Creek and its potential for development have been known for quite some time. I was aware of the proposal two years ago and the efforts of Gustavus Electric Company to bring it to a status of active consideration.

The site is located approximately one-half mile within the Glacier Bay National Park at the boundary adjacent to state land and the community of Gustavus. While the impact of this project on the integrity of the park would appear to be minuscule, any possibility of consideration is totally at the discretion of the park service.

Recent changes in Washington, D.C. have signalled an adjustment of attitude by federal land managers toward projects that may be mutually beneficial to federal interests as well as state and local desires. It is because of this change that Gustavus Electric Company and the community of Gustavus have recently been encouraged to actively pursue a cooperative agreement with the park service.

It is therefore important that the state is on record supporting consideration of the project. And now is most timely for this resolution.

9-LS1119F ✓  
Cramer  
4/27/95

**CS FOR HOUSE JOINT RESOLUTION NO. 46(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE MACKIE**

**A RESOLUTION**

1 **Endorsing development of the Fall Creek hydroelectric project near Gustavus.**

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

3 **WHEREAS** electricity used in Glacier Bay National Park and Gustavus is provided  
4 by diesel generation; and

5 **WHEREAS** power consumption in this area is projected to increase; and

6 **WHEREAS** a small hydroelectric project at Fall Creek could satisfy the needs of  
7 Glacier Bay National Park and the community of Gustavus well into the 21st century; and

8 **WHEREAS** hydroelectric generation at Fall Creek would result in fuel savings,  
9 reduced operating and maintenance costs, and provide the necessary improvements and  
10 upgrades to the existing power system to meet demand, and thereby reduce power costs to  
11 consumers; and

12 **WHEREAS** the Fall Creek hydroelectric project is intended to be financed solely by  
13 private capital; and

14 **WHEREAS** issues related to Glacier Bay National Park are frequently contentious, but  
15 the community of Gustavus and the National Park Service agree that the Fall Creek  
16 hydroelectric project could be environmentally sound and economically advantageous; and

17 **WHEREAS** the community of Gustavus recently reaffirmed support of the Fall Creek

1 hydroelectric project in a unanimous vote; and

2       **WHEREAS**, because the site of the proposed hydroelectric project is within the  
3 boundaries of Glacier Bay National Park and Preserve, an Act of Congress will be needed to  
4 change designation of the land status;

5       **BE IT RESOLVED** that the Alaska State Legislature endorses private development  
6 of the Fall Creek hydroelectric project and encourages the Congress to enact appropriate  
7 measures to redesignate the land status; and be it

8       **FURTHER RESOLVED** that the Alaska State Legislature urges the National Park  
9 Service and other federal agencies to cooperate with the project developer and state agencies  
10 for expeditious permitting for the Fall Creek hydroelectric project.

11       **COPIES** of this resolution shall be sent to the Honorable Bruce Babbitt, Secretary of  
12 the U.S. Department of the Interior; Roger G. Kennedy, Director, National Park Service, U.S.  
13 Department of the Interior; Robert Barbee, Alaska Regional Director, National Park Service,  
14 U.S. Department of the Interior; and to the Honorable Ted Stevens and the Honorable Frank  
15 Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of  
16 the Alaska delegation in Congress.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Affected Agency: \_\_\_\_\_  
Title: Fall Ck hydropower project BRU: \_\_\_\_\_

Sponsor: Mackie Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 2000	FY 2001
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	0.0	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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	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	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

Estimated FY 95 Impact: 0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Prepared By: House Resources Committee Date: 4/27/95  
Division: \_\_\_\_\_ Phone: 465-6547

Approved By: Rep. Joe Green Co-Chairman  
Agency: House Resources Committee Date: 4/27/95

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# Gustavus Community Association



Post Office Box 62  
Gustavus, Alaska 99826

---

4-24-95

DICK LEVITT  
P.O. BOX  
GUSTAVUS AK  
99826

DEAR MR. LEVITT

THE GUSTAVUS COMMUNITY ASSOC. HAD AN ADVISORY VOTE FROM  
THE GENERAL MEMBERSHIP. THE VOTE APPROVING THE PROPOSED  
HYDRO ELECTRIC PROJECT IS AS FOLLOWS; 29 IN FAVOR, 0 AGAINST.

THANK YOU

A handwritten signature in cursive script, appearing to read "Tom Morrow", is written over the typed name below.

TOM MORROW  
PRESIDENT G.C.A.

Paul Berry  
PO Box 143  
Gustavus

Thursday, April 20th, 1995

Dick Levitt  
Gustavus

Hello Dick:

I appreciated your presentation at the GCA meeting tonight and I wanted to express my support for the Falls Creek Hydro project. I'm an environmentalist / preservationist by nature but I'm also a user of electricity.

I appreciate your efforts to involve and inform the community about all this as well as your apparent respect for the various views in regards to land swaps. I'm left with the impression that you've thought things through and have asked some questions.

Changing the status of NPS Wilderness lands or the Dude Creek Crane Refuge is a loaded issue. I'd rather see the Fall Creek Wilderness acres swapped with other non-wilderness NPS acres. Also as Rita Wilson mentioned there are lands within the Dude Creek Refuge that are potential sites for Gustavus's future Landfill / Septage facility, and transferring them to the NPS would probably eliminate that.

I donno, as I'm sure you've realized this project has or will have a life of it's own especially in the hands of our Congressional deligation.

Thanks again for keeping the community informed,

*Paul N. Berry*

*TRI Bed & Breakfast  
P. O. Box 214  
Gustavus, Ak 99826  
(907) 697-2425*

April 25, 1995

Senator Fred Zharoff  
Capitol, Room 121  
Juneau, AK 99801

Dear Senator Zharoff:

We are writing this letter in support of the Gustavus Electric Company's proposed hydroelectric project at Falls Creek, Gustavus, Alaska. We believe this project will be of benefit to the citizens of Gustavus and the citizens of Alaska.

We request support from the Alaskan State Legislature for this project and convey this support to our congressional delegation in Washington, D.C.

Thank you for your support.

Sincerely,

Two handwritten signatures in cursive script. The first signature is larger and more prominent, while the second is smaller and positioned below the first.

Thomas Imboden  
Rhio Imboden Harper

# Gusto Building Supply

"BUILD WITH GUSTO"



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(907) 697-2297 FAX (907) 697-2291

Senator Zharoff

my husband and myself  
are in strong support  
of The Electric Company's  
effort to develop Falls Creek  
as a hydro power project.

Please accept this letter as  
our endorsement

Deeise L Healy  
Jim Healey

BEAR TRACK MERCANTILE  
BOX 259  
GUSTAVUS, AK. 99826  
907-697-2358

Senator F. Zharoff  
Alaska State Senate  
Juneau, Ak. 99811  
April 25, 1995

Subject: Hydro Electric power

Dear Sen. Zharoff,

I have been asked by Dick Levitt of the Gustavus Electric Company to supply a short note to your office concerning the Hydro. Project that Dick has been working on for years. I would like to add our names to the list of supporters for this project. The majority of existing commerce within Gustavus has been developed since the inception of the Gustavus Electric Company. Hydro. power is a clean, and for most of the year, a dependable source of electricity. The continued growth of Gustavus will benefit from this type of power generation.

We ask that you help garner support for this proposal during this legislative session. Thank you for your time and consideration.

Sincerely,

Bruce Tedtsen -- John Nixon

( HI !!! Sandy)

Senator Zharoff m



This letter is in support of  
the Fall Creek Hydroelectric project as  
proposed by Hudsons Electric Company.  
Please do everything in your power to  
see that congressional action proceed  
to make this project possible.

Thank you, I am  
Aimée M. Young  
owner

THE SALMON RIVER SMOKEHOUSE

SHOOTING STAR LANE • BOX 40 • GUSTAVUS, ALASKA 99826 • (907) 697-2330



# Glacier Bay COUNTRY INN

Al & Annie Unrein  
Innkeepers

April 25, 1995

The Honorable Senator Fred Zharoff  
Alaska State Legislature  
State Capitol Building  
Juneau, AK 99801-1182

Dear Senator Zharoff:

It is our understanding that there is a joint resolution currently in process that would allow Gustavus Electric to develop Falls Creek for hydro-electric power.

We are in strong support of this development. Dick Leavitt through Guscavus Electric has provided electrical service to the Gustavus area since 1985 and has spent a huge amount of money and effort doing so. As the community has grown, the demands on the present power system have increased tremendously. Tapping the resources at Falls Creek for hydro power would take a lot of pressure off a system that is being used at (and beyond) capacity. Not only would the use of hydro power be more efficient and less expensive, but it would be better for our environment.

We urge you to support the resolution to allow Gustavus Electric's development at Falls Creek. Please contact us if we can be of help.

Sincerely,

Al and Annie Unrein

*somewhat out of the way... a whole lot out of the ordinary*

**HJR**

**48**

HOUSE RESOURCES COMMITTEE  
Roll Call and Members' Bill Votes

\* (indicates first public hearing)

Room 124, Capitol Bldg.

(Sat.)  
Mon., Wed., Fri.

Date: 5/10/95

Tape# 95-106 Joint \_\_\_\_\_

Time: 9:07 am/pm Time Adjourned: 9:50 (am/pm)

ROLL CALL:	PRES	ABS	TIME	AR	_____	_____	_____
Rep. Joe Green	✓	_____	_____	_____	_____	_____	_____
Rep. Bill Williams	✓	_____	_____	_____	_____	_____	_____
Rep. Scott Ogan	✓	_____	_____	_____	_____	_____	_____
Rep. Alan Austerman	✓	_____	_____	_____	_____	_____	_____
Rep. Ramona Barnes	_____	_____	_____	_____	_____	_____	_____
Rep. John Davies	✓	_____	_____	_____	_____	_____	_____
Rep. Pete Kott	_____	_____	<u>9:14</u>	_____	_____	_____	_____
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholia	_____	_____	<u>9:20</u>	_____	_____	_____	_____

Other Legislators Present G. Davis

AGENDA:

Bill No.	Short Title	Action Taken
<u>HJR 48</u>	<u>General Legislative Subordinate Proposal</u>	<u>CSHJR48 (RES) (UT)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
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_____	_____	_____

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Resources  
5-6-95 9:07am  
Tape #95-66, Side A  
HJR 48

HOUSE COMMITTEE REPORT

5/6/95  
Rules

(5)  
Date Referred: May 2, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/6/95

The RESOURCES Committee considered:

HJR 48

HOUSE JOINT RESOLUTION NO. 48

KENAI PENINSULA SUBSISTENCE PROPOSAL

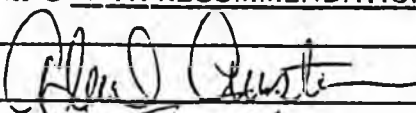
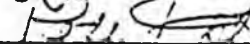
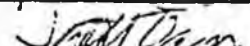
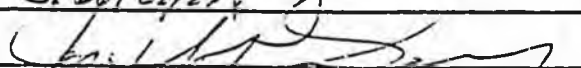
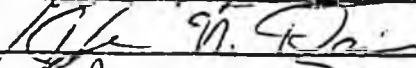

Requesting that the Federal Subsistence Board not adopt the proposed subsistence moose hunting regulations for the Kenai Peninsula, not adopt any other federal regulation changes for hunting or fishing on the Kenai Peninsula, and not adopt the changes in federal regulations that make a customary and traditional use determination for certain communities on the Kenai Peninsula.


recommends it be replaced with the following committee substitute CS HJR 48 (Res)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) ADFG  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Austerman			✓	
	Kati			✓	
	Ogan			✓	
	Green	✓			
	Davies	✓		<del>✓</del>	
	Nicholia			✓	
		(2)		(4)	

CHAIR'S SIGNATURE 

9-LS1140K  
Cook  
5/5/95

CS FOR HOUSE JOINT RESOLUTION NO. 48( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES NAVARRE, G.Davis

A RESOLUTION

1 Requesting that the Federal Subsistence Board not adopt the proposed subsistence  
2 moose hunting regulations for the Kenai Peninsula, and refrain, until January 1,  
3 1997, from adopting federal regulations that would grant subsistence preferences  
4 for fish or game or changing any customary and traditional use determinations.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 WHEREAS the Federal Subsistence Board has proposed granting new subsistence  
7 preferences to several communities on the Kenai Peninsula for the purposes of subsistence  
8 hunting; and

9 WHEREAS the adoption of any new federal regulation changes for subsistence  
10 hunting may create additional conflicts with subsistence hunting and fishing and further divide  
11 residents of the Kenai Peninsula and Alaska; and

*Completed*

12 WHEREAS this will be the first time that communities will have been given new  
13 subsistence preferences since the federal government took over the management of subsistence  
14 ~~of~~ hunting on federal lands; and

15 WHEREAS this federal proposal does not address the adverse effects on the 44,400  
16 residents of the Kenai Peninsula, most of whom do not agree with this plan; and

1           **WHEREAS** a petition opposing the Federal Subsistence Board's proposal was signed  
2 by 1,800 residents of the Kenai Peninsula within 10 days after the petition began to be  
3 circulated; and

4           **WHEREAS** there was not sufficient opportunity for peninsula residents to testify  
5 before the Federal Subsistence Board to address their concerns about these drastic changes in  
6 hunting regulations on the Kenai Peninsula; and

7           **WHEREAS** the public is poorly informed about the process of the regional subsistence  
8 advisory councils and the degree of deference given to those regional councils by the Federal  
9 Subsistence Board; and

10           **WHEREAS** the residents of the communities of Hope, Cooper Landing, Whittier,  
11 Seldovia, and Ninilchik should not receive special preference over other residents of Kenai  
12 Peninsula communities; and

13           **WHEREAS** Alaskans are working for a comprehensive solution for regaining state  
14 management of fish and game;

15           **BE IT RESOLVED** that the Alaska State Legislature respectfully and urgently  
16 requests that the Federal Subsistence Board not approve the proposed subsistence moose  
17 hunting regulations for the Kenai Peninsula; and be it

18           **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the  
19 Federal Subsistence Board to refrain, until January 1, 1997, unless concurred in by the  
20 commissioner of the Alaska Department of Fish and Game, from

21                   (1) adopting any future federal regulations that would grant subsistence  
22 preferences for fish or game; and

23                   (2) changing any of the customary and traditional use determinations in order  
24 to allow the new administration, the legislature, and Alaska's Congressional delegation the  
25 opportunity to build consensus among all Alaskans to provide a solution to the subsistence  
26 dilemma that will return management of Alaska's fish and game resources to the State of  
27 Alaska.

28           **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President  
29 of the United States and President of the U.S. Senate; the Honorable Strom Thurmond,  
30 President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S.  
31 House of Representatives; the Honorable Bruce Babbitt, Secretary of Interior; the Honorable

1 Dan Glickman, Secretary of Agriculture; and to the Honorable Ted Stevens and the Honorable  
2 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,  
3 members of the Alaska delegation in Congress; and to the Federal Subsistence Board.

May 6, 1995

#1

AMENDMENT TO CSHJR 48 (Res)

OFFERED IN HOUSE RESOURCES  
COMMITTEE

BY REPRESENTATIVE OGAN

Page 1, Line 5:

Delete "certain"

Insert "all"

Page 1, Line ~~8~~: 7

Following "Peninsula"

Insert "and the State of Alaska"

Page 1, Line ~~12~~: 16

Delete "the Kenai Peninsula and"

Insert "the State of"

Page 2, Line 2:

Following "Peninsula,"

Insert "as well as residents of the rest of the State of Alaska,"

Page 2, Line ~~6~~: 4

Delete "peninsula"

Insert "Alaska"

Page 2, Line ~~8~~: 6

Following "Peninsula"

Insert "and the rest of the State of Alaska"

Page 2, Line 13: 11

Following "Ninilchik"

Insert "Glennallen, Kodiak, Sitka, Cantwell, Nenana, Skwenta, Bethel, Nome, Tok and numerous other communities"

Delete "Kenai"

Page 2, Line 14: 12

Delete "Peninsula communities"

Insert "the State of Alaska"

May 6, 1995

#2

AMENDMENT TO CSHJR 48 (Res)

OFFERED IN HOUSE RESOURCES  
COMMITTEE

BY REPRESENTATIVE OGAN

Page 1, Lines 13 - 15:

Delete all material

Version K  
P-1/L-12. ~~13~~ 14

AMENDMENT

May 6, 1995

IN THE HOUSE RESOURCES COMMITTEE

By Representative *Green*

To HJR 48 LS1140K

Page 1/ Line 10 BEFORE "...may..." DELETE "...hunting..."

Page 1/Line 10 DELETE "...the Kenai Peninsula and..."

9-LS1140F ✓  
Cook  
5/4/95

CS FOR HOUSE JOINT RESOLUTION NO. 48( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES NAVARRE, G.Davis

A RESOLUTION

1 Requesting that the Federal Subsistence Board not adopt the proposed subsistence  
2 moose hunting regulations for the Kenai Peninsula, not adopt any other federal  
3 regulation changes for hunting or fishing on the Kenai Peninsula, and not adopt  
4 the changes in federal regulations that make a customary and traditional use  
5 determination for certain communities in Alaska.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS the Federal Subsistence Board has proposed granting new subsistence  
8 preferences to several communities on the Kenai Peninsula for the purposes of subsistence  
9 hunting; and

10 WHEREAS the adoption of any new federal regulation changes for subsistence  
11 hunting may create additional conflicts with subsistence hunting and fishing and further divide  
12 residents of the Kenai Peninsula and Alaska; and

13 WHEREAS this will be the first time that communities will have been given new  
14 subsistence preferences since the federal government took over the management of subsistence  
15 of hunting on federal lands; and

1           WHEREAS this federal proposal does not address the adverse effects on the 44,400  
2 residents of the Kenai Peninsula, most of whom do not agree with this plan; and

3           WHEREAS a petition opposing the Federal Subsistence Board's proposal was signed  
4 by 1,800 residents of the Kenai Peninsula within 10 days after the petition began to be  
5 circulated; and

6           WHEREAS there was not sufficient opportunity for peninsula residents to testify  
7 before the Federal Subsistence Board to address their concerns about these drastic changes in  
8 hunting regulations on the Kenai Peninsula; and

9           WHEREAS the public is poorly informed about the process of the regional subsistence  
10 advisory councils and the degree of deference given to those regional councils by the Federal  
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16 management of fish and game;

17           BE IT RESOLVED that the Alaska State Legislature respectfully and urgently  
18 requests that the Federal Subsistence Board not approve the proposed subsistence moose  
19 hunting regulations for the Kenai Peninsula; and be it

20           FURTHER RESOLVED that the Alaska State Legislature respectfully requests the  
21 Federal Subsistence Board not to adopt any future federal regulations that would grant  
22 subsistence preferences for fish or game until January 1, 1997, unless the regulations are  
23 concurred in by the commissioner of the Alaska Department of Fish and Game; and be it

24           FURTHER RESOLVED that the Alaska State Legislature respectfully requests that  
25 the Federal Subsistence Board refrain from changing any of the customary and traditional use  
26 determinations for Kenai Peninsula communities in federal regulations until January 1, 1997,  
27 to allow the new administration, the legislature, and Alaska's Congressional delegation the  
28 opportunity to build consensus among all Alaskans to provide a solution to the subsistence  
29 dilemma that will return management of Alaska's fish and game resources to the State of  
30 Alaska.

31           COPIES of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President

1 of the United States and President of the U.S. Senate; the Honorable Strom Thurmond,  
2 President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S.  
3 House of Representatives; the Honorable Bruce Babbitt, Secretary of Interior; the Honorable  
4 Dan Glickman, Secretary of Agriculture; and to the Honorable Ted Stevens and the Honorable  
5 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,  
6 members of the Alaska delegation in Congress; and to the Federal Subsistence Board.

# Alaska State Legislature

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**Representative Mike Navarre**

## **SPONSOR STATEMENT: HJR 48**

### **Subsistence on the Kenai Peninsula**

House Joint Resolution 48 asks the Federal Subsistence Board to reject the recent subsistence hunting proposal for the Kenai Peninsula and delay any future action on subsistence rulings until January 1, 1997. Delaying action on this issue will give the Legislature, Gov. Knowles, Native organizations and sport and commercial fish & wildlife interests enough time to develop a consensus on how to regain state control of our land and resources without pitting neighbor against neighbor in a battle over hunting and fishing rights on the Kenai Peninsula.

On April 13 of this year, the Federal Subsistence Board tentatively accepted the Federal Subsistence Regional Advisory Council's recommendation to allow an August 1995 subsistence moose season on the Kenai Peninsula. The subsistence ruling was broad enough to include as "rural" the road-accessible settlements of Cooper Landing, Hope, Whittier and Ninilchik. The ruling could lead to the closure of all sport hunting on the Kenai National Wildlife Refuge and Chugach National Forest. Within a week of this ruling, a petition was signed by more than 1800 Peninsula residents opposing those rural preferences.

The Federal Subsistence Board ruling is even more critical because it's the first new subsistence preference given to any Alaska community since the federal takeover in 1990.

Additionally, the 9th U.S. Circuit Court of Appeals ruled on April 20th that federal subsistence laws apply to Alaska rivers that flow through federal lands. This ruling will escalate even further the raging battles over the use of the Kenai River and the ongoing debates over habitat protection of the river.

Alaska's Congressional delegation has repeatedly told us they will not take action on the Alaska National Interest Lands Conservation Act (ANILCA) until there is a state consensus about how to deal with subsistence. I believe we can work together to convince the Board to reject this new proposal until we can put all the pieces of subsistence together and return to state management of our land and resources.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HJR 48

Revision Date: 5/4/95 Dept. Affected: ADFG  
 Title: Requesting the BRU: \_\_\_\_\_  
 Federal Subsistence Board recind actions on the Kenai Peninsula Component: \_\_\_\_\_  
 Sponsor: Navarre, Davis  
 Requester: \_\_\_\_\_ COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ \_\_\_\_\_

**POSITIONS**

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

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

There are no direct costs to the Department of Fish and Game that would result from passage of this resolution.

Prepared by: \_\_\_\_\_  
 Division: \_\_\_\_\_  
 Approved by Commissioner: Frank M.  
 Agency: \_\_\_\_\_

Phone: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Date: 5.4.95

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May 3, 1995  
By Telefax

Senator Judy Salo  
Representative Mike Navarre  
State Capitol  
Juneau, AK 99801

Dear Senator Salo and Rep. Navarre,

I would like to thank you for your May 2, 1995 letter to the Federal Subsistence Board requesting that it "revisit the rural designation" for Kenai Peninsula communities.

Under federal law - ANILCA - once an area has been designated "rural" the consequences are inevitable and irreversible. The subsistence priority for "rural" residents is a legal privilege that requires the elimination of all other uses prior to any limitation being placed on subsistence uses.

I would like to stress that even for a "rural" resident granted a subsistence preference a heavy price must at times be paid. That is to say that even a subsistence "user's" right to access a resource for commercial or recreational purposes must be eliminated to supply all subsistence uses. Further, if the fish or game resource involved is not numerous enough to supply all subsistence users then even the "subsistence" right may be eliminated for many as Tier II criteria are applied.

It is clearly not in anyone's best interest to have a legal subsistence priority apply in areas of either high population densities or ready access to fish and game resources such as the Kenai Peninsula.

# Board approves <sup>Ther</sup> <sup>April 13</sup> <sup>Clarion</sup> subsistence hunt for Kenai moose

Hunters from seven Peninsula towns would get a head start on neighbors

By TOM KIZZIA  
Daily News reporter

Federal land managers voted Thursday to create a new subsistence moose hunt this August for residents of a handful of communities on the Kenai Peninsula.

The tentative decision was broad enough to include road-accessible settlements such as Cooper Landing and Ninilchik despite a half-day of testimony from Kenai Peninsula residents who said such a hunt would pit neighbor against neighbor.

But in a bow to conservation concerns, the Federal Subsistence Board voted to keep in force the state's antler restrictions, which biologists said are necessary to ensure the long-term health of the moose population.

Some subsistence backers said the new hunt could force the federal government to close the Kenai National Wildlife Refuge to nonsubsistence hunters. The board's decision Thursday left that question unresolved.

At issue is whether the

antler rules, which restrict hunters to shooting only yearling bulls or older bulls with 50-inch racks, might be the kind of subsistence restriction that cannot be imposed under federal law until competing users such as sport hunters are eliminated.

Several officials, including board chairman Mitch Demientieff of Nenana, said it might not be necessary to close the refuge, where nearly half the Kenai Peninsula moose harvest occurs each year. The board would have to vote to close it.

The board will assess the potential impact of the subsistence hunt during a 45-day comment period, Demientieff said. The board will meet in June to make a final decision so a subsistence hunt can be held in August, he said.

The subsistence hunt adopted Thursday would not threaten the overall population of Kenai moose, said Ted Spraker, area biologist with the state Department of Fish and

Please see Back Page, MOOSE

# Hunting future unclear

## Agencies scramble over subsistence

By TONY LEWIS  
Peninsula Clarion

Sport hunting for most game would likely have to be curtailed and possibly eliminated on federal land on the Kenai Peninsula if proposed subsistence rights are upheld.

Moose, caribou, sheep, goat, brown bear and black bear could be off limits to everyone but subsistence users on the peninsula's Kenai National Wildlife Refuge and U.S. Forest Service lands under provisions for subsistence use tentatively approved by the Federal Subsistence Board last week.

Under the board's proposal, 589 households in the "rural" communities of Cooper Landing, Hope, Whittier, Ninilchik, Seldovia, Port Graham, and Nanwalek were determined to have a "customary and traditional use" for the peninsula's big game animals. That determination would give them a priority to harvest game on nearly 3 million acres of public land on the peninsula.

Federal land managers have not yet had time to assess the potential effects of the proposal, but are certain sport hunters will be faced with cutbacks.

"What I can foresee in the near future, unless this is overturned, is a substantial change in sports hunting on the refuge for all the species determined to have a customary use," said Dan Doshier, manager of the 1.97 million acre Kenai

## ...Hunt

Continued from page 1

### National Wildlife Refuge.

A subsistence moose hunt tentatively scheduled for this fall may be a harbinger of what is to come. Sport hunters may be prohibited from harvesting moose on the refuge, depending on the outcome of a legal review.

At issue is whether or not there is enough game on federal lands to accommodate the needs of both subsistence users and sport hunters. By law, subsistence users have first priority. Before subsistence hunting can be restricted, sport hunting must be eliminated.

On Thursday, the Federal Subsistence Board voted to restrict subsistence moose hunting, effectively shutting out sport hunters.

But the fight over moose could just be the beginning. Sport hunting for caribou, sheep, goat, black bear and brown bear is already severely

restricted. If subsistence hunters are given the right to harvest those species, there may not be enough left over to allocate to sport hunters while still ensuring healthy game populations.

Subsistence hunts for big game other than moose could be made as early as next year.

"This is way beyond my wildest imagination of where this was going to lead us," Doshier said. "It paints a pretty bleak picture."

Doshier isn't the only federal land manager taken off guard. Although no subsistence hunts are being discussed on the 1 million acres of Forest Service land on the peninsula this year, that would likely change in 1996 under the current proposal.

"It's hitting us cold," said Duane Harp, manager of the Forest Service's Seward Ranger District. "We don't know the consequences yet."

The subsistence board's decision is far from final. After undergoing a standard review, the pro-

posal will be open for public comment for at least 30 days. The board will then meet again to make its final decision. That meeting will likely take place around the middle of July, said the U.S. Fish and Wildlife Service's Taylor Brelsford.

Sport hunters' hopes bank on the board changing its view on what qualifies a community for subsistence rights. On Thursday, the board determined that all seven of the peninsula's "rural" communities had a "customary and traditional use" of game.

According to Brelsford, the Alaska National Interest Lands Conservation Act, or ANILCA, does not clearly define what constitutes "customary and traditional" use, leaving wide room for interpretation.

So far, the subsistence board and its peninsula advisers have broadly interpreted the term.

Gary Oskolkoff, a member of an advisory council for subsistence issues on the peninsula, said coun-

Peninsula Clarion, April 17, 1995 5

cil members determined that "customary and traditional use" is applicable to all communities whose residents have hunted game for at least three generations.

The community of Hope has been in existence since the turn of the century. Cooper Landing was founded in the 1920s and Whittier in the 1940s.

The area around Kenai, Soldotna, Seward and Homer do not qualify for subsistence because they are not considered "rural" under the law.

The subsistence board voted 5-1 to accept the advisory council's definition of "customary and traditional use." If sport hunting is going to be allowed on the refuge in the near future, Doshier believes that decision will have to be reversed.

"Once they voted to accept the customary and traditional determinations, it was pretty much locked," Doshier said. "I think the only possibility for relief is to change the customary and traditional determination."

# Ruling may squash musk ox sport hunt

ANCHORAGE (AP) — A federal ruling that only rural subsistence hunters be allowed to hunt musk oxen on the Seward Peninsula may force the state to drop plans for a sport hunt there, officials say.

The Federal Subsistence Board decided last week that state plans for hunting in the Nome region did not satisfy local needs. The state may ask for a reconsideration, based on grounds that the federal plan could endanger the health of the herd on federal lands.

The turf battle over who gets to hunt is taking a strange twist in the case of the musk oxen, which did not exist on the Seward Peninsula

when white explorers and whalers arrived in the mid-19th century.

Musk oxen have flourished since being transplanted by the state to the Nome region in 1970. Biologists said last year the herd had reached 925 animals, enough to support hunting.

The state Board of Game voted in January to open a sport season on the musk oxen. The state wrote rules giving local villagers an advantage for part of the hunt, which was split into fall and spring seasons. The board refused to grant villagers a subsistence preference, however, contending that musk oxen had not been hunted there since prehistoric times.

But the federal board ruled that even an aboriginal tradition was enough to qualify modern-day rural residents for subsistence rights.

The dispute comes from a small grammatical difference between state and federal regulations, said Dick Marshall, acting deputy director of subsistence for the U.S. Fish and Wildlife Service.

State law requires a subsistence preference for species that "are" traditionally used. The federal regulation provides subsistence for species that "have been" traditionally used.

Prehistoric musk ox bones found in the region convinced

See HUNT, back page

*Perin Clarion Thursday, April 20, 1995*

## ...Hunt

Continued from page 1

anthropologists that musk oxen once were hunted by Eskimos on the Seward Peninsula.

By the late 19th century, however, musk oxen had been exterminated in Alaska. They were transplanted back from Greenland in 1935 — first to Nunivak Island in the Bering Sea, and later to the North Slope and the Seward Peninsula.

The federal board decided subsistence hunters could take 24 musk oxen from federal lands in the

region. That's the total proposed by a cooperative management plan for the herd and it leaves no animals for a sport hunt.

"We were happy because they pretty much promised the villages they'd be able to hunt for musk oxen when it finally opens," said Jake Olanna, a subsistence specialist with Kawerak Inc., the regional Native nonprofit corporation in Nome. "They're the ones who have been watching and nurturing these animals on corporation land."

The federal decision zeroes out the cooperative plan put together by federal and state biologists and local organizations, said John

Coady, regional wildlife supervisor for the Alaska Department of Fish and Game.

That plan defined where the harvest should take place, ensuring that different segments of the herd would be impacted, Coady said. The game board used that plan in establishing a sport hunt.

Musk oxen don't migrate like caribou, so concentrating the hunt on federal lands could lead to overharvest in some places, Coady said.

"We are concerned about essentially extirpating every musk ox in certain areas on federal lands," he said.

Concentrating the hunt on feder-

al lands has other consequences. Federal land on the Seward Peninsula tends to be far from villages around Kotzebue and nearer villages around Nome.

That has prompted a disagreement between the two regional advisory councils set up under federal law to make subsistence recommendations. Kotzebue area villages want state management.

Coady said the state would be unlikely to continue with its planned hunt if it resulted in an over-harvest.

The Game Board probably would be asked to go along with any Fish and Game decision to cancel the sport season, he said.

# Fisheries balance altered

April 24

## Ruling opens door for subsistence

By TONY LEWIS  
Peninsula Clarion

A recent court ruling may pave the way for subsistence fishing on the Kenai River and other popular peninsula fishing streams.

The 9th U.S. Circuit Court of Appeals ruled Thursday that federal subsistence laws apply to Alaska rivers that flow through federal lands.

The court did not list the affected rivers, but said those adjoining national parks, forests and wildlife refuges would fall under federal control.

Roughly half of the Kenai River flows through the Kenai National Wildlife Refuge and the Chugach National Forest.

Other rivers that flow through the wildlife refuge include the Kaslof River, Crooked Creek, Swanson River, Moose River, Killey River, Funny River, Russian River, Fox River, Sheep Creek and Chicknloon River.

The court did not propose specific sub-

See RULING, page 3

## ...Ruling

Continued from page 1

istence fishing seasons on any of the rivers. Those decisions will be left to the Federal Subsistence Board.

Recent actions by the board suggest subsistence fishing could be allowed on the peninsula in the future.

"We are very concerned that the decision leaves the door open to federal subsistence management of all commercial and sport fisheries, including such popular rivers as the

Kenai River — maybe even this summer — and that would be unacceptable," said Alaska Senate President Drue Pearce and House Speaker Gail Phillips in a prepared statement.

One week before the court decision, the board tentatively approved broad subsistence rights for residents of the peninsula's "rural" communities, including Cooper Landing, Ninilchik and Hope. Those board based on their "customary and traditional" use of the peninsula's resources. For now, those rights extend only to big game animals, such as moose and caribou, but fish could be added to the

list.

Under federal law, subsistence users have a priority over all others for Alaska's fish and game. A proposed subsistence moose hunt on the peninsula could close the Kenai refuge to sport hunting.

Commercial and sport fishers fear their seasons could be significantly scaled back if subsistence fishing is allowed on the peninsula.

"I don't know what this will mean to us," said Refuge Manager Dan Doshier. "One would have to suspect this could have a major impact on fishing in the area given the recent customary and traditional findings by the subsistence

board."

The U.S. Fish and Wildlife Service's subsistence division met Friday to decipher the meaning of Thursday's court decision. Assistant Regional Director Dick Pospahala said a group has been formed by the court to make guidelines for determining the Alaska rivers that will fall under federal control.

Dave Nelson, who heads the Alaska Department of Fish and Game's sportfish division in Soldotna, did not know Friday how the court decision might affect management of the Kenai River's prized salmon and rainbow trout fisheries.

**LAPP Resources Inc.**

4900 Sportsman Drive  
Anchorage, Alaska U.S.A.  
99502-4169

Telephone +1 (907) 248-7188

Facsimile +1 (907) 248-7278

May 4, 1995

Representative N. Rokeberg  
State Capitol  
Juneau, AK 99811

Attn: House Oil and Gas Committee  
Re: Committee Substitute HB 334

Dear Representative Rokeberg:

I look forward to the joint Resources and Oil and Gas hearing tomorrow morning at 8:00am. I believe that it is extremely important to pass this bill for the following reasons.

Alaska's bonding requirements are extremely onerous for all but major companies. This is one reason that independents do not operate in Alaska, and small developments serving local Alaskan markets are not feasible.

Alaska has multiple layers of protection in current statutes and regulations:

\$1,000,000 bond for exploration wells with the DEC,  
\$10,000 to \$500,000 lease bond with the DNR, and  
\$100,000 single well or \$200,000 statewide bond with the AOGCC.

This is potentially \$1.7 million in bonds for even the smallest exploration well. If the well encounters oil, and production ensues, even larger bonds are required by DEC.

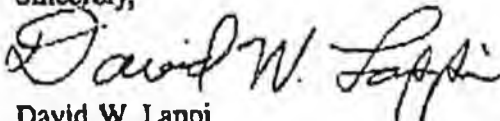
Alaska also has the 470 Fund, a \$50 million emergency kitty for use during oil or other hazardous spill emergencies. This kitty was funded and is maintained by a two cent per barrel tax on oil production.

In light of continuing State budget shortfalls, the State can no longer afford to be an obstacle to private development.

LAPP Resources is currently pursuing small natural gas projects which could supply some areas of rural Alaska with locally-produced gas as a lower cost, more environmentally-friendly fuel than the currently imported diesel fuel. The wells could be drilled for under \$100,000 in some areas. If bonding costs are not reduced, these projects will not be economic, as the bonds will cost more than the drilling. With reduced bonding, independent private gas exploration companies, Native Regional Corporations, or in some cases Village Corporations or rural utilities may be able to participate in the development of their own local energy resources.

Although incentives for the industry are nice, dismantling the disincentives to business will be more effective in the long run and will maintain the State's royalty stream for a longer period.

Sincerely,



David W. Lappi  
President

cc Representative Joe Green - Resources Committee Co-Chair  
Representative Bill Williams - Resources Committee Co-Chair

HJR

54

AMENDMENT

In the House Resources Committee

March 14, 1996

TO HJR 54  
Version "D"

Page 2, Line 6 -- AFTER "...two years and..." DELETE "...over 600 permanent ..."

INSERT "several hundred"

Page 2, Line 8 -- AFTER "...State of Alaska..." DELETE "will earn substantial revenue each year..."

INSERT "may collect revenues"

Page 2, Line 9 -- AFTER "...gas sales..." DELETE to "...; and"

Page 2, Line 23 & 24 -- DELETE all material

FINANCIAL  
TIMES

# When politics precedes price

The Natuna gas field's size and complexity makes it one of the industry's biggest challenges to date, say Manuela Saragosa and Robert Corzine

**P**lans to develop one of the world's largest natural gas fields in Indonesian waters off Borneo are evoking strong emotions in the region and in the industry.

To its supporters, the Natuna field is a unique energy resource in the midst of the the world's fastest growing economies. Its future revenues are badly needed by Indonesia.

But critics say the plan to exploit the reserves off Natuna, an island about 600km north-east of Singapore, will consume billions of dollars of investment and produce gas at costs well above current market prices.

The only point of agreement is that Natuna's size and complexity make its development one of the oil industry's most challenging projects to date. The field is the largest undeveloped hydrocarbon resource in south-east Asia, comparable in size to Norway's Troll, western Europe's largest gas field.

Total gas volumes are around 210,000bn cubic feet, or 6,000bn cubic metres. Only a quarter of this is useable, but even that would be enough to meet Japan's total natural gas needs for 17 years.

Plans to develop it have been studied since 1980. But in 1994 Exxon, the largest US oil company, and Pertamina, Indonesia's state oil company, launched a joint partnership to exploit the field, with the aim of launching the eight-year construction phase in 1997.

There is little doubt of the political will to develop Indonesia's natural gas output, with the country's balance of payments suffering as oil production has declined. The Jakarta government has set up a series of high-powered committees to get the Natuna project moving, involving some 16 ministers.

Mr Jusuf Habibie, Indonesia's ambitious minister of research and technology, is chairman of the Natuna Project Execution Team, the most important of the committees. Its advisory team includes General Feisal Tanjung, the powerful armed forces chief.

"No one should underestimate the determination of those involved to make it work," says an industry analyst familiar with the project.

No big engineering contracts have yet been issued, although Pertamina officials say those companies which have invested in Indonesia or have a presence there will rank among the favourites. "If you don't fulfil this condition, you're not in," notes one western diplomat.

A leading role looks likely for Amec, the UK construction company which has been asked by Jakarta to organise an engineering consortium. Amec is already well-established in Indonesia, working on a joint venture with PAL, the state-owned shipbuilder which is one of several "strategic" industries that Mr Habibie takes an interest in.

However, sceptics in the oil industry cast doubt on the viability of the Natuna project. In spite of its location in the centre of an energy-hungry region its development has proved troublesome.

The main problem is that 71 per cent of its contents is unwanted carbon dioxide, a "greenhouse gas" associated with global warming. Extracting and disposing of it in an environmentally acceptable way is technically difficult and contributes to the forecast development cost of more than \$40bn, one of the most expensive gas projects ever undertaken.

Some industry observers say Pertamina and Exxon will need to get \$4.50-\$5 per million BTUs for

Natuna gas - well above the prevailing price of \$3-\$3.70 for natural gas landed in Japan, the biggest energy markets in the region.

Natuna officials are reluctant to discuss pricing, and note that competitiveness can be measured in other ways. They believe that customers might be prepared to pay extra to secure supplies closer to home, rather than from potentially less stable Middle Eastern liquefied natural gas suppliers.

"We don't use the word 'premium'," says Mr Fritz Voigt, vice-president of Exxon's international gas division. "And we don't want a project that needs a premium. We expect every project to stand on its own."

But he adds there may be many factors to take into account in deciding whether the project is viable. "Profitability is in the eye of the beholder," he says. The Indonesian government, for example, says that there will be benefits for Natuna island in the exploitation of the gas field. The project will bring investment to the island, contributing to the economic development of the remote area.

And Natuna officials believe they can find "ways to share the pain". To secure supplies from the region, buyers might agree to pay higher prices in the early years to reflect the heavy initial costs of building infrastructure such as a harbour, airport and town on Natuna island.

This might be offset by the phased development plan which will defer other costs until later in the project. Natuna's eventual capacity will be 12 processing units or "trains" producing 15m tonnes of liquefied natural gas a year. But initially only two will be built out

of six scheduled for phase one. There is also the possibility of increasing the project's revenue in the early years by exporting the gas to Thailand through an under-sea pipeline.

"It is an appealing idea," says Mr Voigt, who foresees no major technical problems in laying the 1,000-mile pipeline from the offshore platforms to Thailand.

However, Natuna's backers have yet to establish a market for the field's gas. No sales agreements have been signed and without them financing cannot begin.

Mr G.A.S. Nayoan, senior executive vice-president of Natuna Gasfield Development, the government committee working on the details of the project, says that Pertamina has convinced potential buyers of the project's technical feasibility. But commercial negotiations have yet to begin. Japan, the biggest buyer of Indonesian natural gas, is the logical target. In November, 13 potential Japanese buyers and financiers - including Nissho Iwai, Marubeni, Mitsubishi, three private Japanese upstream oil companies and the Japan National Oil Corporation - were flown to the US for long briefings from Exxon on the technical aspects of extracting Natuna's carbon dioxide.

The plan is to dispose of it in an aquifer, an underground rock formation which stores gas or liquid. "We are satisfied that all their questions were answered," says Mr Voigt.

Natuna executives believe growing concerns in Japan about the future of nuclear energy could enhance the attractiveness of natural gas in general and Natuna gas in particular. "I don't want to bank on such political changes," says Mr Voigt, but "there could be more upside than downside" for Natuna.

Other potential markets are Taiwan and South Korea. There could also be future demand from China, which "a few years ago was not even a topic for conversation", according to Exxon.

Opponents of Natuna, meanwhile, say that the priority being accorded the project will mean that development of other gas discoveries in Indonesia will be neglected. Arco, the US company, has discovered a promising gas field in Irian Jaya with smaller reserves thought to be around between 5,000bn and 15,000bn cubic feet and a carbon dioxide content of only 10 per cent.

"It would be very difficult to launch Natuna at the same time as Arco's [new discovery]," says one Jakarta-based oil and gas executive. "Without Arco, Natuna was difficult but now frankly there is possibly a much cheaper source of gas which is much more profitable for Indonesia."

**N**atuna will "compete against whoever stands up", says Mr Voigt at Exxon. For all its complexity, it has one clear advantage: its size will guarantee the country's role as a leading supplier of liquefied natural gas well into the 21st century.

Mr Nayoan says that Natuna is "on track and on time", but analysts say several big issues need to be solved soon. One is to sign up buyers for the gas before construction begins next year.

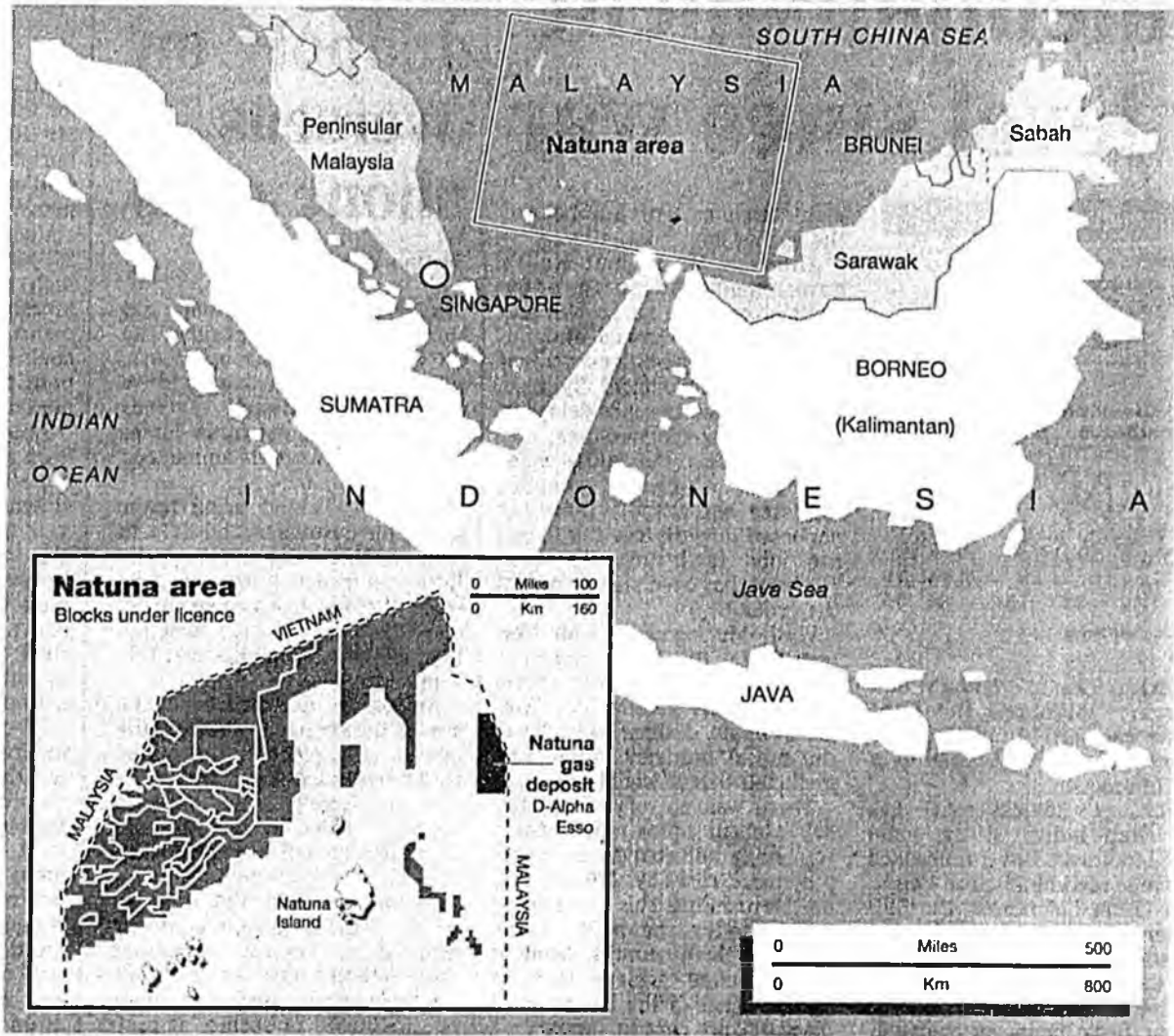
Mr Voigt says Natuna is "much closer to the point of making arrangements with the markets" than commonly thought, but he declines to be drawn on timetables. "We won't be held hostage to self-imposed deadlines," he says.

Another priority is to agree the equity structure for the project. Pertamina and Exxon each have a 50 per cent stake but are keen to involve others to spread the risk.

Mobil Oil of the US is negotiating for a 26 per cent share that would come out of Pertamina's interest. Japanese companies are also interested in part of Pertamina's stake, although negotiations will not start until agreement has been reached with Mobil. The idea is that Pertamina would be left with an 11 per cent holding in the project.

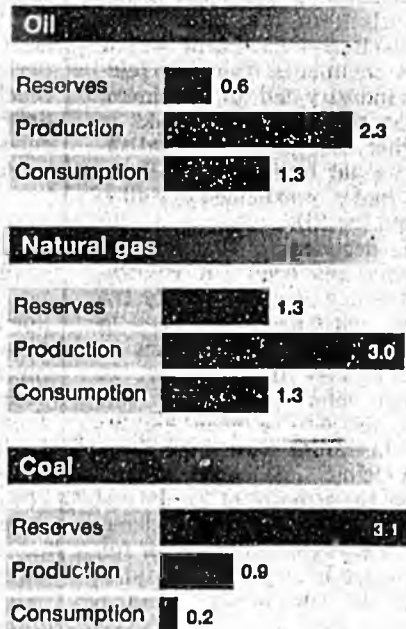
However, there is confidence among those involved in the project that issues such as these can be resolved. The heavy political commitment of Jakarta to Natuna means that it is seen as much as a symbol of national prestige as a commercial venture. If Indonesia is to secure the leading role as a natural gas supplier to Asia, failure is not an option.

## Natuna: a prestige project



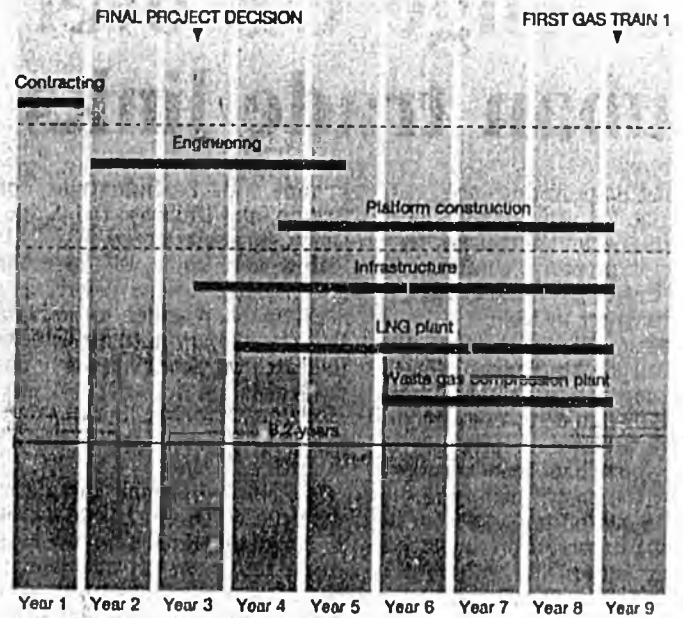
## Indonesia: a share of the world

Fossil fuels, 1994



Source: Pertamina

## The project schedule



Source: Pertamina

*Financial Times*

*Thursday, March 7, 1996*

WORK DRAFT

WORK DRAFT

WORK DRAFT

1 WHEREAS the sale of Alaska gas to Pacific Rim markets will improve the nation's  
2 trade imbalance without adversely affecting other industries or labor; and

3 WHEREAS the design, sourcing, and construction of a LNG project could infuse several  
4 billion dollars into the United States economy; and

5 WHEREAS the construction of such a pipeline would provide approximately 10,000  
6 temporary construction jobs for two years and <sup>SEVERAL HUNDRED</sup> ~~over 600~~ permanent private sector jobs in Alaska;  
7 and

8 WHEREAS the State of Alaska <sup>MAY COLLECT SOME REVENUES</sup> ~~will earn substantial revenue each year~~ from projected  
9 gas sales, which would help ~~fill the state's fiscal gap~~; and

10 WHEREAS a gas pipeline across Alaska could make available environmentally friendly  
11 energy along the pipeline route and encourage development that will increase local employment  
12 and local tax revenue; and

13 WHEREAS the Alaska Municipal League's 1996 policy statement includes the following  
14 language: "The League, therefore, strongly encourages all potential participants in the project,  
15 including the State of Alaska, to immediately convene to develop a unified proposal to present  
16 to the Asian LNG buyers so that all Alaskans will directly benefit from this unique opportunity";  
17 and

18 WHEREAS natural gas stored as a cryogenic liquid is an efficient and safe means of  
19 transporting large quantities of gas with no significant risk to the public; and

20 WHEREAS securing a market for Alaska North Slope (ANS) gas will be important;  
21 there is strong competition for Pacific Rim markets from competing projects in Malaysia,  
22 Australia, and other nations; and

23 ~~WHEREAS Alaska faces competition from other projects and must, therefore, move to~~  
24 ~~secure a place in Asian markets; and~~

25 WHEREAS Taiwanese and South Korean buyers have issued letters of intent to purchase  
26 ANS liquefied natural gas from Yukon Pacific Corporation; and

27 WHEREAS Japanese buyers must also commit to buying ANS LNG to make an Alaskan  
28 project feasible;

29 BE IT RESOLVED that the Alaska State Legislature respectfully requests the North  
30 Slope natural gas lessees to intensify their efforts to establish satisfactory contractual  
31 relationships for transportation and sale of ANS gas to Pacific Rim purchasers as soon as  
32 economically possible; and be it

9-LS0715D  
Chenoweth  
2/16/96

*Rep. Kubi*

CS FOR HOUSE JOINT RESOLUTION NO. 54( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KUBINA, Green, Barnes, Navarre, Mackie, Grussendorf, Phillips, B.Davis, Willis, Sanders, Davies, Robinson, Rokeberg, Ogan

A RESOLUTION

1 Encouraging the lessees of Alaska's vast North Slope natural gas reserves to reach  
2 agreement to market gas, expressing the legislature's support for an Alaska North  
3 Slope (ANS) gas transmission pipeline, and requesting the President of the United  
4 States and the Governor of the State of Alaska to publicly support and take  
5 action that will help expedite the construction of that system.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS Alaska has at least 26 trillion cubic feet of natural gas reserves in the  
8 Prudhoe Bay field and perhaps two to three times that amount of potential natural gas reserves;  
9 and

10 WHEREAS, beginning in the period 2002 - 2005, there may be an increasing gap  
11 between supply and demand for natural gas in the Pacific Rim; and

12 WHEREAS market and economic studies indicate favorable conditions for the sale of  
13 liquefied natural gas (LNG) to these Pacific Rim markets; and

14 WHEREAS major permits for one possible pipeline route from the North Slope to  
15 Valdez have been completed; and

1           WHEREAS the sale of Alaska gas to Pacific Rim markets will improve the nation's  
2 trade imbalance without adversely affecting other industries or labor; and

3           WHEREAS the design, sourcing, and construction of a LNG project could infuse several  
4 billion dollars into the United States economy; and

5           WHEREAS the construction of such a pipeline could provide approximately 10,000  
6 temporary construction jobs for two years and over 600 permanent private sector jobs in Alaska;  
7 and

8           WHEREAS the State of Alaska will earn substantial revenue each year from projected  
9 gas sales, which would help fill the state's fiscal gap; and

10           WHEREAS a gas pipeline across Alaska could make available environmentally friendly  
11 energy along the pipeline route and encourage development that will increase local employment  
12 and local tax revenue; and

13           WHEREAS the Alaska Municipal League's 1996 policy statement includes the following  
14 language: "The League, therefore, strongly encourages all potential participants in the project,  
15 including the State of Alaska, to immediately convene to develop a unified proposal to present  
16 to the Asian LNG buyers so that all Alaskans will directly benefit from this unique opportunity";  
17 and

18           WHEREAS natural gas stored as a cryogenic liquid is an efficient and safe means of  
19 transporting large quantities of gas with no significant risk to the public; and

20           WHEREAS securing a market for Alaska North Slope (ANS) gas will be important;  
21 there is strong competition for Pacific Rim markets from competing projects in Malaysia,  
22 Australia, and other nations; and

23           WHEREAS Alaska faces competition from other projects and must, therefore, move to  
24 secure a place in Asian markets; and

25           WHEREAS Taiwanese and South Korean buyers have issued letters of intent to purchase  
26 ANS liquefied natural gas from Yukon Pacific Corporation; and

27           WHEREAS Japanese buyers must also commit to buying ANS LNG to make an Alaskan  
28 project feasible;

29           BE IT RESOLVED that the Alaska State Legislature respectfully requests the North  
30 Slope natural gas lessees to intensify their efforts to establish satisfactory contractual  
31 relationships for transportation and sale of ANS gas to Pacific Rim purchasers as soon as  
32 economically possible; and be it

1           **FURTHER RESOLVED** that the State of Alaska respectfully requests the President of  
2 the United States to demonstrate national support for an ANS gas transmission project to Asian  
3 LNG buyers; and be it

4           **FURTHER RESOLVED** that the Governor is respectfully requested to

5                   (1) assure the Asian LNG buyers that the state will provide continuity and  
6 stability in regards to North Slope natural gas supply, tax structure, and regulatory policy;

7                   (2) continue support of the Joint Pipeline Office, which administers an  
8 innovative, efficient, and cost-effective permitting system;

9                   (3) encourage the private developers of the gas pipeline and the state's labor  
10 forces to develop an Alaska hire agreement for the ANS gas transmission project; and

11                   (4) meet with all parties to determine how the state can help facilitate the ANS  
12 gas transmission pipeline; and be it

13           **FURTHER RESOLVED** that the Alaska State Legislature strongly supports the  
14 construction of an ANS gas transmission pipeline and offers its assistance to the parties involved  
15 in order to speed completion of an ANS gas transmission project.

16           **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the  
17 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of  
18 the U.S. Senate; the Honorable Bruce Babbitt, Secretary of the Interior; the Honorable Ted  
19 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,  
20 U.S. Representative, members of the Alaska delegation in Congress; the Honorable Tony  
21 Knowles, Governor of Alaska; to John Snow, Chairman and Chief Executive Officer, CSX  
22 Corp.; to Jeff Lowenfels, President, Yukon Pacific Corporation; to Mike Bowlin, Chairman and  
23 Chief Executive Officer, Atlantic Richfield Company, and J. K. "Ken" Thompson, President,  
24 ARCO Alaska, Inc.; to John Browne, Chief Executive Officer, British Petroleum, and John  
25 Morgan, President, B.P. Exploration (Alaska), Inc.; to Lee R. Raymond, Chairman and Chief  
26 Executive Officer, Exxon Corporation, and Jim Branch, Alaska Production Manager, Exxon  
27 Alaska; to Shigenobu Yamamoto, Consul General of Japan; to Byuung Hak Min, Consul General  
28 of the Republic of Korea; and to Jyhyuan Lo, Director General of the Republic of China.

**BRISTOL BAY BOROUGH  
RESOLUTION NO. 96-11**

**A RESOLUTION EXPRESSING SUPPORT FOR AN ALASKA NORTH SLOPE (ANS) GAS TRANSMISSION PIPELINE AND URGING THE GOVERNOR OF THE STATE OF ALASKA AND THE ALASKA LEGISLATURE TO SUPPORT AND TAKE ACTION THAT WILL HELP EXPEDITE ITS CONSTRUCTION.**

**WHEREAS**, House Joint Resolution No. 54, a resolution encouraging and supporting the construction of an Alaska North Slope gas transmission pipeline, has been introduced for consideration by the Alaska State Legislature; and

**WHEREAS**, the vast reserves of proven natural gas in the Prudoe Bay and associated North Slope oil and gas fields, if developed, will provide many new jobs and substantial revenues for the State of Alaska; and

**WHEREAS**, the Alaska Municipal League's 1996 policy statement strongly encourages all potential participants to immediately convene to develop a unified proposal to present to the Asian LNG buyers so that all Alaskans will directly benefit from this unique opportunity; and

**WHEREAS**, time is of the essence in securing a market for Alaska North Slope gas because (1) a market window is expected to develop in the Asian Pacific within the next few years, and (2) if gas sale contracts are not signed during this period, it appears that Alaska will not have another opportunity for large volume gas sales for at least another decade; and

**NOW, THEREFORE, BE IT RESOLVED** that the Bristol Bay Borough Assembly respectfully urges the Governor of the State of Alaska to take steps and support efforts that will help to assure the construction of the Alaska North Slope gas pipeline; and

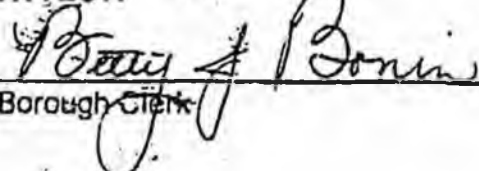
**BE IT FURTHER RESOLVED** that the Alaska State Legislature cooperate and offer its assistance to all parties involved in order to help assure and speed the construction of the Alaska North Slope gas pipeline.

**ADOPTED** by a duly constituted quorum of the Bristol Bay Borough Assembly this 4TH day of MARCH, 1996.

**IN WITNESS THEREOF:**

  
\_\_\_\_\_  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Borough Clerk



Alaska State Legislature  
Representative Eugene Kubina  
*Minority Whip*

During Session:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4859  
Fax (907) 465-3799

During Interim:  
P.O. Box 2463  
Valdez, Alaska 99686  
(907) 835-2111  
Fax (907) 835-2097

## Sponsor Statement

### HJR 54-Marketing of North Slope Gas

The marketing of North Slope natural gas, and the construction of a transportation pipeline, could be the most significant industrial project to be undertaken in Alaska for decades to come.

The financial returns to the state would be significant: 10,000 temporary construction jobs, over 600 permanent private sector jobs, and substantial revenues per year from gas sales to help address the state's current fiscal gap.

HJR 54 addresses four key issues concerning this project:

First. HJR 54 requests the President of the United States to include an Alaskan gas line as part of our nation's trade issues. North Slope gas sales could improve the nation's trade balance by an estimated four billion dollars per year.

Second. HJR 54 places the Alaska State Legislature on record as requesting the Governor of Alaska to give the creation of a gas pipe line a top priority within his Administration.

Third. HJR 54 indicates the strong support by the Alaska State Legislature to see the marketing of North Slope natural gas and the construction of a gas transmission pipeline and related facilities.

Fourth. HJR 54 encourages the establishment of an immediate North Slope natural gas forum between the various principles involved in the oil and gas industry (both in production and transportation), the state government, and the federal government.

There are many questions that need to be answered about the development and marketing of the vast fields of natural gas on the North Slope. Given the ownership issues, the complex market factors, and the various timelines

faced, it is crucial that an ongoing formal dialogue between the various parties be established to help resolve the various issues.

Of key importance here is timing. The global market for natural gas is quite competitive, and there are a number of new projects being considered to meet international demands within the next decade. If Alaska is going to compete for this natural gas market, immediate steps to begin the process may be necessary. That is the goal of House Joint Resolution 54.

End of statement.

TONY KNOWLES  
GOVERNOR



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 12, 1996

The Honorable Norman Rokeberg  
Chair, House Oil and Gas Committee  
Alaska State Legislature  
State Capitol, Room 110  
Juneau, AK 99811-1182

Dear Chairman Rokeberg:

As you may remember, several weeks ago I directed four members of my cabinet to assess the steps necessary to develop, transport, and market Alaska's enormous natural gas reserves. As this process continues, I have requested Department of Revenue Commissioner Condon to take the lead on behalf of my Administration.

House Joint Resolution 54 by Representative Gene Kubina has the support of my Administration because it will play a significant role in encouraging meaningful dialogue between the various parties.

A project of this magnitude would have a tremendous impact on the state's economy, providing many jobs and much needed state revenue. I urge your favorable consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles  
Governor



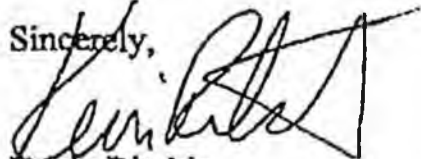
217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

February 9, 1996

Representative Norman Rokeburg, Chair  
House Oil and Gas Committee  
Alaska House of Representatives  
Room 110 State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeburg:

We are writing to you in support of HJR 54 regarding the North Slope's natural gas reserves to market gas and develop a gas transmission line. Although the Alaskan Municipal League has not taken a specific position on HJR 54, I have attached an excerpt from the League's policy statement regarding municipal support for the development of a North Slope to Valdez Natural Gas Pipeline. The League strongly endorses the construction of natural gas pipeline and associated liquefied natural gas facilities at the earliest date.

Sincerely,  
  
Kevin Ritchie  
Executive Director

Enclosures

cc: Paul Fuhs  
Legislative Committee, Land Use, Resources, & Economic Development

Post-it® Fax Note	7871	Date	2/9/96	# of pages	3
To	Paul Fuhs	From			
Co/Dept		Co			
Phone #		Phone #			
Fax #	790-1990	Fax #			

Member of the National League of Cities and the National Association of Counties

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HJR54

Revision Date: Original Dept Affected Natural Resources  
 Title: Encouraging the lessees of Alaska's vast BRU: Management & Administration  
North Slope natural gas reserves to reach agreement to... Component: Commissioner's Office  
 Sponsor: Rep(s) Kubina, Green, Barnes, Navarre...  
 Requestor: House Oil & Gas Component Serial No. 423

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Approximately \$10.0 in annual travel costs will be required by the Commissioner of the Department of Natural Resources to implement the intent of page 3, lines 8-14 of the resolution, which will require travel to "meet with all parties to determine how the state can help facilitate the ANS gas transmission pipeline".

Prepared by: Nico Bus, Acting Director Phone: 465-2406  
 Division: Support Services Date: 8-Feb-96  
 Approved by Commissioner: [Signature] Date: 8-Feb-96  
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

VALDEZ CHAMBER OF COMMERCE  
VALDEZ, ALASKA  
RESOLUTION NO. 95-03

A resolution of the board of directors of the Chamber of Commerce of Valdez, Alaska representing its membership of which the majority consists of businesses operating in our community and surrounding areas, supporting the construction of the natural gas pipeline in the corridor established by the existing oil pipeline.

Whereas, the state of Alaska is currently reviewing its financial position and attempting to balance the budget,

Whereas, the timeline for start up operations would be accelerated due to the existing infrastructure and permits in hand,

Whereas, the earlier operations date would bring new revenue dollars into the state coffers through taxation and production that would assist with balancing of the state budget,

Whereas, the economies of more communities would benefit by use of the existing corridor,

Whereas, an ice free port entry for the shipping vessels reduces the potential risk factor,

Whereas, the safety response equipment, levels of expertise already in existence in Valdez is proven, tested, effective and efficient reduces catastrophic state wide impact,

Whereas, this route minimizes the need of any new excavation of land,

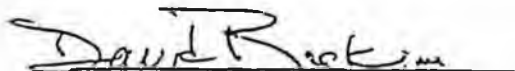
Whereas, use of the existing corridor would draw less criticism from environmental and animal activist groups that would impact the tourism industry of our state,


Therefore, let it be resolved the Valdez Chamber of Commerce supports and endorses the construction of a natural gas line in the corridor already established by the oil pipeline constructed for transportation of oil.

PASSES AND APPROVED BY THE BOARD OF DIRECTORS OF THE  
VALDEZ CHAMBER OF COMMERCE OF VALDEZ, Alaska, this 11th  
day of July, 1995.

Valdez Chamber of Commerce

ATTEST:

  
David Beck, Chairman

  
Jean Stewart, President

# SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977  
Homer, Alaska 99603

Tel. (907) 235-8783  
Fax. (907) 235-6110

February 8, 1996

Representative Norm Rokeberg  
Chairman, House Oil and Gas Committee

Dear Chairman Rokeberg:

The Southwest Alaska Pilots Association supports HJR 54, which encourages the legislature and administration to do all they can to help support construction of a trans-Alaska pipeline system to Valdez for the export of Alaska North Slope natural gas.

The Southwest Alaska Pilots currently provide pilotage services to tankers calling on Prince William Sound and Cook Inlet. We view construction of a natural gas transportation system as an important work opportunity for us in safely piloting LNG tankers into Alaskan waters. We currently pilot the LNG ships into the Phillips Petroleum facility in Kenai. LNG is a clean cargo, and in our experience, the ships are well maintained and professionally operated.

This project is also important for all the people of Alaska because of the jobs it would create, the state revenues it would generate, and the positive effects it would have on Alaskan communities near the pipeline corridor which would have access to the gas.

Thank you for your efforts and the efforts of other legislators and administration officials in helping bring this project about.

Sincerely,

*Captain A.J. Joslyn*  
by *A.J.*

Captain A.J. Joslyn  
President, SWAPA

By: Dan LaSota  
Introduced: 1/25/96

RESOLUTION NO. 96-009

A RESOLUTION SUPPORTING HOUSE JOINT RESOLUTION NO. 54 PENDING IN  
THE LEGISLATURE OF THE STATE OF ALASKA PERTAINING TO THE  
DEVELOPMENT OF THE TRANS-ALASKA GAS PIPELINE AND LIQUID NATURAL  
GAS SALES

WHEREAS, HJR. 54 has been introduced in the Alaska State Legislature and has been referred to three committees; and

WHEREAS, HJR 54 , in part, calls for the Alaska State Legislature to "respectfully request the North Slope natural gas lessees to intensify their efforts to establish satisfactory contractual relationships for transportation and sale of Alaska North Slope Gas to Pacific Rim purchasers as soon as possible"; and

WHEREAS, the Assembly has recently adopted Resolution 95-081 calling for the Legislature to withhold financial incentives from North Slope Oil producers until they make Alaska North Slope Gas available for sale; and

WHEREAS, the Borough believes that development of the Trans-Alaska Gas Pipeline through the existing pipeline corridor is essential to the future economic health of the State of Alaska; and

WHEREAS, the Borough believes that it is also essential that labor for any project, especially of this scope, come from the skilled and ready work force that already exists in the State of Alaska; and

WHEREAS, the language of HJR 54 as it was introduced does not contain references to local hire or specify the desired location of the proposed Trans-Alaska Gas Pipeline.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Assembly respectfully urges passage of HJR 54 with appropriate consideration given to Alaska hire and locating the project through the existing pipeline corridor.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to the Honorable Tony Knowles, Governor, State of Alaska, the Commissioner of Natural Resources, and members of the Alaska State Legislature.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 1996.

\_\_\_\_\_  
Cheryl Kilgore  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Mona Lisa Drexler, CMC/AE  
Municipal Borough Clerk

By: Dan LaSota  
 Hank Hove  
 Jay Quakenbush  
 Karen Parr  
 Bob Logan  
 Paul Chizmar  
 Layne St. John  
 Cheryl Kilgore  
 Hank Bartos  
 Ladd McBride  
 Larry Hackenmiller

Introduced: 01/25/96  
 Adopted: 01/25/96

RESOLUTION NO. 96-009

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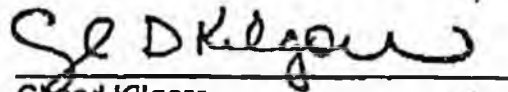
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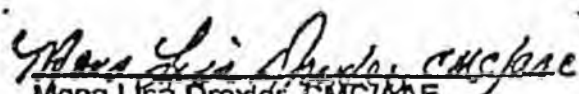
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PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 1996.

  
Cheryl Kilgore  
Presiding Officer

ATTEST:

  
Mona Lisa Drexler, CMCTAAE  
Municipal Borough Clerk

Ayes: LaSota, Bartos, Hackenmiller, Parr, Hove, McBride, Logan, St. John, Quakenbush,  
Chlzmar and Kilgore  
Noes: None

HJR

58

104TH CONGRESS  
1ST SESSION

# H. R. 2275

To reauthorize and amend the Endangered Species Act of 1973.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

Mr. YOUNG of Alaska (for himself, Mr. POMBO, Mr. TAUZIN, Mr. BREWSTER, Mr. DOOLITTLE, Mr. HANSEN, Mr. DOOLEY, Mr. CALVERT, Mr. CONDIT, Mr. STENHOLM, Mr. STUMP, Mr. SMITH of Texas, Mr. GALLEGLY, Mr. FIELDS of Texas, Mr. KOLBE, Ms. DANNER, Mr. HUTCHINSON, Mr. HAYWORTH, Mr. HASTINGS of Washington, Mr. BONILLA, Mr. MCHUGH, Mr. DORNAN, Mr. HERGER, Mr. EVERETT, Mr. TAYLOR of North Carolina, Mr. PACKARD, Mr. CUNNINGHAM, Mr. THORNBERRY, Mr. HAYES, Mr. ROYCE, Mr. COMBEST, Mr. COOLEY, Mr. SALMON, Mr. BONO, Mr. BAUER of California, Mr. HUNTER, Mr. LEWIS of California, Mrs. CUBIN, Mr. MCKEON, Mr. RADANOVICH, Mr. RIGGS, Mr. ROHRBACHER, Mrs. SEASTRAND, Mr. THOMAS, Mr. ALLARD, Mr. SCHAEFER, Mr. MICA, Mr. CHAMBLISS, Mr. COLLINS of Georgia, Mr. LINDER, Mr. BAKER of Louisiana, Mr. CRAPO, Mr. EWING, Mr. BURTON of Indiana, Mr. HOSTETTLER, Mr. MCINTOSH, Mr. ROBERTS, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. KNOLLENBERG, Mr. EMERSON, Mr. HANCOCK, Mr. SKEEN, Mr. PAXON, Mr. SOLOMON, Mr. BALLENGER, Mr. JONES, Mr. ONLEY, Mr. COBURN, Mr. LARGENT, Mr. LUCAS, Mr. WATTS of Oklahoma, Mr. BARTON of Texas, Mr. DELAY, Mr. SAM JOHNSON of Texas, Mr. STOCKMAN, Mr. SHADEGG, Mr. CALLAHAN, Mr. LAUGHLIN, Mrs. VUCANOVICH, Mr. TEJEDA, Mr. BACHUS, Mr. COX of California, Mr. FUNDERBURK, Mr. BOEHNER, Mr. CRANE, Mr. DREIER, Mr. EDWARDS, Mr. NETHERCUTT, Mr. PETE GEREN of Texas, Mr. ORTIZ, Mr. HALL of Texas, Mr. DUNCAN, Mr. MCCRERY, and Mr. LIVINGSTON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To reauthorize and amend the Endangered Species Act of 1973.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Endangered Species Conservation and Management Act  
6 of 1995”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References to Endangered Species Act of 1973.
- Sec. 3. Findings, purposes, and policy of Endangered Species Act of 1973.

**TITLE I—PRIVATE PROPERTY RIGHTS AND VOLUNTARY  
INCENTIVES FOR PRIVATE PROPERTY OWNERS**

- Sec. 101. Compensation for use or taking of private property.
- Sec. 102. Voluntary cooperative management agreements.
- Sec. 103. Grants for improving and conserving habitat for species.
- Sec. 104. Technical assistance programs.
- Sec. 105. Water rights.

**TITLE II—IMPROVING ABILITY TO COMPLY WITH THE  
ENDANGERED SPECIES ACT OF 1973**

- Sec. 201. Enforcement procedures.
- Sec. 202. Removing punitive disincentives.
- Sec. 203. Allowing non-Federal persons to use the consultation procedures.
- Sec. 204. Permitting requirements for incidental takes.
- Sec. 205. General, research, and educational permits.
- Sec. 206. Maintenance of aquatic habitats for listed species.
- Sec. 207. Compliance with international requirements and treaties.
- Sec. 208. Incentives for protection of marine species.

**TITLE III—IMPROVING SCIENTIFIC INTEGRITY OF LISTING  
DECISIONS AND PROCEDURES**

- Sec. 301. Improving the validity and credibility of decisions.
- Sec. 302. Peer review.
- Sec. 303. Making data public.
- Sec. 304. Improving the petition and designation processes.

1 of an amendment to, or repeal of, a section or other provi-  
2 sion, the reference shall be considered to be made to such  
3 section or other provision of the Endangered Species Act  
4 of 1973 (16 U.S.C. 1531 et seq.).

5 **SEC. 3. FINDINGS, PURPOSES, AND POLICY OF ENDAN-**  
6 **GERED SPECIES ACT OF 1973.**

7 (a) **FINDINGS.**—Section 2(a) (16 U.S.C. 1531(a)) is  
8 amended—

9 (1) by amending paragraph (1) to read as fol-  
10 lows:

11 “(1) various species of fish, wildlife, and plants  
12 in the United States have been rendered extinct be-  
13 cause of inadequate conservation practices and natu-  
14 ral processes;”; and

15 (2) by striking “and” after the semicolon at the  
16 end of paragraph (4)(G), by striking the period at  
17 the end of paragraph (5) and inserting “; and”, and  
18 by adding at the end the following new paragraph:

19 “(6) the Nation’s economic well-being is essen-  
20 tial to the ability to maintain a sustainable resource  
21 base, therefore economic impacts and private prop-  
22 erty owners’ rights must be considered while encour-  
23 aging practices that protect species.”.

24 (b) **PURPOSES AND POLICY.**—Section 2 (b) and (c)  
25 (16 U.S.C. 1531 (b), (c)) are amended to read as follows:

- Sec. 305. Greater State involvement.
- Sec. 306. Monitoring the status of species.
- Sec. 307. Petitions to delist species.

#### TITLE IV—RECOGNIZING OTHER FEDERAL ACTION, LAWS, AND MISSIONS

- Sec. 401. Balance ESA with other laws and missions.
- Sec. 402. Exemptions from consultation and conferencing.
- Sec. 403. Eliminating the exemption committee (GOD committee).

#### TITLE V—BETTER MANAGEMENT AND CONSERVATION OF LISTED SPECIES

- Sec. 501. Setting conservation objectives.
- Sec. 502. Preparing a conservation plan.
- Sec. 503. Interim measures.
- Sec. 504. Critical habitat for species.
- Sec. 505. Recognition of captive propagation as means of recovery.
- Sec. 506. Introduction of species.
- Sec. 507. Conserving threatened species.

#### TITLE VI—HABITAT PROTECTIONS

- Sec. 601. Federal biological diversity reserve.
- Sec. 602. Land acquisition.
- Sec. 603. Property exchanges.

#### TITLE VII—STATE AUTHORITY TO PROTECT ENDANGERED AND THREATENED SPECIES

- Sec. 701. State authority.
- Sec. 702. State programs affected by the Convention.

#### TITLE VIII—FUNDING OF CONSERVATION MEASURES

- Sec. 801. Authorizing increased appropriations.
- Sec. 802. Funding of Federal mandates.
- Sec. 803. Endangered Species and Threatened Species Conservation Trust Fund.

#### TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Amendments to definitions.
- Sec. 902. Review of species of national interest.
- Sec. 903. Preparation of conservation plans for species listed before enactment of this Act.
- Sec. 904. Conforming amendment to table of contents.

### 1 SEC. 2. REFERENCES TO ENDANGERED SPECIES ACT OF

1 agencies to resolve water resource issues in concert  
2 with conservation of endangered species and consist-  
3 ent with State and local water laws.

4 “(3) PROTECTION OF PRIVATE PROPERTY  
5 RIGHTS.—It is the policy of the Federal Government  
6 that agency action taken pursuant to this Act shall  
7 not use or limit the use of privately owned property  
8 when such action diminishes the value of such prop-  
9 erty without payment of fair market value to the  
10 owner of private property. Each Federal agency, of-  
11 ficer, and employee shall exercise authority under  
12 this Act to ensure that agency action will not violate  
13 the policy established in this paragraph.”.

14 **TITLE I—PRIVATE PROPERTY**  
15 **RIGHTS AND VOLUNTARY IN-**  
16 **CENTIVES FOR PRIVATE**  
17 **PROPERTY OWNERS**

18 **SEC. 101. COMPENSATION FOR USE OR TAKING OF PRIVATE**  
19 **PROPERTY.**

20 The Endangered Species Act of 1973 (16 U.S.C.  
21 1531 et seq.) is amended by adding at the end the follow-  
22 ing new section:

23 **“SEC. 19. RIGHT TO COMPENSATION.**

24 **“(a) PROHIBITION.—**The Federal Government shall  
25 not take an agency action affecting privately owned prop-

1       “(b) PURPOSES.—The purposes of this Act are the  
2 following:

3           “(1) To provide a feasible and practical means  
4 to conserve endangered species and threatened spe-  
5 cies consistent with protection of the rights of pri-  
6 vate property owners and ensuring economic stabil-  
7 ity.

8           “(2) To provide a program for the conservation  
9 and management of such endangered species and  
10 threatened species taking into account the economic  
11 and social consequences of such program.

12           “(3) To take such steps as may be practicable  
13 to achieve the purposes of the treaties and conven-  
14 tions set forth in subsection (a) of this section.

15       “(c) POLICY.—

16           “(1) FEDERAL AUTHORITY.—It is further de-  
17 clared to be the policy of Congress that all Federal  
18 departments and agencies shall seek to conserve and  
19 manage endangered species and threatened species  
20 and shall, consistent with their primary missions,  
21 utilize their authorities in furtherance of the pur-  
22 poses of this Act.

23           “(2) COOPERATION WITH STATES.—It is fur-

1 such request may be made later than one year after the  
2 owner receives actual notice that the use of property has  
3 been limited by an agency action.

4       “(d) NEGOTIATIONS.—The agency may negotiate  
5 with that owner to reach agreement on the amount of the  
6 compensation and the terms of any agreement for pay-  
7 ment. If such an agreement is reached, the agency shall  
8 promptly pay the owner the amount agreed upon. An  
9 agreement under this section may include a transfer of  
10 the title or an agreement to use the property for a limited  
11 period of time.

12       “(e) CHOICE OF REMEDIES.—If, not later than 180  
13 days after the written request is made, the parties have  
14 not reached an agreement on compensation, the owner  
15 may elect binding arbitration or seek compensation due  
16 under this section in a civil action.

17       “(f) ARBITRATION.—The procedures that govern the  
18 arbitration shall, as nearly as practicable, be those estab-  
19 lished under title 9, United States Code, for arbitration  
20 proceedings to which that title applies. An award made  
21 in such arbitration shall include a reasonable attorney’s  
22 fee and other arbitration costs, including appraisal fees.  
23 The agency shall promptly pay any award made to the  
24 owner.

1 erty or nonfederally owned property under this Act which  
2 results in diminishment of value of any portion of that  
3 property by 20 percent or more unless compensation is  
4 offered in accordance with this section.

5       “(b) COMPENSATION FOR USE OR LIMITATION ON  
6 USE.—The agency or agencies that take an agency action  
7 that exceeds the amount provided in subsection (a) shall  
8 compensate the private property owner for the otherwise  
9 lawful use or limitation on the otherwise lawful use in the  
10 amount of the diminution in value of the portion of that  
11 property resulting from the use or limitation on use. If  
12 the diminution in value of a portion of that property is  
13 greater than 50 percent, at the option of the owner, the  
14 agency or agencies shall buy that portion of the property  
15 and shall pay fair market value based on the value of the  
16 property before the use or limitation on use was imposed.  
17 Compensation paid shall reflect the duration of the use  
18 or limitation on use necessary to achieve the purposes of  
19 this Act.

20       “(c) REQUEST OF OWNER.—An owner seeking com-  
21 pensation under this section shall make a written request  
22 for compensation to the agency implementing the agency  
23 action. The request shall, at a minimum, identify the af-

1 United States to make any payment under this section  
2 shall be subject to the availability of appropriations.

3       “(j) DUTY OF NOTICE TO OWNERS.—Whenever an  
4 agency takes an agency action limiting the use of private  
5 property the agency shall give appropriate notice to the  
6 owners of that property directly affected explaining their  
7 rights under this section and the procedures for obtaining  
8 any compensation that may be due to them under this sec-  
9 tion.

10       “(k) RULES OF CONSTRUCTION.—The following rules  
11 of construction shall apply to this Act:

12               “(1) OTHER RIGHTS PRESERVED.—Nothing in  
13 this Act shall be construed to limit any right to com-  
14 pensation that exists under the Constitution or  
15 under other laws.

16               “(2) EXTENT OF FEDERAL AUTHORITY.—Pay-  
17 ment of compensation under this section (other than  
18 when the property is bought by the Federal Govern-  
19 ment at the option of the owner) shall not confer  
20 any rights on the Federal Government other than  
21 the use or limitation on use resulting from the agen-  
22 cy action for the duration so that the agency action  
23 may achieve the species conservation purposes of  
24 this Act.

25       “(l) DEFINITIONS.—For the purposes of this section:

1           “(g) CIVIL ACTION.—An owner who prevails in a civil  
2 action against the agency pursuant to this section shall  
3 be entitled to, and the agency shall be liable for, the  
4 amount of compensation awarded plus reasonable attor-  
5 ney’s fees and other litigation costs, including appraisal  
6 fees. The court shall award interest on the amount of any  
7 compensation from the time of the limitation.

8           “(h) SOURCE OF PAYMENTS.—Any payment made  
9 under this section to an owner, and any judgment obtained  
10 by an owner in a civil action under this section shall, not-  
11 withstanding any other provision of law, be made from the  
12 annual appropriation of the agency that took the agency  
13 action. If the agency action resulted from a requirement  
14 imposed by another agency, then the agency making the  
15 payment or satisfying the judgment may seek partial or  
16 complete reimbursement from the appropriated funds of  
17 the other agency. For this purpose the head of the agency  
18 concerned may transfer or reprogram any appropriated  
19 funds available to the agency. If insufficient funds exist  
20 for the payment or to satisfy the judgment, it shall be  
21 the duty of the head of the agency to seek the appropria-  
22 tion of such funds for the next fiscal year.

23           “(i) AVAILABILITY OF APPROPRIATIONS.—Notwith-

1                   “(vi) a restriction imposed on private  
2                   property as part of a conservation plan  
3                   adopted by the Secretary under section 5;

4                   “(vii) any other agency action that re-  
5                   stricts a legal right to use that property,  
6                   including, the right to alter habitat; and

7                   “(viii) the making of a grant of land  
8                   or money, to a public authority or a pri-  
9                   vate entity as a predicate to an agency ac-  
10                  tion by the recipient that would constitute  
11                  a limitation if done directly by the agency.

12                 “(3) FAIR MARKET VALUE.—The term ‘fair  
13                 market value’ means the most probable price at  
14                 which property would change hands, in a competitive  
15                 and open market under all conditions requisite to  
16                 fair sale, between a willing buyer and willing seller,  
17                 neither being under any compulsion to buy or sell  
18                 and both having reasonable knowledge of relevant  
19                 facts, prior to occurrence of the agency action.

20                 “(4) LAW OF THE STATE.—The term ‘law of  
21                 the State’ includes the law of a political subdivision  
22                 of a State.

23                 “(5) LIMITATION ON USE.—The term ‘limita-  
24                 tion on use’ means only a limitation on a use which

1           “(1). AGENCY.—The term ‘agency’ has the  
2 meaning given that term in section 551 of title 5,  
3 United States Code.

4           “(2) AGENCY ACTION.—The term ‘agency ac-  
5 tion’—

6           “(A) subject to subparagraph (B), has the  
7 meaning given that term in section 551 of title  
8 5, United States Code, and

9           “(B) includes—

10           “(i) the loss of use of property to  
11 avoid prosecution under section 11;

12           “(ii) a designation pursuant to section  
13 9(i) of privately owned property as critical  
14 habitat;

15           “(iii) the denial of a permit under sec-  
16 tion 10 that restricts the use of private  
17 property;

18           “(iv) an agency action pursuant to a  
19 biological opinion under section 7 that  
20 would cause an agency to restrict the use  
21 of private property;

22           “(v) an agreement under section 6 to  
23 set aside property for habitat under the

1       “(6) The term ‘cooperative management agreement’  
2 means a voluntary agreement entered into under section  
3 6(b).”.

4       (b) VOLUNTARY COOPERATIVE MANAGEMENT  
5 AGREEMENTS.—Section 6 (16 U.S.C. 1535) is amended  
6 by striking so much as precedes subsection (c) and insert-  
7 ing the following:

8       **“SEC. 6. COOPERATION WITH NON-FEDERAL PERSONS.**

9       “(a) GENERALLY.—In carrying out the program au-  
10 thorized by this Act, the Secretary shall cooperate to the  
11 maximum extent practicable with the States and other  
12 non-Federal persons. Such cooperation shall include con-  
13 sultation with the States and non-Federal persons con-  
14 cerned before acquiring any land or water, or interest  
15 therein, for the purpose of conserving any endangered spe-  
16 cies or threatened species.

17       “(b) COOPERATIVE MANAGEMENT AGREEMENTS.—

18       “(1) IN GENERAL.—The Secretary may enter  
19 into a cooperative management agreement with any  
20 State or group of States, political subdivision of a  
21 State, local government, or non-Federal person—

22       “(A) for the management of a species or  
23 group of species listed as endangered species or  
24 threatened species under section 4, a species or  
25 group of species proposed to be listed under

1 is otherwise permissible under applicable State  
2 property or nuisance laws.

3 “(6) PRIVATE PROPERTY, PRIVATELY OWNED  
4 PROPERTY, NON-FEDERAL PROPERTY.—The term  
5 ‘private property’, ‘privately owned property’, or  
6 ‘non-Federal property’ means property which is  
7 owned by a person other than any Federal entity of  
8 government.

9 “(7) PROPERTY.—The term ‘property’ means  
10 land, an interest in land, the right to use or receive  
11 water, and any personal property that is subject to  
12 use by the Federal Government or to a restriction on  
13 use.”.

14 **SEC. 102. VOLUNTARY COOPERATIVE MANAGEMENT**  
15 **AGREEMENTS.**

16 (a) COOPERATIVE MANAGEMENT AGREEMENT DE-  
17 FINED.—Section 3 (16 U.S.C. 1532) is amended—

18 (1) by redesignating paragraphs (2) through  
19 (21) in order as paragraphs (3), (4), (5), (7), (9),  
20 (10), (11), (12), (13), (18), (19), (20), (22), (23),  
21 (24), (25), (26), (27), and (28); and

22 (2) by adding after paragraph (5) (as redesign-  
23 dated by paragraph (1) of this section) the following  
24 new paragraph.

1           “(C) The Secretary may grant to a party to an  
2 agreement the authority to undertake programs to  
3 enhance the population or habitat of a species on  
4 federally owned lands, except that such authority  
5 shall not otherwise conflict with other uses of such  
6 land which are approved by the Secretary or author-  
7 ized by the Congress.

8           “(D) The Secretary is authorized, in conjunc-  
9 tion with entering into and as a part of any agree-  
10 ment under this section, to provide funds to carry  
11 out the agreement to a non-Federal person, as pro-  
12 vided in paragraph (11).

13           “(3) NOTIFICATION.—Not later than 30 days  
14 after submission of a request to enter into a cooper-  
15 ative management agreement, the party submitting  
16 the request shall provide notice of the request to any  
17 non-Federal person or Federal power marketing ad-  
18 ministration that would be subject to the proposed  
19 cooperative management agreement.

20           “(4) DEVELOPMENT OF PROPOSED AGREE-  
21 MENT.—(A) The requesting party shall develop and  
22 submit to the Secretary a proposed cooperative man-  
23 agement agreement.

24           “(B) The Secretary shall publish in the Federal  
25 Register a notice of availability and a request for

1 section 4, or species or group of species which  
2 are candidates for listing; or

3 “(B) for the management or acquisition of  
4 an area which provides habitat for a species.

5 “(2) SCOPE OF COOPERATIVE MANAGEMENT  
6 AGREEMENTS.—(A) A cooperative management  
7 agreement entered into under this subsection—

8 “(i) may provide for the management of a  
9 species or group of species on both public and  
10 private lands which are under the authority,  
11 control or ownership of a State or group of  
12 States, political subdivision of a State, local  
13 government, or non-Federal person and which  
14 are affected by a listing determination, pro-  
15 posed determination, or proposed candidacy for  
16 determination; and

17 “(ii) may include the acquisition or des-  
18 ignation of land as habitat for species.

19 “(B) A cooperative management agreement  
20 may not restrict private or non-Federal property un-  
21 less written consent to such restrictions by the non-  
22 Federal owner is given either to the Secretary or the  
23 State, political subdivision, local government, or non-

1           “(i) the requesting party has sufficient au-  
2           thority under law to implement and carry out  
3           the terms of the agreement;

4           “(ii) the agreement defines an area that  
5           serves as habitat for the species or group of  
6           species to which the agreement applies;

7           “(iii) the agreement adequately provides  
8           for the administration and management of the  
9           identified management area;

10          “(iv) the agreement promotes the conserva-  
11          tion of the species to which the agreement ap-  
12          plies by committing Federal or non-Federal ef-  
13          forts to the conservation;

14          “(v) the term of the agreement is of suffi-  
15          cient duration to accomplish the provisions of  
16          the agreement; and

17          “(vi) the agreement is adequately funded  
18          to carry out the agreement.

19          “(C) No later than 30 days after entering into  
20          a cooperative management agreement with a govern-  
21          mental entity, the Secretary shall publish in the  
22          Federal Register a notice of availability of the terms  
23          of such agreement and the response of the Secretary  
24          to all information received or presented with respect  
25          to the agreement pursuant to paragraph (4)(B).