

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8994 SENATE RESOURCES

No, they haven't been decided before the district court. They're still alive before the district court.

SENATOR HALFORD:

So all the provisions that were in the Babbitt case, with the exception of the provision that allows federal management, are still there. It's hard to understand how things are consolidated. Take a series of cases that are consolidated and then you drop one issue of one case, which is a consolidated product of these four or five others.

JOANNE GRACE:

It's extremely complicated. Only that issue was dismissed.

SENATOR HALFORD:

So what remains of the Babbitt case?

JOANNE GRACE:

There were three counts in the Babbitt case. The other count relates to the United States assertion of authority over navigable waters. When we filed that case, the federal subsistence regulations said, "These do not apply to navigable waters, they only apply to non-navigable waters on federal lands. In other words, waters where the United States owns the submerged lands in any navigable waters where they (indisc.) submerged lands. But yet the regulations were lifted straight from the state regulations. It seemed to cover waters that we consider navigable. So the other two counts in Babbitt essentially say, "Wait a minute. You say these regulations apply when it's non-navigable waters. Well where is that. Which waters are navigable, which ones are not navigable? Where does regulations apply? How is the public supposed to know where the federal apply and where the state regulations apply?" That issues has not been litigated and whether it will be depends somewhat on what the Ninth Circuit said.

SENATOR PEARCE:

Senator Leman and then Senator Hoffman.

SENATOR LEMAN:

Just on that point, if that's the case, you haven't dropped the entire case, why isn't it listed on this list. Why (indisc.). I'm 18 I guess.

JOANNE GRACE:

(Indisc.)

SENATOR HOFFMAN:

Yes, on the Katie John versus the United States case, (indisc.) hearing the decision here shortly, I guess. The question I have is that I assume your party is going to appeal that the United States Supreme Court, and I wonder how many cases are appealed, historically, and how many are heard? What's the time frame that you might predict that a decision would be made by the Supreme Court on whether or not they would hear.

JOANNE GRACE:

(Indisc.) the Ninth Circuit agreed to expedite the case. Whether that means that it will come out with a decision soon, I don't know. I understand the Exxon case (indisc.) granted expedite (indisc.). Once the Ninth Circuit issues its decision, my guess is that whoever loses will petition the Supreme Court to take the case. The Supreme Court, my understanding is accept about 1 percent of the petitions that it gets.

SENATOR HOFFMAN:

And how many petitions do they get?

JOANNE GRACE:

That I don't know.

BRUCE BOTELHO:

It actually less than 1 percent. It's ranged most recently - three or four thousand a year. They accept somewhere between a hundred... It's been less in the last two or three (indisc.)

SENATOR HOFFMAN:

Even the scope of this case, the (indisc.).

BRUCE BOTELHO:

My own sense is that it's not highly likely, mainly because it is an issue limited to one state - only to the extent that there is some... Well, of course it's going to depend on the decision itself, to the extent that there are implications for other states that probably enhances the possibility that that certainly be accepted, but to the extent it focuses on one state. The Supreme Court has generally chosen not to take - to take up those cases. They generally look and accept cases where there have been conflicts of law between the various circuits, whether it's dealing with abortion rights or other topics where there has been conflicting decisions. Of its nature not one that another circuit would have dealt with. So, my judgement is that it is more likely

than not that a petition for cert would probably not be granted.

REPRESENTATIVE HOFFMAN:

So on the time frame, there's a possibility of having the Ninth Circuit make a decision in a year from now and then when an appeal takes place, what's the time frame do you think the Supreme Court would make its decision?

BRUCE BOTELHO, ATTORNEY GENERAL, DEPARTMENT OF LAW:

The parties would be required to -- a party would be required to file a petition within 60 days. Generally speaking, there is first a brief round on whether petitions should be granted. If it is granted, it would probably be placed on -- if we're lucky enough, the calendar for next year. I think it would be highly unlikely a decision would be rendered, assuming we have an opinion by the Ninth Circuit tomorrow, before mid 1996, and more likely 1997. Joanne you'd have a better guess than I do.

SENATOR HOFFMAN:

Would it be fair to say that it is possible that the deadlock that we see here in this state that no human take in the near future that a lot of the petitions is going to result with this case.

BRUCE BOTELHO:

Senator, if you could try that again on me.

SENATOR HOFFMAN:

It seems to me that the impasse on the constitutional amendment, which I proposed, and at present -- it seems to me that many of the people I represent are liking more and more the federal decision that is coming down and there is the possibility that they'll be asking me not to support a constitutional amendment. And I would be siding with the present leadership then to retain federal management. The question I have, I guess, is that if this -- you know it seems that the longer we wait, the lines are being drawn tighter and tighter and the question I have is, 'Do you see any deadlock breaking on either side until this case is resolved?'

BRUCE BOTELHO:

Madam Chairman, I'm not sure whether one could say its goodlock or deadlock would be broken before except to the extent of the people feel increasing tension about it. I would assume that if the decision rendered by the Ninth Circuit would be to find that the federal authority extended into navigable waters would be a very strong interest, particularly among commercial fishing. In sports fish try and narrow or eliminate that kind of federal oversight.

On the other hand, the decision essentially affirms to state's view that the federal oversight is limited to public lands, that the consequence will be little interest by commercial and sports fishers to try and resolve the matter, and perhaps we would also find among those who have traditionally advocated the constitutional amendment, the decision that federal management on federal lands is the way to go, and forget about state management. It's all speculation, but I would say that there's no key that this decision is going to have, to really unlock the riddle. If people are holding out that that's going to give us the solution, I'm not sure that lawsuits are the way to set public policy. It's obviously your...

SENATOR HOFFMAN:

Then I guess I would agree, you know, with you and that's why I think we need to try to work on it, because if it comes out in Katie John, that my constituents are going to want to continue to retain their own management.

SENATOR PEARCE:

If you want to go back to Senator Taylor and Senator Halford, are there others who have not asked any questions who wish to do so?

SENATOR TAYLOR:

Thank you. Will your client appeal Katie John if he loses?

BRUCE BOTELHO:

Yes.

SENATOR TAYLOR:

If Judge Holland imposed a stay on enforcement of the regs proposed by Mr. Babbitt, was that stay lifted when the case was dismissed?

JOANNE GRACE:

Judge Holland's decision in the Babbitt case simply maintains status quo. If he'd have ruled in favor of the state, then he would have invalidated the authority of the Federal Subsistence Board to regulate, and the Secretaries of Agriculture and Interior to manage fish and wildlife anywhere on public lands in Alaska. But because he ruled against the state, there was no need to stay that decision to maintain the status quo.

SENATOR TAYLOR:

Have they, in fact, stayed it themselves during the pendency of that appeal?

JOANNE GRACE:

The Federal Subsistence Board took over management of fish and wildlife on public lands a couple of years ago. So, they are already managing and Judge Holland's decision wouldn't change that because he essentially ruled they have the authority to regulate.

SENATOR TAYLOR:

The court dismissal of the appeal certainly precludes us -- the state from ever precluding them from regulating subsistence on federal land...

JOANNE GRACE:

Theoretically, I suppose we could bring...we withdrew with prejudice only as to that case. So theoretically, I suppose we could do it again.

SENATOR TAYLOR:

Can you sign or someone over there on that table, sign a stipulation dismissing that case with prejudice in front of that court. I mean, you could not in good conscience bring that case again before the same court...

BRUCE BOTELHO:

This Administration will not.

SENATOR TAYLOR:

Well, that's doesn't shock me.

SENATOR HALFORD:

Let me just...if there is an adverse ruling in the Katie John case, will the state of Alaska appeal that ruling to the United States Supreme Court?

BRUCE BOTELHO:

I'll affirm it again, yes.

SENATOR HALFORD:

Okay, that's...do you think we will get a stay? If there's an adverse ruling, do you think Judge Holland will extend his stay of implementation?

BRUCE BOTELHO:

That issue, Madam Chairman, I believe, was primarily going to be a question for the Ninth Circuit, not...

SENATOR HALFORD:

Okay, it wouldn't be done by Judge Holland, he stayed his to go to them, but then they have to stay it to go to the Supreme Court.

BRUCE BOTELHO:

If they rule against the state of Alaska...

SENATOR HALFORD:

Yes.

BRUCE BOTELHO:

Actually, I guess it depends on the posture of the case, where it might first go to Judge Holland, but I'm just trying to reflect right now whether it goes first to Holland or whether it's a question first presented to the Ninth Circuit. It depends on whether there's a remand back to the district court first. Let's assume that it goes back to Holland, would he extend the stay? I do not know.

SENATOR HALFORD:

Well, ya, I mean, what are the chances of an adverse ruling in the Ninth Circuit with essentially an immediate effective date? That's what we're ending up with in terms of management structure.

BRUCE BOTELHO:

Madam Chairman, my sense would be, given the nature of the case, that it's more likely than not, that there would not be a further stay once the Ninth Circuit has ruled, if it rules against the state

SENATOR PEARCE:

Speaker Phillips.

SPEAKER PHILLIPS:

Bruce, time and time again, we have been told that if Alaska comes into compliance with the federal law, that we will be guaranteed the right to manage our fish and game resources again, or at least manage them with the least amount of federal interference. However, you will recall that when the... the same promises were made to us when we reassumed management of the walrus under the Marine Mammal Protection Act. And once we had that, then the

management was forced... we were forced return walrus management to the federal government due to continued harassment by the federal government. Do we have any kind of guarantees whatsoever, that if we were to take action, whether it be to come into compliance as has been stated, or to reach some kind of compromise, or to come up with some kind of solution, do we have any guarantee whatsoever that the federal government will pull out and take us out from under this threat of their interfering with our management?

BRUCE BOTELHO:

Madam Chairman, it's a difficult question to answer. I don't think there is an absolute guarantee and I think that Senator Taylor is correct when he has identified one aspect, I think, very important, sometimes overlooked, which is that when we talk about a constitutional amendment and subsidiary laws bringing the state's laws consistent with ANILCA, it does mean, obviously, that -- maybe not so obviously -- that fish and game managers would be state managers, setting guidelines. But it does not eliminate federal court oversight. ANILCA, by its terms, provides for any aggrieved citizen or person -- not limited to citizen -- to seek recourse ultimately in U.S. District Court, and to the extent that there is not resolution, the federal district court retains the right to fashion relief. And that would occur, does occur now, and would occur also with a constitutional amendment. The effect of a constitutional amendment found to be consistent with ANILCA, simply means, and it's an important simple, that it would be state fish and game managers managing fish and wildlife resources within the boundaries of Alaska. But it does not mean there's no federal court oversight.

SPEAKER PHILLIPS:

So, just to clarify... could I just verify and clarify your response. We could take any kind of action we want in the state of Alaska. We could do anything we want to try to come into compliance ... to meet the federal compliance and that still does not guarantee us, that we would have the rights to manage our fish and game resources, regardless of what we do.

BRUCE BOTELHO:

If I've not been clear, Madam Chairman, we do have the right to manage. We are subject, however, to federal court oversight by ANILCA. Whatever changes we make that bring us into compliance, the actions of our state government would be subject to a person challenging our... the propriety of our management under the guidelines of ANILCA. That is, whether we have in fact satisfied the rural subsistence priority found in Title 8.

SPEAKER PHILLIPS:

What are we wasting time for, then?

REPRESENTATIVE BUNDE:

Well, I tend to oversimplify things, but to me that says that the state can manage, as long as they do it the way the federal government tells them to. In other words, the state managers do the talking, but the feds pull the strings.

SENATOR TAYLOR:

A puppet.

SPEAKER PHILLIPS:

Do you have a question Representative Bunde?

REPRESENTATIVE BUNDE:

I thought that was a question, but... (laughter).

BRUCE BOTELHO:

I would agree that you have a way of oversimplifying the problem.

SENATOR PEARCE:

O.K., Senator Hoffman.

SENATOR HOFFMAN:

So in effect, it's judicial management of our resources. In final review, then we have very limited control.

SENATOR PEARCE:

Senator Leman, are you on that same point or different... Never mind. Representative Porter.

REPRESENTATIVE PORTER:

Well, I guess let me take the next logical step. Is it a fair statement that the only way to do away with that subsequent federal oversight is to change ANILCA?

BRUCE BOTELHO:

Federal court oversight? The only answer is an amendment to ANILCA.

SENATOR LEMAN:

Bruce, have you had a chance to look at SJR 19 that was just introduced within last... I don't remember... two or three days? I'll just tell you what... it requested that Congress clarify in ANILCA, that use of public lands is limited to only federal lands and waters. Now would that solve the problem of the federal federal command chain over lands and waters or is something more required than that?

BRUCE BOTELHO:

I guess I'm not sure I quite understand the question. The resolution does what?

SENATOR LEMAN:

It asks Congress to clarify that federal lands... the definition of public lands is limited to only federal lands and water.

BRUCE BOTELHO:

It strikes me that one of the difficulties is that is somewhat...

SENATOR LEMAN:

Your resolution Drue? Isn't it your resolution? Who introduced this?

SENATOR PEARCE:

Senator Miller's...

SENATOR LEMAN:

Is that a correct characterization?

BRUCE BOTELHO:

It may be somewhat circular, however, when there is a dispute as to what constitutes federal waters. That really is really the essence of what Katie John is about.

SENATOR PEARCE:

Representative Davies.

REPRESENTATIVE DAVIES:

Mr. Attorney General, the question was asked a minute ago that, you know, then the only solution to this problem is to change Title 8 of ANILCA. But doesn't, in fact the root, I mean the base authority in this case go back two steps farther than that. Doesn't it go back in the first instance to the compact in our

state constitution where in that document we agreed to seed authority of Alaska Native affairs to the Congress. And doesn't that, in fact go back to the sovereign claims of the Alaska Natives prior to statehood? I mean, in other words, if we're looking to get out of any kind of federal oversight of fish and game issues that relates to Alaska Native claims, we would have to go clear back to the discussion between - the sovereign discussions between the Alaska Natives and the United States of America. Wouldn't we?

BRUCE BOTELHO:

I'm not sure that I will -- if I can maybe divert a little bit. To a certain extent, the question is not unlike that of Senator Taylor's, I think early on, in terms of whether if Congress, in essence, had authority to enact Title 8 of ANILCA of creating a preference. Its focus was on the compact itself and whether that, in some respect, that compact which should have priority over -- given the fact, at least in our view, that it is a contract between the people of Alaska, and the Congress would have precedence. And so, the second -- and that's been one line of argument. That's exactly the tack that has been taken in the McDowell Two Case, which was rejected by the Ninth Circuit, remanded back to the District Court on standing grounds. The second -- part of that attack was simply the question of whether ANILCA, Title 8, was unconstitutional itself. I have little doubt with that the federal government, Congress, has authority to enact something like ANILCA. Whether it's good policy or not, I think it is a different policy debate. But does it have the authority? I believe that it does and I think that's going to be the outcome. I think there are clearly arguments to be made about what extinguishment of rights to place under the ANCSA land settlement as well. That has been a major issue. To me, the primary concern is to allow to -- recognize in the federal government, in the federal law having supremacy, can establish that there be a priority. The state is concerned about trying to find a means that it has maximum control in managing the resources, especially those that cross the public land into state and private lands. I'm not offended parse, of court oversight. All government action is subject to court oversight. I think the difficulty is probably two fold, in this particular respect. First of all, it is unusual for federal court to be focusing on this kind of dispute. It's very unusual, defined under any other jurisdiction in the U.S. And I think the second extraordinary feature about it is the remedy which the court is able to fashion. Normally, when a court -- a state court or a federal court engages in oversight, is asked to look at the legality of an agency action, it'll make a finding and usually then remit back or remand back to the agency to act in accordance with the decision. In this particular circumstance, rather than remand back to the agency, you have the federal court able to fashion a remedy itself, and I think the concern, in some quarters is that it really permits the federal court to end up being a board of fish and game. And, again, without taking a stand about whether it's

good or bad, it is unique and, I'd say American juris prudence for that kind of remedy. But, at the same time, again, I don't think anyone should be offended by the idea that arbitrary government actions shouldn't be subject to court review.

SENATOR PEARCE:

Thank you. I have Senator Halford, then Speaker Phillips, then Representative James.

REPRESENTATIVE NAVARRE:

Madam Chair.

SENATOR PEARCE:

Oh, I'm sorry Mike, I didn't see her.

SENATOR HALFORD:

We're subject to the federal court's interpretation and operation and the only federal court interpretation we have on the scope of the preference are the Bobbie case, a successful defence for year rounds unlimited harvest before any other system or regulations. In the Southeast roe case which was, I think 15,000 individually and seventy-five thousand in the aggregate value if those two things are the extreme of the definition of the federal preference then should we amend our constitution and should that be the structure under which we operate? If -- you know if you assume there's no reversal or no change to ANILCA, and those unchallenged federal cases, are the definitions. And do you think we should amend our constitution and operate under that kind of a system of management?

BRUCE BOTELHO:

Madam Chairman, my view has been that the solution lies in a constitutional amendment that should be tied or with some simultaneous changes to ANILCA. Reflect that as my personal view, I'm not speaking for the Administration in that regard, which I don't believe has announced its view as to what the specific solution is. The Governor has clearly stated, and I support him in that statement, that the solution does include a constitutional amendment.

SENATOR HALFORD:

So a constitutional amendment, absent changes in ANILCA, is not a solution?

BRUCE BOTELHO:

I have not said that though I would believe my -- well, let me restate that is a correct assumption of my view. I think there are changes to ANILCA -- the solution lies in a combination of a constitutional amendment and certain changes to ANILCA.

SENATOR HALFORD:

Could the solution lie with changes to ANILCA without the constitutional amendment?

BRUCE BOTELHO:

I believe that there is no solution that can be found that rests solely on changes to ANILCA.

SENATOR HALFORD:

Politically or substantively?

BRUCE BOTELHO:

Politically.

SENATOR PEARCE:

Representative Navarre, we'll go ahead and take you out of order please.

REPRESENTATIVE NAVARRE:

My question goes back to the simplistic view that the feds are going to run things no matter what. And whether it's state law, state regulation, or federal law, federal regulations, the courts are going to have jurisdiction, right?

BRUCE BOTELHO:

Yes.

REPRESENTATIVE NAVARRE:

And the difference is that if we end up or if litigation ends up going to the courts on whether or not the regulations that the federal government may implement don't go far enough in the definition of customary and traditional or trade and barter, or whatever that means, then we're going to have the federal courts interpreting what Congress meant and the state really would have.... I guess, what would the state's position be in trying to argue that that's not what they meant.

BRUCE BOTELHO:

I don't know. I'm feeling fairly slow tonight. I missed something and if you'd try it again, the first portion of it again.

REPRESENTATIVE NAVARRE:

What I'm getting at is is -- at least if we attempt to change the constitution, allow the people of this state to determine whether we change the constitution to a public vote -- maybe tie it to ANILCA with some changes, that gives us some protection whereas now, if the federal government assumes management and the federal regulations are then challenged as not going far enough, what -- I guess what is the state's position or what avenues does the state have to defend against federal courts interpreting what Congress meant. We can, I guess, offer arguments but do we have standing a case like that?

BRUCE BOTELHO:

Again, Madam Chairman, I think its going to -- it will depend on the circumstances of any given case but, if I understand the direction of your question which is which regime offers the better or greater degree of control of fish and game resources and clearly one which rests us with the ability -- us as a state with the ability to make the initial management decisions, and to the extent that one also assumes that courts generally will defer, and I believe that they do though there are clearly exceptions, to agencies that use their expertise properly that the state is better off in a regime that allows us to be making the decisions over all the lands and waters of the state than a federal system which really creates truly dual management by dual managers. And ultimately, -- in both systems being subject, ultimately, to one final tribunal.

JOANNE GRACE:

Just to correct one point there, I think that the federal courts have decided that they do not defer to the state agencies.

SENATOR TAYLOR:

(Indisc.) Maybe you could say that again, I don't think everybody heard.

JOANNE GRACE:

The name of the case is escaping me, maybe somebody knows, but there was a federal court decision that said that the court will not defer to the state agencies.

BRUCE BOTELHO:

Well ya, and I think that's in the legal sense but I don't think

that that is reflective of the actual -- agent... state courts have said that as well. In fact, they do.

SENATOR PEARCE:

I have two other House members. The House is going back on the floor, so I'll take the House members first then we'll come back, Senator Salo, to you and Senator Hoffman. Speaker Phillips.

SPEAKER PHILLIPS:

I'll pass.

SENATOR PEARCE:

O.K., Representative James.

REPRESENTATIVE JAMES:

Thank you, Madam President, see if I can get this question and this is based on the question that was asked by Representative Davis earlier, and that is an assumption on my part, I believe, that in the passing of ANILCA, the language in there that gives a rural preference as opposed to a Native preference -- because it indicates that the rural preference is there to protect native uses of the land. It seems to me like if if and -- probably we can't challenge that as being unconstitutional, which I -- from the U.S. under the U.S. Constitution, I believe it would be, but I assume that we probably have the same problem as the statute of limitations because we didn't make that claim shortly after the ANILCA was passed. But, the question that I have is say for instance we go down this road and say we just accept that without any -- without any kind of -- accept that that is the way it is and we do a constitutional amendment...

BRUCE BOTELHO:

That is a rural preference....

REPRESENTATIVE JAMES:

That the rural preference is such as it is. It appears to me that down the road some place, because we would then be giving rural preference not Native preference, but rural preference that we would be setting up someone to be aggrieved under the U.S. Constitution as not being -- having equal protection under the law regardless as to whether they were Native or non Native. And I guess the bottom line of my question is that I believe that the ANILCA Act is a violation of the U.S. Constitution of equal protection under the law. I would have thought had it set a Native preference, then the historical use that John referred to as to why there might have been protected. I think the language now doesn't

protect that.

BRUCE BOTELHO:

In some respects, Madam Chairman, I'm at a loss to respond. I think I understand the argument, that is to say that Congress would have no question under its Indian commerce clause, enact legislation which provides for a Native preference or an Indian preference, but doing it on the basis of geography takes it outside that particular constitutional clause and, therefore, would be unconstitutional. I don't believe that Congress, under the commerce clause and other clauses, can still distinguish between rural and urban. It does, in a variety of ways in terms of what gets funded, what doesn't get funded, it makes the distinctions between rich and poor. It's a classification, it's a rational classification, that I think would be upheld. And, as John points out to me, that was one of the issues raised in McDowell Two, again, decided by the District Court in upholding Title 8 of ANILCA. Again, it was appealed to the Ninth Circuit which concluded that there wasn't standing in the first place and, therefore, rejected the appeal being taken. It was basically -- had the consequence of erasing the initial decision -- vacating the initial decision.

UNIDENTIFIED SPEAKER:

(Indisc.)

BRUCE BOTELHO:

Probably.

REPRESENTATIVE JAMES:

A quick follow up before I have to leave here is that -- and I understand that we've had rural preferences in other states and that sort of thing and there is division between supposedly those people in urban areas and those in rural areas. But in Alaska, certainly the establishment of need is not necessarily instituted by the rural preference, if that's what I see down the road as a conflict between the population of what could happen if that's the route we went.

BRUCE BOTELHO:

And the argument would be that it's both over inclusive and under inclusive. That is it will cover people who have no need and leave out others who do.

REPRESENTATIVE JAMES:

That was my point.

BRUCE BOTELHO:

Generally speaking, the courts would find, I think in this circumstance, that as long there is a rough proximity, Congress isn't required to finely tune it - take care of those disparities. It would if there were a vital interest or a unprotected affected group using and equal protection analysis.

SENATOR PEARCE:

Representative Porter has a follow up. Then we're going to take a short break while the House members leave.

REPRESENTATIVE PORTER:

Assuming that a constitutional issue could be found and developed in ANILCA, we would not be precluded by a statute of limitations pursuing a constitutional challenge, would we?

BRUCE BOTELHO:

I can't envision one, can you Joanne?

JOANNE GRACE:

No, I think it -- if it -- an unconstitutional law is in operation, then it (indisc.).

REPRESENTATIVE PORTER:

Thank you.

SENATOR PEARCE:

Thank you. Lets take a short break and come back at 6:15. A people who want to ask questions, Hoffman, Salo, Taylor, Halford and maybe if we could -- all senators just come to this table since the House members have left. We'll come back at 6:15.

[THE START OF THE QUESTION AND ANSWER PERIOD FOLLOWING THE DEPARTURE OF THE HOUSE MEMBERS FROM THE BRIEFING IS NOT ON THE ORIGINAL TAPE. THE TAPE BEGINS AT THIS POINT IN THE MIDDLE OF THE RESPONSE FROM BRUCE BOTELHO]

BRUCE BOTELHO:

...One government agency that is out there is the federal courts don't take that away from us. And you have the other side, those who are very much concerned about state sovereignty interests saying, "Look, why should Alaska of all states, unique among the states, have a system where it can't manage on a day to day basis its fish and game management without having, in essence, federal

court oversight. And I think it's partly theoretical because it's not as if the federal court is devoting full time to managing fish and game, but the whole principle that a federal court can make final fish and game decisions when a case is presented to it without looking at the overall picture of the state without consideration about sustained yield and other concerns. That's the dichotomy and so it seems to me -- most difficult part of the problem is reconciling what appear to be two fairly irreconcilable interests, and I don't know whether there is a satisfactory solution or compromise. It may well be that one simply convinces one side or another to give up on the issue or one tries to find a compromise by limiting the extent of the federal court jurisdiction or expands it -- or expands the state court roll so that you either limit access to the federal courts or you limit the power the federal courts to fashion a remedy or some combination. So, my long winded answer cut down is I think there are three or four areas that aren't directly addressed by simply a constitutional amendment. Though a couple that might be dealt with by state statute and implementing the constitutional amendment, the one area that I think is most difficult to resolve is federal court oversight, and I don't have an answer for.

SENATOR PEARCE:

Go ahead Senator Salo.

SENATOR SALO:

Just a quick follow up. The definition of "rural," I mean if -- if Alaska passed a constitutional amendment giving a rural preference, would we in state statute control the definition of "rural?"

UNIDENTIFIED SPEAKER:

I don't think we could say that we could control it, though I think setting up a regime that you have the secretaries of Interior and Agriculture making certification that there has been compliance or any laws consistent. But there is a fair degree of chance that a federal court would accept that.

SENATOR PEARCE:

Senator Hoffman, you were next.

SENATOR HOFFMAN:

A couple of points, we were talking about equal access but it seems to me that we discriminate all the time as a state, and the federal government does as a nation. One of the most recent ones that I recall is that we went a head and asked the voters to change -- discriminate on access to our commercial fisheries. You know, we went a head and the voters approved an amendment to our

constitution and they get a preference on access to salmon that they are allowed to go and harvest and catch. Isn't that correct?

BRUCE BOTELHO:

It is correct. That is correct, Sir.

SENATOR HOFFMAN:

I think that that argument does not make too much sense so we can go ahead and do this and give a special access to rural residents and the arguments would be the same for the people in rural areas to act as fish and game the same way we gave a special preference to the fishermen. I would like to follow up a little bit more on some of the comments that Mike Navarre were stating in that state and federal management, under either scenario, I think that subsistence is proceeding in this state with or without a constitutional amendment. But the problem, I guess, in that is that under federal management the rest of the Alaskans fall into a category with the rest of the nation. And when were put into a pool with the rest of the nation, I think that the rest of Alaskans are limited in access, but if we had state management we could give preference to the citizens of the state. And we're not doing that because we're fighting over, you know, this subsistence issue. I think that if we don't resolve it, we're going to divide the state. I think that more and more it's going to get divided. Right now, many of the Native people are willing to support a constitutional amendment, but I feel that that is going to be short lived.

SENATOR PEARCE:

Did you have a question Senator Hoffman.

SENATOR HOFFMAN:

No.

SENATOR PEARCE:

Senator Taylor.

SENATOR TAYLOR:

I want to resolve this thing for once and for all if we can just at this table. Its been so many years of hearing that same rhetoric. Our constitutional amendment to provide for a special category of fishermen was something the people of Alaska chose to do within our confines and our courts will litigate it. We don't litigate it in federal court. What some people have chosen to do is to have Congress intervene, allegedly on their behalf, to instruct us on what we should do. And I'd like the Attorney General to please tell you what law, including our constitution, that we can change -

- if you would, please, tell him -- what law and then Lyman and I will work hard to go change that law. Tell us what law we can change in Alaska, including our constitution, that will change one iota of ANILCA and take that federal oversight and management away from us. Just tell us that, please.

BRUCE BOTELHO:

I trust this a rhetorical question because all of us knows that answer is that there is none.

SENATOR TAYLOR:

If the answer is none, then voting for a constitutional amendment does not change one single thing and maybe some people in here don't appreciate what the word oversight means by the federal government. But I guarantee ya, the slaves on the plantations before the Civil War knew who the overseer was. The overseer is still the same guy and I don't care if it's Bruce who is carrying the whip on behalf of the federal government, or it's you, or it's the Tanana Chiefs who have got a contract to carry it, which they've applied for by the way, to carry the whip to come down and instruct all of us on how to pit (indisc.) or how to go steel herring roe off of kelp so that we can sell it to the Japanese. I don't care who it is, they still are just another federal overseer. So, if we can't change it in Alaska, Lyman, please quit using the terms and the words, "Oh, lets all go out and lets just change it together." Hell, we can all hold hands and leap around the May pole. They won't care in Washington, D.C.

SENATOR HOFFMAN:

Well, Robin, the problem for the oversight is there because of many of the comments that the Attorney General had stated -- the Native people of the state have not been given fair treatment by the Administration, by the board, and by others and why else would the Native people be winning in court.

SENATOR TAYLOR:

Some of swore to uphold this constitution. There is a big difference at this table.

SENATOR PEARCE:

Senator Halford, do you have a question?

SENATOR HALFORD:

I think, you know, that if we're ever going to get to some solutions, we need to come back away from all the positions of the last eighteen years that I have been involved in this issue.

Number one, what did the Supreme Court say in the McDowell case? Number two, what does our constitution allow us to do? And we ought to try craft some kind of a solution, and when we get a solution, we ought to go forward with it if we can. You know, I am opposed to amending the constitution, but I think you can do a heck of a lot with out amending the constitution. The constitution says specifically "subject to preferences among beneficial uses." In 1978, when the state passed the law, it chose the wrong method. It chose discrimination between users instead of uses. The federal government picked that up, its been carried forward all the way to now. Everything that's done in Title 8 of ANILCA can be done in the term of users and not -- I mean in the term of uses and not in the term of users, and it works. The Supreme Court in McDowell didn't say that you can't discriminate based on any matrix of things. It just said that you can't use local residency as the only reason for an absolute bar. Local residency probably can be part of something. Certainly, need has been used to discriminate from top to bottom in every governmental entity in the world. There is lots of things we can do, but we all have to sit at the table to do it, and we haven't been able to get over that hurdle so it doesn't matter what we say.

SENATOR PEARCE:

Was that a question?

SENATOR HALFORD:

My question is can't you do everything in ANILCA by changing "user" to "uses" and be constitutional?

BRUCE BOTELHO:

The Title 8 of ANILCA talks about a rural preference.

SENATOR HALFORD:

Preference for rural use versus preference for rural users.

BRUCE BOTELHO:

Well I think there is the great -- or at least a great debate.

SENATOR HALFORD:

I mean as far as I'm concerned, until we decide that we're going to come up to a conclusion instate, we're not going to get a solution and....

SENATOR PEARCE:

This all being very theoretical in this point in time, is the

language in ANILCA "use" or "users." Which is it? Senator Halford just said "use." You just said that that is the debate.

JOANNE GRACE:

Rural residents have a priority for taking of fish and wildlife on public lands for subsistence uses. Subsistence uses includes customary and traditional trade.

BRUCE BOTEIHO:

Focuses on rural residents in terms of a "who."

JOANNE GRACE:

All rural residents have the priority.

BRUCE BOTELHO:

Now if we want to talk about the "what" when we talk about subsistence uses...

SENATOR HALFORD:

And the Supreme Court ruled that the thing that was unconstitutional was the exclusion of urban residents, not anything to do with the rural residents. And, as we remember, one of the judges said, "This isn't just a common use violation, this is a violation of equal protection." Because the determination of rural residency is such a crude tool that it doesn't really say and it doesn't really relate to the purpose of the discrimination.

BRUCE BOTELHO:

The difficulty, however, is that one will never escape that dichotomy in terms of the constitutional analysis because it is quite clear we really have a two tier system, one is you satisfy subsistence uses over all other uses. But then if the resource is limited, then you are also required to make, under federal law, the protection of -- for rural residents -- priority over other residents. Your scheme, which focuses on an all Alaska solution, will not satisfy ANILCA.

SENATOR HOFFMAN:

I have a question of Rick.

SENATOR PEARCE:

Senator Hoffman

SENATOR HOFFMAN:

Are you as adamant as Representative Taylor on eliminating federal oversight?

SENATOR HALFORD:

I don't believe that you can totally eliminate federal oversight of anything. You can't you know avoid somebody challenging something in court -- going to the federal court or the state court. I think -- I don't really want to pay a bunch of state money to run a management system that's dictated by the federal government. If somebody said if all the strings are in Washington, then we shouldn't pay the bill for the puppets. I guess the questions that we ought to be asking each other are if the congressional delegation said that they would deal with ANILCA, if the state came up with some kind of unified position, we should ask them, "What degree of consensus do you want," because we will never get the extremes in some groups, from either side, to ever come to the table. And if the consensus position of our congressional delegation is they won't look unless it's 95 percent, then there is nothing we can do about it. If they'll look at 60 percent, if they'll look at 70 percent, then we have to go back and say, "Lyman, do you think your constituents would go along with some kind of a definition that says the priority provides for a reasonable opportunity to harvest, but it doesn't mean that it's the only harvest in any limitation any time of the year has to be only after all commercial uses of the same fisheries are over with." And I think the reasonable people, from your prospective, go along with that. I don't think the groups that supported the subsistence preference in initial law wanted to see major cash sales. So that has to get fixed

BRUCE BOTELHO:

I agree.

SENATOR HALFORD:

You know if you go back and fix those provisions, and then you adjust the thing so that it really works and you can -- I mean it will work under the state constitution if it's based on uses and it will achieve the same -- on uses -- and it will achieve the same goal. If you're going to base it on users, then I believe that classification will always get you in trouble and you can amend the constitution, but I think it will again get challenged. If we've done it well enough, it may survive. But I don't know.

SENATOR PEARCE:

Senator Lincoln do you have a question?

SENATOR LINCOLN:

Well, Madam Chair, I'm sitting here listening to all of the questions, statements, comments, and I've heard several things here tonight. One is that if we don't do anything, we could be sitting here in 1997 still talking about this. The constitutional amendment window shut and whether in all of the statements that we heard from our congressional delegation that we have to fix this in state - that we have to come to some kind of consensus in state. But what I heard in this room, I don't see how we can come to a consensus unless we come in here with an open mind to listen to one another and not snicker if somebody is saying something contrary to what the other one is saying. I see some folks sitting around here with questions already prepared by I guess Mr. Somerville who was paid for by the state, but I don't have -- ask to comment that the majority has on what he's seeing is some of the solutions to subsistence. I don't think that's going to bring us to any kind of consensus. I would ask this, that again and again, and I hear it more and more and more as well as in my district and outside of my district that (indisc.--coughing) let the feds come in. We're going to be more satisfied with the feds, we're tired of this bickering, we're not going to even participate in this session anymore. Let the feds come in and have the oversight. I would like to see that the state has control over our fish and game. I've always felt that, but in the Subsistence Council - I guess they are a council - the Federal Subsistence Council -- was supposed to have made a report back to the Secretary of Interior and I think, I'm not sure if it went to another secretary, but Secretary of Interior in August. I don't know if that report has been finalized, distributed. I would like to know if it is and if it - if it has been distributed and to whom. The Secretary of Interior, as the congressional delegation said, is going to go -- it has already started going forward on the take over. From the state's perspective, and I guess Mr. Somerville is also an advisor to the group here or to a portion of the group, I would ask has the Secretary of Interior -- is he moving toward that end? I asked that of I think Senator Stevens, what is the time frame for the take over? If we sit around here and mash our teeth and not do anything about coming to some kind of consensus, what is that time frame?

BRUCE BOTELHO:

Madam Chairman, I wish I knew the answer. It is clear to me that there is increasing pressure on the secretary to act decisively, somewhat self created because I believe that -- at least in my discussions with federal officials -- that he feels he has an obligation that he is.... I would say that he has -- it is called a conflict. He wants to see the state of Alaska quickly and fairly address the issue, and has expressed some loathing of the idea that the federal government should insert itself in the management regime. But also a sense that patience is wearing out, that he has another hat that he wears as a federal trustee, in essence, for Alaska Natives and that they believe that he is not carrying out

his trustee role. How that is going to manifest itself in the coming months is not clear to me, but my sense is that there is a day of reckoning coming soon. Soon, it could be within the next couple of years.

SENATOR HALFORD:

Madam Chair.

SENATOR PEARCE:

Senator Halford.

SENATOR HALFORD:

Isn't that kind of an insidious thing though? I mean it starts out with subsistence management and that's all that's provided for in the federal law, but as you manage for subsistence, then you manage the other conflict. So, it's not something I think that happens all at once even if you -- you know I think it happens insidiously and it grows as it goes, because the federal law doesn't provide for management of fish and game, it provides for management of subsistence, but in order to manage the subsistence harvest, you have to cut off and deal with other harvests in conflict. So eventually you get further and further into the management of every other use, and maybe even some non use areas - maybe some development areas as well.

BRUCE BOTELHO:

Both that in terms of the expansion through the species, but also expansion geographically, whatever the outcome in Katie John in terms of navigable waters, we have a separate related question in terms of management of species which passed between public and non public lands and the ability to regulate off public lands to make sure that the species are available to satisfy subsistence needs on public lands.

SENATOR LINCOLN:

Madam Chair, the second part of my question I think was not answered and that is, with the approval of the chair, I'd like to hear from Mr. Somerville since we paying him back there and in D.C. to do something on subsistence. I'd like to hear his comments on it.

SENATOR PEARCE:

In fact I know because I signed the agreement that he is not being paid to do anything on subsistence.

SENATOR LINCOLN:

Is here just a private individual then?

SENATOR PEARCE:

Everybody is here, I guess, as private individuals. It's not a....

SENATOR LINCOLN:

Then I might be wrong. I apologize - you did not make up a list of questions for both (indisc.) to ask.

SENATOR PEACE:

Senator Halford.

SENATOR HALFORD:

Madam Chair, I think -- you know it's easy to personalize our disagreements whether its mention of Tanana Chiefs or Ron Somerville or anybody else, it doesn't do us any good. I think everybody has people working on these issues and we all know it.

SENATOR PEARCE:

What was your question?

SENATOR HALFORD:

That's my comment. My question goes back to Katie John and the probable out come. It seems that the -- you know we have lots of other states that are on our side on navigational servitude. We have lots of arguments and lots of history to win that portion of the case, but what about federal reserve water rights. Isn't that the place where we can lose in part and be variable based on a whole bunch of further determinations down the road?

JOANNE GRACE:

Yes, I think -- I think it's going to be harder for the court to base its decision on that because what the court would essentially be saying is if the United States has any interest, no matter how small in the water, that that converts the entire waterway into public lands. It's an absurd result because essentially we'll convert all lands and waters in Alaska into public lands. For example, we are just before the Ninth Circuit that it would -- we argued this in the context of an absurd result. All lands in Alaska patented after the year 1890 are conveyed subject to (indisc.) and easements (indisc.). That is an interest that the United States holds in all lands they've patented after 1890 (indisc.). So we argued that (indisc.) tend to any tiny interest of the United States to convert back areas of land and water into public lands. So I think that it's going to pretty difficult for

the court to base its decision on federal reserve water rights, but if the court does, then we're looking at a water way by water way determination or maybe a reservation system by reservation system of determination of whether the United States has the waterway.

SENATOR HALFORD:

But don't you think that's -- I mean do you think they'll go back to navigational servitude or you think there is any chance that they will? I mean that one seems to go even further back into the....

JOANNE GRACE:

There's never been a decision that said a navigational servitude is a property interest and I think the Supreme Court has been -- in power of the federal government (indisc.). So it would be -- it would surprise me if the Ninth Circuit would rule that way just because the concept is so odd. But (indisc.), I guess don't feel really comfortable predicting what they'll do.

BRUCE BOTELHO:

That might be something to elaborate on very briefly and that is to say that in virtually every case presented to the Ninth Circuit, the Ninth Circuit has favored the subsistence use over the adverse interest, frequently the state of Alaska.

SENATOR PEARCE:

Are there questions? Mr. Attorney General, thank you very much, I appreciate it and if we have more questions, then we'll call.



Knowles drops subsistence suit

Governor criticized at luncheon

By IAN CARROLL
Staff Writer

Things got a little hot for Gov. Tony Knowles Monday at the Alaska Outdoor Council luncheon—and not just because it was almost 100 degrees in the Castle's jam-packed restaurant banquet room.

Before an audience of mostly urban hunters, Knowles said he was dropping the *Hickel vs. Babbitt* lawsuit of 1992, which challenges a rural subsistence preference. However, Knowles said the case of *Katie John vs. the United States* would not be affected. That case challenges federal regulations regarding navigable waters. The two cases had been consolidated into one.

Knowles' announcement, which riled the audience, was the fulfillment of a promise he made during his gubernatorial campaign.

The council maintains that federal subsistence regulations, which give a rural preference for subsistence, amount to discrimination against urban Alaskans.

"I feel that is very poor strategy," outdoor council executive director Dick Bishop told the governor. "Given the absolute critical importance of those lawsuits, to not pursue them is ill-advised."

Knowles' action lifts a legal challenge to the authority of the Federal Subsistence Board, which sets seasons and bag limits for subsistence hunters on about 60 percent of the state. The board hears recommendations of regional representatives, many of whom are Native subsistence hunters.

Knowles met with Native leaders from the Tanana Chiefs Conference and Doyon Ltd. following the luncheon.

"It sends a very clear message that the law of the land is recognized by the new administration, and I applaud them for that—that they recognize the validity of the subsistence lifestyle, that has existed and is still practiced in rural Alaska," said Doyon president and CEO Morris Thompson. "Congress certainly has a very clear authority to legislate on federal lands."

He said he was surprised the governor chose to make the announcement in front of the outdoor council, which would be hostile to the news.

"I applaud the governor for meeting with the outdoor council and announcing that in person. You have to admire that. No governor likes to carry unpopular messages," said Thompson.

The state will continue its appeal in the Katie John vs. United States case, named after the Athabaskan elder who originally filed it. Native plaintiffs say the federal government should manage subsistence fisheries on all navigable waters, while the state government says it should do so only on waters in federal parks.

A federal judge has ruled against the state in the *Katie John* and *Babbitt* cases.

Federal management of subsistence in Alaska is rooted in a discrepancy between state and federal subsistence law.

Federal law grants a subsistence preference to people in rural Alaska, giving rural Alaskans first crack at fish and game. But the Alaska Supreme Court has ruled that all Alaskans should have equal access to subsistence resources. After that ruling, the U.S. government took over subsistence management on federal land in the state.



Sam Harris Burns

s, along with his special assis-
Burns speaks at a luncheon.

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Background

Bomb attack may hurt path to peace

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Subsistence suit gone

Gov. Knowles' decision to drop the state's lawsuit over federal fish and game management in Alaska is unfortunate for two reasons. First, everyone deserves to have this issue clarified by the highest court possible. Second, the governor's decision potentially takes the heat off Congress to make meaningful changes to the source of much of this trouble—the Alaska National Interest Lands Conservation Act of 1980.

The question is whether ANILCA authorizes the federal government to create its own fish and wildlife management system—a method of establishing seasons, bag limits, etc.—in Alaska. A careful reading shows the law does not authorize any such thing. Instead, it calls only for federal court oversight if the state fails to implement a hunting and fishing priority for rural people.

U.S. District Court Judge Russel Holland of Anchorage, in a March 31 ruling, said Congress must have made a mistake when it wrote the law. He said Congress intended to authorize federal management but just didn't quite get it right. So he ruled against the state.

Many people think Congress did get it right and that Holland is engaging in some judicial activism. But we won't get a chance to find out, at least not any time soon, if the state doesn't pursue this appeal. There will always be this cloud hanging over any proposed solution to the subsistence debate.

If the state wins the suit, it would focus the debate where it belongs, in Congress. That's because a state victory on this issue would create a clear conflict. It would leave intact the federal requirement for a rural hunting and fishing priority and affirm that federal courts are in charge of deciding whether the state has carried it out. But the Alaska Constitution, according to the Alaska Supreme Court, does not allow a priority based simply upon one's address. So how can a federal court order any state agency to contradict the state's own Constitution? It can't, so it won't happen.

That sends the issue back to Congress. It could take the unprecedented and unpopular step of expressly authorizing the federal takeover of fish and wildlife management on federal lands in Alaska. Or it could change the subsistence priority in ANILCA so it is compatible with the Alaska Constitution.

Of course, the other option is for Alaskans to change their Constitution. To date, the Legislature has decided not to pursue that solution, for good reason. Alaskans should not divide themselves into classes based simply on where they live. Such a solution enfranchises conflict and misunderstanding at the expense of fair and equal treatment.

Johnnie Cochr
smarmy little
trying to steal
spotlight!



MIKE LUCKENICH
ATLANTA CONSTITUTION

Scholar in the I

They came. They play stayed.

Of the 300 or so who have on the University of Alaska basketball team since started in 1959, about one-third came from Alaska, primarily from banks, North Pole and with some from Nenana, T Junction, Northway, Fort Haines, and Tanana.

Another one-third came from California, especially from a tentative system of community junior colleges (a talent ground for many in football, baseball, swimming, and tennis) as well as basketball, a primary area for scores of college universities countrywide.

The other one-third came from everywhere—from all over the world and from 22 other states, plus Canada and New Zealand.

West Coast states, California, Washington, and Oregon have been primary sources of athletes for Alaska, followed by Ohio and Illinois of the Midwest, then Arizona and Texas of the Southwest.

From the Atlantic Coast—Connecticut, Maryland, New Jersey, New York, Pennsylvania, and Florida, only a few players from the north and players

The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaska, putting Alaska first"

Editor: DENNIS FRADLEY. PAUL JENNINGS. WILLIAM J. TORSEN

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Subsistence heat

BY CHOOSING the Alaska Outdoor Council in Fairbanks as the location to launch the long-overdue, statewide debate on subsistence, Gov. Tony Knowles demonstrated he is willing to take the heat that comes with this highly divisive issue.

A number of his predecessors have tried to guide the state to a resolution of the subsistence question. So have members of the Alaska congressional delegation, certain state legislators and other state community leaders.

Various proposals have been put forward. None has succeeded.

The subsistence problem has only grown worse as Alaskans divide one against the other, and the federal government assumes greater management of wildlife resources in Alaska.

Gov. Knowles' subsistence message Monday to the organization representing sport hunters and fishermen was not surprising.

The state would drop its lawsuit challenging the Secretary of Interior's authority to take over management of fish and game for subsistence purposes, he said, just as he had during the campaign. The suit, Alaska vs. Babbitt, was initiated during the Hickel administration and is under appeal — having been turned down last year in federal district court.

However, the state would continue its legal challenge of the extent of federal subsistence authority by continuing the appeal of the so-called Katie John decision, Knowles said.

In Katie John, the federal court ruled that as long as the state is not in compliance with federal law, the federal government should extend its management to include protection of subsistence fisheries on navigable waters within Alaska — including offshore.

Gov. Knowles is taking what appears to be a realistic and pragmatic position on the state's subsistence legal challenges.

On one hand, he recognizes the federal government is not about to abandon a trust responsibility, and that the state's legal challenge of federal authority to fulfill that trust is unlikely to succeed.

On the other hand, he knows that if federal management authority in Alaska extends to navigable waters and eventually to all commercial and sport fisheries, Alaska will lose an essential right of statehood that will have far-reaching consequences for the state's economy and lifestyles.

Overshadowing the significance of these two lawsuits, however, remains the basic question of whether Alaskans wish to amend the state constitution. Do Alaskans want to provide state fish and game managers the authority to give a preference for subsistence use of fish and game to rural residents in times of shortages as required by federal law? If a majority answer that question yes, the federal takeover threat and lawsuits become moot.

Gov. Knowles' challenge is to get that simple question before the voters.

Legislators aim to keep delicate 'balance of federal, state power'

Resolutions urge Knowles to keep subsistence suit

By KATE RIPLEY
Staff Writer

JUNEAU — House and Senate leaders Thursday marched forward in their attempt to stop Gov. Tony Knowles from dropping a lawsuit over fish and game management.

Critics, however, called the move improper and likely to fail.

Both legislative chambers passed resolutions Thursday urging the governor

to continue a lawsuit filed three years ago by then Gov. Walter J. Hickel that challenged the federal government's authority to manage fish and game in Alaska.

The Senate resolution passed 12-7 and the House resolution passed 24-14.

It also indirectly opens an old wound of who should get first crack at fish and game in the state—rural residents or everyone equally.

During his campaign Knowles prom-

ised to drop the lawsuit, calling it "anti-subsistence."

The Democrat made good on that promise Monday by instructing Attorney General Bruce Botelho to withdraw the state from the case, now before the 9th Circuit Court of Appeals. The state has filed paperwork to withdraw from the case, but it has not been received at the appeals court.

That touched off a stormy reaction in
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the Republican-led Legislature. Leaders say if Knowles won't pursue the lawsuit—Hickel vs. Babbitt—they will.

"Just because there was a campaign promise doesn't make it the right thing to do," said Sen. Mike Miller, R-North Pole.

The governor, however, scoffed at the Legislature's attempt to wedge itself into the case.

"It's really a rabbit trail," Knowles said. "I don't think it will help in the long run."

Republican leaders are calling the lawsuit a state's rights issue, with ramifications far beyond subsistence. They hired a Washington, D.C.-based law firm that sometimes consults with Robert Bork—President Reagan's unsuccessful 1987 nominee to the U.S. Supreme Court—to fight their case.

The firm was to file an "emergency motion" with the 9th Circuit today asking the court to halt the Knowles administration's withdrawal and let the Legislature intervene.

"This issue . . . is not moot by virtue of the new administration's lack of interest in pursuing it," says the motion, obtained by the News-Miner on Thursday. "Resolution of this issue is in the interests of the Legislature and the people of Alaska, and is necessary to preserve the delicate balance of federal and state power agreed upon in the Alaska Statehood Compact."

While Hickel vs. Babbitt does not directly challenge a rural subsistence preference, it questions the federal government's authority to set seasons and bag limits for subsistence hunting and fishing.

According to federal law, rural residents have a priority in subsistence hunting and fishing. That conflicts with the state Constitution, which says all residents have equal access.

Alaska law for a while mirrored federal law. But in 1989, the Alaska Supreme Court ruled the state law conflicted with the state Constitution. Subsistence, and who has authority over it, has been mired in lawsuits ever since.

The appeals court is due to hear oral arguments on Hickel's lawsuit Feb. 8. It's unclear when, or if, the court will rule on the legislative majority's plea to become a party in the case. Some predict the Republicans won't find a sympathetic ear in the appeals court.

"A separate legislative lawsuit is likely to embarrass the Legislature," said Sen. Al Adams, D-Kotzebue. "Any judge is going to look skeptically at such a suit after the state's chief legal officer has already decided that the case didn't have sufficient merit to pursue . . . Judges don't think much of political protests."

It's the duty of the executive branch to pursue such court cases, not the Legislature, Adams said.

Those outside Juneau question the majority's ability to gain a foothold in the case as well.

Former Attorney General John Havelock, who served during the Egan administration in the early 1970s, said lawmakers likely won't be recognized as a valid party to the case by the appeals court.

"By the time something is appealed, the parties have been established," said Havelock, now in private practice in Anchorage.

"Anybody can file a piece of paper in court. Whether anyone pays any attention is if the court recognizes they have standing," he said. "It's highly improbable the 9th Circuit would do that. They (the legislative majority) can spend some money on lawyers and court fees, but it might not get them anywhere."

Legislative leaders say they're willing to spend \$20,000 on a retainer for the Washington law firm. As of Thursday, no money on the case had been spent out of the leadership's discretionary fund, which totals about \$1.6 million for the Senate and \$1.7 million for the House.

House Majority Leader Al Vezey, R-North Pole, agrees the Legislature will have a tough time taking over the case, but said they have to try.

"There's no question we're fighting an uphill battle," Vezey said. "But I would not be surprised if (the court) stays the oral arguments and take briefs on our case."

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OUTDOORS

Knowles misses the boat

ANILCA won't solve subsistence issue

More than 30,000 Alaska Natives — the one out of every three Natives living in urban



**CRAIG
MEDRED**

areas of the state — are today denied subsistence by the federal government.

As a practical matter, this presents no immediate crisis. Opportunities to hunt and fish still exist for every Alaskan with or without a subsistence priority.

As an emotional matter, the division of the Native community on the basis of rural and urban residency may be problematic, but that is not a matter for some middle-class white guy to be mucking around in.

What does bear some thought, however, is the changing demographics of Alaska and how this is going to affect us all. Three trends long under way threaten to make subsistence a nightmare for everyone.

First among these trends, as documented by the Alaska Natives Commission, is the rural population boom. Second is the steady migration from rural areas to urban areas that has helped turn Anchorage into the state's largest Native community. And third is the ever-widening ideological chasm between rural and urban residents of the state.

Anyone who thinks any of these things are going to be changed, let alone made better, by ceding the subsistence issue to the federal government as Gov.

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Tony Knowles has now done is:

A) A misguided politician thinking there is more to gain in the imaginary of action than in the substance of solution.

B) A self-involved, albeit potentially well-meaning, lawyer for one of the litigating parties in the on-going subsistence debacle.

C) A naive fool.

All Knowles has done with his decision to drop the state lawsuit challenging the federal government's authority to mandate subsistence hunting and fishing is ensure continuing and escalating unrest.

Why?

Simple mathematics.

Alaska's population today stands at about 600,000 people. That population has been growing steadily since the 1950s, and all projections are that it will continue to grow.

Fish and wildlife populations, at the same time, are at or near peaks and given the constraints under which fish and wildlife managers now operate (i.e. no manipulation of predator populations and a policy of significant fire suppression), about the only place those populations can go is down.

This means there will be more and more people competing for fewer and fewer fish and wildlife. When that happens, the federal rules incorporated in the Alaska National Interest Lands Conservation Act (ANILCA) — the rules Knowles bought into by dropping the lawsuit challenging the act — turn onerous.

The rural priority, which already gives rural hunters and fishermen longer seasons and bigger bag limits, becomes a rural-only privilege. Urban residents, including more than 30,000 Alaska Natives living in Anchorage and other centers of commerce, will be

barred from hunting and fishing in larger and larger areas of the state.

Tourism businesses dependent on activities as seemingly benign as catch-and-release rainbow trout fishing will go out of business in favor of subsistence gillnet fisheries for rainbows.

Were these the only divisive subsistence problems facing Alaska, it would be reason enough to rethink what the governor has done, but there is more.

ANILCA clearly provides for the taking of fish and wildlife by rural residents for barter and "customary trade." The courts are still trying to sort out exactly what that means, but one federal district court has ruled that a \$10,000 sale in Seattle of subsistence-caught herring roe from Southeast Alaska was legal.

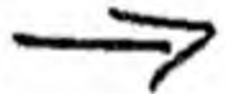
And why shouldn't people in economically depressed rural Alaska be allowed to make a buck where and when possible?

Some rural subsistence leaders like the idea of subsistence fisheries for cash, although you have to wonder if they have thoroughly considered the social disruption this sort of economic reordering of the status quo would cause in some villages.

Such fisheries would be the death of the limited entry program that made Alaska's commercial fisheries profitable. Once every rural fisherman gained the authority to net a catch of salmon equal to \$10,000, there might not be enough salmon left to support viable commercial fisheries in many areas.

Thus, the state would be back to where we were before voters approved a constitutional amendment OKing limited entry. We would have a lot of poor fishermen instead of a few, economically viable ones.

As for the effects of a similar change on hunting,



ADN 15 FEB 95

it is only possible to guess. Federal officials admit they've been lucky this issue hasn't come to a head yet, recognizing that federal subsistence regulations concede that "customary trade means cash sales of fish and wildlife ... to support personal and family needs. ..."

There seems today no reason why rural hunters couldn't offer wild game of various types to an Anchorage chef in trade for, say, outboard motors, snowmachines, boats, fuel or any of the other items that have come to be considered the modern-day necessities for the subsistence lifestyle, or even for cash.

Low in fat, high in protein, wild game is a hot item on menus in upscale restaurants all over the country. It would, no doubt, sell well here.

And if it's OK to sell \$10,000 worth of herring roe, what's wrong with selling \$10,000 worth of caribou, moose, Dall sheep, musk ox or deer?

Should this spawn the resumption of market hunting in Alaska, however, there soon won't be any surplus wildlife to support hunting by urban residents anywhere.

Demand already exceeds supply in some areas, the most notable being in the hunt for Nelchina caribou. To get a permit to hunt there now, you have to move to Glennallen or be able to claim about 25 years of Alaska residency.

And that's under the state subsistence system, which is structured so as to allow a few urban residents to hunt so as to meet the equal protection standards of the state constitution.

It only gets worse if the feds take over, and that is where the situation seems headed.

Gov. Knowles has decreed that Alaska will either be led deeper into the subsistence quagmire by

federal land managers, or it will pass a constitutional amendment bringing Alaska's constitution in line with ANILCA and wait for the courts to direct the state to where the federal land managers were headed.

The problem, after all, isn't with the people administering the law. The problem is the law. The problem is ANILCA.

One attorney for rural interests, who neither hunts nor fishes himself and thus displays little understanding of the cultural and emotional ties involved in this issue, once observed that ANILCA was always intended to sacrifice the desires of urban hunters and fishermen to protect the rural lifestyle.

It's only a matter of time before urban residents are banned from hunting and fishing, he said; they'll just have to accept it. It's no big deal.

Maybe not for him, but what about for the tens of thousands of urban Natives who will be cut off from their culture involvement with the land, or the hundreds of thousands of others of all colors and ethnic backgrounds who've long engaged in a similar communion with fish and wildlife?

I don't know how you restructure the system to provide them all adequate opportunities to pursue these activities, but I do know the answer isn't found in the governor's simplistic idea that he can simply drop the state lawsuit against ANILCA and watch the problems inherent in the federal subsistence law disappear.

That dog don't hunt, and this problem ain't going away.

Craig Medred is the Daily News outdoors editor. His opinion column appears on Wednesday during the winter.

Natives will lose when feds take over subsistence

I am very disappointed that the Alaska Federation of Natives could not work out a compromise with the state over subsistence management. If a solution is not found, the economic well being of thousands of Natives who depend on the fishing industry will be in jeopardy. I fear for the livelihoods of the Native people in towns like Sand Point, Togiak and Emmonak. There will be profound changes if federal subsistence management takes over fisheries in Alaska.

As ANILCA is currently written, the feds are required to give subsistence priority to all rural users. What this will produce is a scenario as follows: When a subsistence fisherman in Fort Yukon has finally put up his last summer chum salmon in September, he will inform the feds that his subsistence needs are satisfied and the feds would then open False Pass and other lower Yukon areas to commercial use. Obviously by that time all the fish will have passed upriver and will not be available.

If that subsistence fisherman wants to sell his salmon or roe, the current federal court rulings would allow up to \$10,000 worth of sales as traditional. It would not take too many court challenges to up that limit. This means that every subsistence

fisherman could sell fish and that limited entry would be a thing of the past, and those holding limited-entry permits would see the bottom drop out of the market. There would be no controls over how many people could fish or when, and over-fishing of the limited resource will follow.

Why does this deeply concern and trouble me? According to the Commercial Fisheries Entry Commission, in 1992 41 percent of all permits were held by Alaska rural locals. The commission does not have information on the race of the permit holders after 1983, when 38 percent were Alaska Native, but the vast majority of those permits being held by Alaska rural locals are held by Natives. As you know, in the rural areas there is almost no economy aside from commercial fishing, and any federal takeover that would jeopardize the fishing industry could spell disaster for numerous Native communities that depend on fishing.

Unless a compromise is worked out, anarchy will overtake the fisheries of Alaska, and in the end it will be the Native subsistence users who will lose out when the fishery resource is depleted.

Sidney Huntington
Galena

COMPLIMENTS OF THE
ALASKA STATE LIBRARY

Alaska State Legislature

SENATOR

MIKE MILLER

Mailing Address

11911 Cushman, Suite 101

Fairbanks, Alaska 99701

Ph (907) 486-0862

Fax (907) 486-4271

Where it lies at

State Capitol

Juneau, Alaska

99801-1182

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Senate

Senate District 0

SPONSOR STATEMENT

SJR 19

(By Senators Mike Miller and Drue Pearce)

SJR 19 -- "REQUESTING THE CONGRESS TO AMEND THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT TO CLARIFY THAT THE TERM "PUBLIC LANDS" MEANS ONLY FEDERAL LAND AND WATER AND THAT ANY EXTENSION OF FEDERAL JURISDICTION ONTO ADJACENT LAND AND WATER IS EXPRESSLY PROHIBITED."

In drafting the Alaska National Interest Lands Conservation Act ("ANILCA"), Congress attempted to balance the needs of rural resource users with those of other Alaskans. The result was a narrowly drawn preference for rural residents. A preference, or priority, limited to "public lands," is a term that is clearly defined in ANILCA as lands, waters, and interests therein owned by the federal government. The preference was not intended to affect the State's authority to manage fish and wildlife on other lands in Alaska.

Throughout Title VIII of ANILCA, Congress used only the term "public lands" in discussing the rural preference and other regulations. In so doing, Congress was clearly recognizing traditional State management of fish and wildlife and indicating that the preference did not apply on State or other non-public lands. In fact, Congress expressly acknowledged that it was limiting its regulatory reach when it required the federal land agencies managing fishing and hunting activities on public lands to cooperate with -- not preempt -- adjacent land owners, including the State. This requirement indicates that the management scheme was to be premised on cooperation, not takeover and preemption of non-federal lands.

SPONSOR STATEMENT

SJR 19 (Request Congress Amend ANILCA)

Page 2

The State takeover provisions of ANILCA further demonstrate the fact that Congress wanted to establish a limited federal role in the resource management. These takeover provisions allow the State to "supersede" federal management on public lands if State laws are consistent with the federal rural preference. ANILCA in no way diminishes the authority of the State to regulate fish and game pursuant to the grant of that authority in the Statehood Act.

Congress clearly intended to severely limit the federal government's intrusion on State rights regarding management of fish and wildlife. However, the federal courts have failed to acknowledge the statutory limitations on the scope of federal agency authority, and recent rulings from the courts would allow federal agencies to reach beyond federal "public lands" onto non-public lands (State lands, Native lands and other private lands) to enforce the rural preference. Such rulings are directly contrary to the language and spirit of ANILCA, and they constitute a violation of our Statehood Compact. It is for these reasons that Senator Pearce and I introduced SJR 19.

SJR 19 is not a challenge to the federal subsistence priority. SJR 19 is simply a resolution requesting that Congress recommit to the obligations made to the State in the Statehood Compact, and confirm that ANILCA is not intended to preempt State management of fish and game resources. Additionally, SJR 19 requests that Congress affirm its original intent and amend ANILCA to clarify that the definition of "public lands" means only federal public land and water, and that any extension of federal jurisdiction onto adjacent land and water is expressly prohibited unless specifically authorized by the Congress and the State.

SPONSOR STATEMENT

SJR 19 (Request Congress Amend ANILCA)

Page 3

The effect of conflicting court opinions and federal agency mandates have created a crisis with regard to the management of our fish and game resources. The federal government is now proposing to unilaterally preempt our entire fisheries in navigable waters unless the State concedes to federal demands. We are also faced with a bad decision from a federal district court judge which sets in motion preemptive authority for the federal agencies; and the prospects for relief from the Ninth Circuit Court of Appeals are bleak in light of its history of ruling against the State on these types of issues. To make matters worse, the Attorney General recently acknowledged that if the State's appeal to the Ninth Circuit fails, it is unlikely that the United States Supreme Court would hear the State's case.

This disarray, this uncertainty, has left all of our fisheries and wildlife programs at risk. The State is about to lose all its management authority. That was never the intent of ANILCA; and if this federal preemption is allowed to occur, it will be a clear violation of our Statehood Compact. Therefore, I believe the people of Alaska are entitled to and deserve a clarification of ANILCA and a reaffirmation of the grants given us in our Statehood Compact. Such clarification and reaffirmation are crucial to creating any long-term, workable fish and wildlife management solution.

What Senator Pearce and I have proposed is totally consistent with the position taken by Governor Knowles to protect State management of fish and wildlife on State and private lands and navigable waters by continuing the Katie John appeal. Moreover, this resolution is an important first step in reaching the consensus position our Congressional Delegation has sought.

Senator Pearce and I urge your support for this important resolution.

SJR 19 HEARING - FAIRBANKS

MARCH 29, 1995

INTRODUCTORY REMARKS

ALASKA STATE SENATE PRESIDENT DRUE PEARCE

MR. CHAIRMAN MY INTRODUCTORY COMMENTS WILL BE BRIEF BUT THERE ARE A COUPLE OF POINTS I WOULD LIKE TO MAKE TO PUT THE IMPORTANCE OF THIS HEARING INTO PERSPECTIVE.

I AM A SPONSOR OF THIS RESOLUTION BECAUSE I AM CONVINCED THAT THE STATE IS FACING A MAJOR CRISIS IN JUST 36 SHORT YEARS AFTER ACHIEVING STATEHOOD ALASKA IS FACED WITH LOSING ONE OF THE MAJOR "RIGHTS" "PRIVILEGES" "BENEFITS" AND/OR "RESPONSIBILITIES" OF STATEHOOD--THE MANAGEMENT OF OUR FISH AND WILDLIFE RESOURCES.

IT IS HARD TO BELIEVE BUT THE COMPROMISE LEGISLATIVE PACKAGE PASSED BY CONGRESS IN 1980 CALLED THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OR ANILCA HAS CREATED THIS PROBLEM. ANILCA HAD A PROVISION WHICH CREATED A PRIORITY FOR SUBSISTENCE TAKING OF FISH AND WILDLIFE AMONG OTHER THINGS. BY RURAL ALASKAN RESIDENTS ON FEDERAL PUBLIC LANDS THERE IS NOTHING IN THE LAW

WHICH SAYS THAT THE SECRETARIES OF INTERIOR, AGRICULTURE OR COMMERCE CAN PREEMPT ALL STATE MANAGEMENT IN ALASKA IF THE STATE IS NOT IN COMPLIANCE WITH THE PROVISIONS FOR FEDERAL LANDS. THE LAW DID NOT SAY THAT RESERVED WATER RIGHTS OR NAVIGATIONAL SERVITUDE DOCTRINES COULD BE USED BY THE COURTS TO EXTEND FEDERAL JURISDICTION THROUGHOUT ALL STATE AND PRIVATE LANDS AND WATERS IN OUR STATE

CLEARLY THE ALASKA DELEGATION AND THE REST OF CONGRESS ANTICIPATED THAT ALASKA WOULD ASSUME MANAGEMENT ON ALL LANDS IN ALASKA BY MEETING THE REQUIREMENTS OF ANILCA'S TITLE VIII. IT WAS NOT ANTICIPATED THAT THE FEDERAL GOVERNMENT, OTHER THAN THROUGH FEDERAL COURT OVERSIGHT WOULD HAVE TO DIRECTLY MANAGE THE FISH AND WILDLIFE RESOURCES

WE NOW HAVE, HOWEVER, A STATE SUPREME COURT RULING WHICH ESSENTIALLY PUTS ALASKA OUT OF COMPLIANCE WITH THE FEDERAL LAW. WE HAVE A DISTRICT COURT JUDGES RULING WHICH STATES THAT THE FEDERAL GOVERNMENT IS AUTHORIZED TO PREEMPT STATE MANAGEMENT IN NAVIGABLE WATERS UNDER THE AUTHORITY OF THE NAVIGATIONAL SERVITUDE DOCTRINE. WE HAVE A REVERSAL BY THE FEDERAL GOVERNMENT WHICH INITIALLY AGREED THAT PUBLIC LANDS IN ANILCA WAS

LIMITED TO FEDERAL LANDS AND WATERS. THEY NOW ARGUE THAT THE RESERVED WATER RIGHTS AUTHORITIES OF THE FEDERAL AGENCIES GIVE THEM THE POWERS TO PREEMPT STATE MANAGEMENT ON NAVIGABLE WATERS.

WE ARE EMBROILED IN CONTINUOUS DEBATE OVER WHETHER A STATE CONSTITUTIONAL AMENDMENT PUTTING ALASKA IN COMPLIANCE WITH THE FEDERAL LAW WILL IN FACT RETURN MANAGEMENT TO ALASKA. ALASKA IS BECOMING PAINFULLY AWARE OF THE FACT THAT THERE ARE MAJOR FLAWS WITH TITLE VIII OF ANILCA. EVEN THE ATTORNEY GENERAL ADMITS THAT CORRECTIONS IN THIS TITLE ARE ABSOLUTELY ESSENTIAL.

ALL OF THE ABOVE OPTIONS ARE COMPLICATED AND IT IS CLEAR THAT THERE WILL BE NO CONSENSUS IMMEDIATELY ON THE ULTIMATE SOLUTION TO THIS ISSUE FOR ALL STATE AND FEDERAL LANDS. HOWEVER, I AM A SPONSOR ON THIS RESOLUTION BECAUSE I BELIEVE IT IS ONE AREA WHERE WE CAN GET AS CLOSE TO A CONSENSUS AS WE ARE GOING TO GET RIGHT NOW. THIS RESOLUTION DOES NOT CHALLENGE THE SUBSISTENCE PRIORITY ON FEDERAL LANDS AND WATERS. IT DOES, HOWEVER, ASK CONGRESS TO RECONFIRM STATE JURISDICTION ON STATE AND PRIVATE LANDS AND WATERS. I DO NOT BELIEVE THAT OUR DELEGATION NOR CONGRESS WOULD HAVE ALLOWED THE PASSAGE OF LEGISLATION SETTING IN MOTION THE

INEVITABLE PREEMPTION OF ALL STATE FISH AND WILDLIFE MANAGEMENT IN ALASKA -- REGARDLESS OF THEIR PRIORITIES FOR FEDERAL CONSERVATION UNITS.

WE ARE ASKING OUR DELEGATION AND CONGRESS TO RESTATE THE ORIGINAL INTENTION OF ANILCA AND SAVE OUR FISHERIES AND WILDLIFE PROGRAMS ON STATE LANDS AND WATERS FROM FEDERAL PREEMPTION.

THE ALTERNATIVE IS TO ALLOW THE FEDERAL COURTS TO CONTINUE THEIR COURSE OF SELECTIVELY REVISING THE INTENT OF CONGRESS. IT IS CLEARLY POSSIBLE THAT THE STATE COULD LOSE THIS CASE IN THE UNPREDICTABLE NINTH CIRCUIT COURT OF APPEALS. THE ATTORNEY GENERAL SAID THAT THE SUPREME COURT WOULD LIKELY NOT HEAR THE CASE IF APPEALED

WE ARE LOOKING SQUARELY AT A BAD DECISION BY A FEDERAL DISTRICT COURT JUDGE AND A POTENTIAL BAD DECISION BY A NINTH CIRCUIT COURT OF APPEALS WHICH MAY NOT BE APPEALABLE TO THE SUPREME COURT.

ALASKANS NEED AND DESERVE A CLARIFICATION OF THE INTENT OF THE STATEHOOD COMPACT AND ANILCA. WE ARE DIRECTING OUR IMMEDIATE ATTENTION TO CONGRESS TO HELP US OUT OF THIS CRISIS.

I AM HOPEFUL THAT MOST ALASKANS, THE STATE ADMINISTRATION AND
EVENTUALLY OUR ENTIRE DELEGATION CAN SUPPORT THIS EFFORT.

SJR

20

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR 020A

Revision Date: 3/29/95
 Title: Relating to the Western Alaska CDQ Program, the inshore/offshore allocation process, etc.
 Sponsor: Senator Hoffman
 Requestor: Senator Hoffman

Department Affected: Commerce and Economic Development
 BRU: Economic Development
 Component: _____
 COMPONENT SERIAL NO. _____

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
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	---	---	---	---	---	---

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 95) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Gabrielle LaRoche, Section Chief
 Division: Economic Development

Phone: 465-5487
 Date: 3/29/95

Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Date: 3/30/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR 020A

Revision Date: _____
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Sponsor: Senator Hoffman
Requestor: Senator Hoffman

Department Affected: Commerce and Economic Development
BRU: Economic Development
Component: _____

COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	58.2	59.4	60.6	61.8	63.0	64.9
TRAVEL	16.0	16.3	16.6	16.9	17.2	17.5
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	74.2	75.7	77.2	78.7	80.2	81.4

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	----------	----------	----------	----------	----------	----------

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.2	75.7	77.2	78.7	80.2	81.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	74.2	75.7	77.2	78.7	80.2	81.4

Estimate of current year (FY 95) cost: \$ 0

POSITIONS

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

(SEE ATTACHED)

Prepared by: Gabrielle LaRoche, Section Chief
Division: Economic Development

Phone: 465-5467
Date: 3/23/95

Approved by Commissioner: William L. Hensley
Agency: Commerce and Economic Development

Date: 3/24/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR020A

ANALYSIS:

Community Development Quota (CDQ) Program

The division has requested interagency receipts funding for a new position and related travel to adequately support the CDQ program.

The major focus of this position is to monitor and assist in the economic development of the CDQ program. The DCED position would provide corporate oversight in the review and monitoring of CDQ plans and audits, and expertise to the CDQ groups in their efforts to implement the fishery business development goals of their CDQ plans.

The CDQ program has made a significant impact on unemployment and income in the state's most depressed region. Its continued success and expansion is critical to the long-term economic development of Western Alaska. Since the CDQ program began in December 1992, the combined gross revenues of the CDQ groups has exceeded \$30 million. Over 300 Western Alaskan residents have found direct employment through the program generating an additional \$1.5 million in wages in the past year. A halibut and blackcod CDQ program has been implemented this year. The pollock program will sunset in 1996 unless extended.

Continuous monitoring and assistance to the six CDQ groups is critical at this time. Success of the program will support the state's efforts to extend the program beyond 1995 and to extend it to additional species, especially cod and crab.

SENATE COMMITTEE REPORT
First Committee of Referral

John

DATE: 3/10/95

FURTHER: *has no further*

Date of 5-Day Notice: 3-15-95
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-10-95

Resources Committee considered SJR 20

Western Alaska Community Development Quota Program, the inshore/offshore allocation process, and the North Pacific Fishery Management Council Comprehensive Rationalization Program.

and recommends:

- be replaced with CS SJR 20 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

same title
 new title

House Bill:

same title
 technical title
 new: SCR# _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tom Hoff</i>	<input checked="" type="checkbox"/>	<i>Denise</i>	<input checked="" type="checkbox"/>		
		<i>Irma Dease</i>	<input checked="" type="checkbox"/>		
<i>Rick Halford</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Brew A. Lewis</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>CED</i>	<i>2-29</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

9-LS0876C ✓
Utermohle
4/5/95

**CS FOR SENATE JOINT RESOLUTION NO. 20(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR HOFFMAN

A RESOLUTION

1 **Relating to the Western Alaska Community Development Quota Program, the**
2 **inshore/offshore allocation process, and the North Pacific Fishery Management**
3 **Council Comprehensive Rationalization Program.**

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

5 **WHEREAS** the Western Alaska Community Development Quota (CDQ) Program is
6 a fisheries development program involving the federal Department of Commerce, the North
7 Pacific Fishery Management Council, the State of Alaska, and 56 Bering Sea coast, Aleutian
8 Islands, and Pribilof Islands communities; and

9 **WHEREAS** the CDQ program has set aside 7.5 percent of the available Bering Sea
10 pollock quota during 1992 through 1995 for Bering Sea coast, Aleutian Islands, and Pribilof
11 Islands communities; and

12 **WHEREAS** the amount of pollock available for harvest under the CDQ program is
13 more than 100,000 metric tons per year and has an approximate annual value of \$20,000,000;
14 and

15 **WHEREAS** the CDQ program allocates the available harvest of pollock among
16 eligible communities, local fishermen's organizations, and local economic development

1 organizations who in turn reinvest the proceeds from the harvest and processing of the pollock
2 in additional local fisheries development projects; and

3 WHEREAS the CDQ program has been expanded to include halibut and sablefish
4 (black cod); and

5 WHEREAS the CDQ program is important to the economic development of the
6 Bering Sea coast, Aleutian Islands, and Pribilof Islands communities; and

7 WHEREAS the North Pacific Fishery Management Council established the CDQ
8 program as a component of the inshore and offshore allocation of Bering Sea pollock; and

9 WHEREAS the CDQ program represents an unparalleled opportunity for long-term
10 stable economic development for the communities of the Bering Sea coast, Aleutian Islands,
11 and Pribilof Islands; and

12 WHEREAS the social and economic welfare of many Alaska coastal communities is
13 largely dependent upon continued access to and utilization of the vast pacific cod and pollock
14 resources off the shores of Alaska; and

15 WHEREAS access to and utilization of the pacific cod and pollock resources has been
16 assured under the inshore/offshore allocation adopted by the North Pacific Fishery
17 Management Council; and

18 WHEREAS the increased harvesting capacity of the large industrialized offshore
19 fishing fleets have developed an advantage over the catcher boat fleet that harvests fish for
20 shoreside processing plants; and

21 WHEREAS the North Pacific Fishery Management Council is preparing to adopt a
22 Comprehensive Rationalization Plan (CRP) for groundfish and crab in the Bering Sea and
23 Aleutian Islands area; and

24 WHEREAS the North Pacific Fishery Management Council's CRP will limit access
25 in the groundfish and crab fisheries off Alaska, which are important to Alaska's coastal
26 communities and to Alaska's seafood industry;

27 BE IT RESOLVED by the Alaska State Legislature that the North Pacific Fishery
28 Management Council is respectfully requested to allocate Bering Sea groundfish and crab to
29 the Western Alaska Community Development Quota (CDQ) groups and support the
30 continuation of the inshore/offshore allocation process as parts of any Comprehensive
31 Rationalization Plan (CRP) that the council prepares; and be it

1 **FURTHER RESOLVED** by the Alaska State Legislature that the North Pacific
 2 Fishery Management Council is also respectfully requested to ensure that any CRP developed
 3 by the council addresses access for Alaska's small boat fleet and coastal residents to
 4 groundfish and crab. *allocation and fair and reasonable*

5 **COPIES** of this resolution shall be sent to the Honorable Ron Brown, Secretary of the
 6 U.S. Department of Commerce; Richard B. Lauber, chair of the North Pacific Fishery
 7 Management Council; and to the Honorable Ted Stevens and the Honorable Frank Murkowski,
 8 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
 9 delegation in Congress.

Amend #3

whereas
 The state legislature has passed legislation to increase
 allocation to the small boat fleet
 Re: US Dept. of Commerce
 B.I.S. in order to prevent
 or was continuing grant of per 23thly

*Amend
 withdrawn*

Under proposed Treaty

and Re it further

*Further desired that raising in per. production
 shall be controlled and endorsing the federal and water
 fishing quota (ITC) process, not in a want of
 federal jurisdiction over Alaska fisheries
 (not as a relinquishment by Alaska of the
 fisheries)*

SENATOR LOREN LEMAN'S OFFICE

TELECOPIER COVER SHEET

State Capitol, Juneau, Alaska 99801

907-465-2095 (office)

907-465-3810 (fax)

ATTN: George Demichle FAX: 2029

OFFICE: LAA PHONE: _____

FROM: A. Kreitzer DATE/TIME: 1/4/95 10:45 AM

COMMENTS: I need class by Nov. 4-5 95 to
distribute to members THINKS

NUMBER OF PAGES (including cover sheet): 2



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

MEMO

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

TO: George Utermohle, Attorney
Legal Services

FROM: Annette E. Kreitzer, Committee Aide *AK*
Senate Resources Committee

DATE: April 4, 1995

RE: Blank CS for SJR 20

.....

Please prepare a CS for SJR 20 to address the following concerns:

- 1) Page 2, line 22: Capitalize the first letters in the phrase Comprehensive Rationalization Plan and add (CRP) after that phrase.
- 2) Page 2, line 25: after "allocate" INSERT: Bering Sea groundfish and crab...
- 3) Add new WHEREAS after line 23: WHEREAS the North Pacific Management Council's CRP will limit access in the groundfish and crab fisheries off Alaska, which are important to Alaska's coastal communities and to Alaska's seafood industry;
- 4) Page 2, line 28: council prepares; [.]
- 5) Page 2, after line 28: add new: BE IT FURTHER RESOLVED by the Alaska State Legislature that the North Pacific Fisheries Management Council is also respectfully requested to ensure that any CRP developed by the council addresses access for Alaska's small boat fleet and coastal residents to groundfish and crab.

Benefits for YOU

EDUCATION

Initial training for entry level fish processing has resulted in fishery jobs for more than 150 local residents. In anticipation of long range training needs, groups have set aside education and scholarship endowments insuring funds for residents' tuition to acquire necessary skills, Coast Guard licenses or college degrees. Coastal Villages Fishing Cooperative plans to establish a school to train residents in netting and salmon toe grading. Currently these lucrative positions are filled by foreigners.

JOBS

All CDQ groups are required to provide jobs for community residents, either working directly with the CDQ operation or their fishing partners. Each group has goals for employment placement in their approved Community Development Plan (CDP). Interested residents should contact their local CDQ management office.

COMMUNITY

All six groups plan fishery development infrastructure projects in and around their area. This will result in many jobs and long term economic development in these communities. Plans include shoreside processing facilities, warehouses, cold storage, fishing gear storage, docks, and fishery enhancement projects. Projects will be partially or wholly owned by the CDQ groups.

SECURITY

Through vessel, gear, permit or future Individual Fishery Quota (IFQ) loans, local residents will become personally involved in long range fishery career opportunities. Bristol Bay plans on direct fishery investments, Coastal Villages has already purchased direct ownership of a factory trawler, Yukon Delta has purchased two fishing vessels and Central Bering Sea will soon launch a vessel loan program. Management of these operations will require a host of local resident managers and onshore fleet support staff.



Photo: Alaska Seafood Marketing Institute

Make into a great variety of tasty products, Alaska pollock enters the world market to feed millions of people.

The CDQ program will forever change the economic outlook for Alaska's Bering Sea coastal communities. The Fisheries Conservation and Management Act (Magnuson Act) provided for Americanizing the Bering Sea fisheries. The CDQ program lets them be Alaskanized. Rural resident fishermen lacking necessary financial capital, groundfishing experience and fishing vessels adequate to compete in the fishery are provided direct access through the CDQ program. Wise management of CDQ quota and prudent financial investments will secure a long-term involvement. Through sound fisheries management, the 21st century holds a very bright future for this heretofore depressed area of the great state of Alaska.

For additional information on the CDQ program, contact:

John M. Walsh
Dept. of Community & Regional Affairs
PO Box 112100
Juneau, Alaska 99811-2100
Phone (907) 465-4989

This brochure was prepared by the rural students at Mt. Edgecumbe High School, Sitka, Alaska.

Building Your Future



the CDQ Program



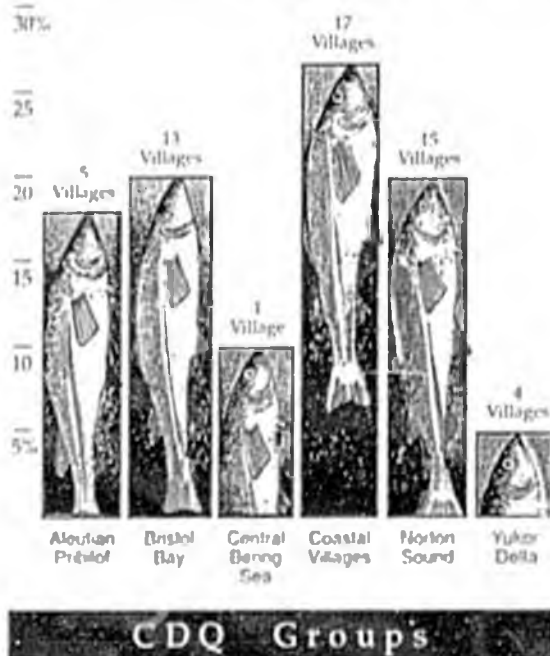
The I/T Brown's Point, 50% owned by the Coastal Villages Fishing Cooperative, returns from pollock fishing in the Bering Sea.

Community Development Quotas

Rural communities in western Alaska are poised to benefit from a unique federal, state, and industry fishery partnership developed under Governor Hickel's direction. Approved in March of 1992 and implemented that fall, the Community Development Quota (CDQ) program allows small communities along the Bering Sea to partner with experienced fishery companies to harvest, process and market the bountiful pollock groundfish. 75% of the allowable catch limit is reserved for the CDQ program. This amounts to more than 100,000 metric tons of fish! The 55 eligible communities formed six regional associations to compete for a share of the quota. Initial program authorization runs through 1995.

Western Alaskans will benefit through profit sharing, fishery partnerships with experienced industry, direct job placement, career opportunities, nearshore fishery development, experience in groundfishing management, scholarship endowments, and general community development.

POLLOCK ALLOCATIONS



Processing of groundfish holds abundant employment opportunities for Alaskans.

CDQ Groups

Aleutian Pribilof Island Community Development Association consists of five communities. For 1992/1993 the association was granted 18,260 metric tons of pollock. It has partnered with Trident Seafoods, Inc. and Starbuck, Inc. to harvest and process fish. More than 40 local residents will be employed by the end of 1993.

Bristol Bay Economic Development Corporation includes 14 communities, and was allocated 20,289 metric tons of pollock for 1992/1993. Their fishing partner is Oceanrawl, Inc. More than 60 local residents will be employed directly in the fishery, with an additional 20 to be placed through a management internship program.

Central Bering Sea Fishermen's Association represents the fishing community of St. Paul. In partnership with American Seafoods, Inc. they are going out for their quota of 10,141 metric tons of fish. Their goal is to employ 25 local residents by the end of 1993.

Coastal Villages Fisheries Cooperative has formed the largest regional association with 17 communities. Their 1992/1993 pollock allocation is 27,390 metric tons. Coastal Villages is partnered with Golden Age Seafoods for harvesting and processing. They will employ more than 50 local residents in the fishery, develop a management intern program and place residents in salmon net grading jobs.

Norton Sound Economic Development Corporation is comprised of 15 communities. Their 1992/1993 quota is 20,289 metric tons of pollock. Glacier Fish Company, Ltd. is their fishing partner. NSEDC expects 40 local residents to be employed in the fishery in 1993.

Yukon Delta Fisheries Development Association embraces four communities. For 1992/1993 they were granted 5,072 metric tons of pollock. Their partner for harvesting and processing is Golden Alaska Seafoods, Inc. More than 40 local residents are expected to be employed in 1993 operations.

NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION

P.O. Box 2407
Elim, Alaska 99739

(907) 890-2248

Brevig Mission	Shaktolik
Diomedea/Inalik	St. Michael
Elim	Stebbins
Gambell	Teller
Golovin	Unalakleet
Koyuk	Wales
Nome	White Mountain
Savoonga	

YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION

P.O. Box 210
Emmonak, Alaska 99741

(907) 949-1926

Alakanuk	Kotlik
Emmonak	Sheldon Point

COASTAL VILLAGES FISHERIES COOPERATIVE

214 North Franklin Street, #1
Tununak, Alaska 99811

(907) 586-2360

Cherfornak	Newtok
Chevak	Nightmute
Eek	Platinum
Goodnews Bay	Quinhagak
Hooper Bay	Scammon Bay
Kipnuk	Tooksook Bay
Kongianak	Tuntutuliak
Kwigillingok	Tununak
Mekoryuk	

CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

150 W. 3rd Ave.
Anchorage, Alaska 99501
St Paul

(907) 278-2312

BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION

P.O. Box 104
Dillingham, Alaska 99576

(907) 842-4336

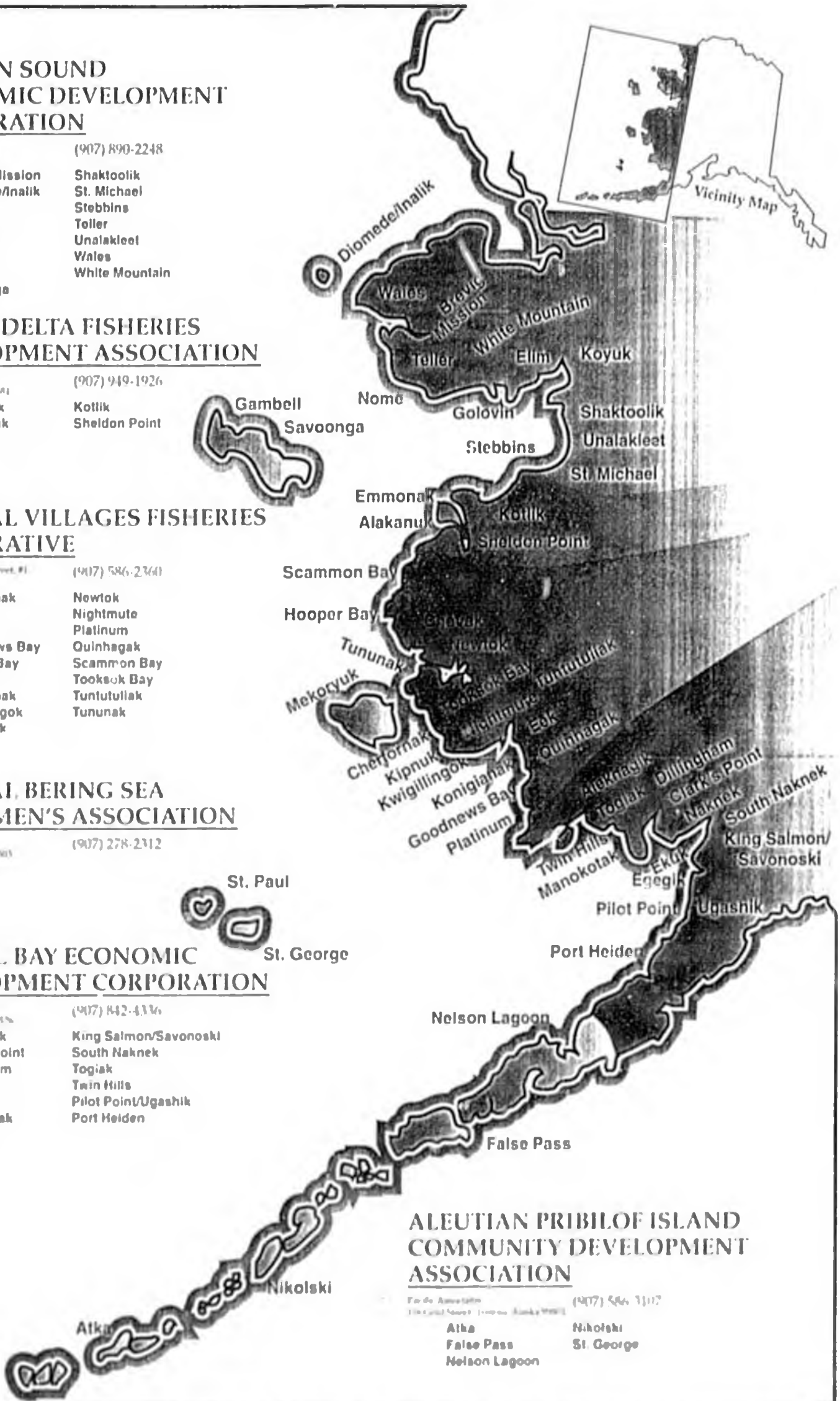
Aleknagik	King Salmon/Savonoski
Clark's Point	South Naknek
Dillingham	Togiak
Egegik	Twin Hills
Ekuak	Pilot Point/Ugashik
Manokotak	Port Heiden
Naknek	

ALEUTIAN Pribilof Island COMMUNITY DEVELOPMENT ASSOCIATION

P.O. Box 100
110 Central Street
Nikolski, Alaska 99812

(907) 546-3107

Atha	Nikolski
False Pass	St. George
Nelson Lagoon	



the CDQ Regions in Alaska

Prepared for the State of Alaska

The CDQ Program

New Economic Potential for Western Alaska

BERING SEA

PACIFIC OCEAN



INTRODUCTION

A Community Development Quota (CDQ) program was implemented in 1992 that thrust participating western Alaska communities into a unique partnership with the multimillion-dollar Bering Sea groundfish industry.

In contrast to their traditional subsistence and small boat commercial fisheries, western Alaska residents will now have opportunities to work on factory trawlers capable of fishing the Bering Sea year-round, in shoreside processing plants, and in related seafood industry operations. With CDQs, Bering Sea coastal communities are partners with established corporations in industrial-scale seafood production — delivering massive quantities of groundfish to consumers efficiently and at the lowest price — and will derive direct economic benefits (estimated at up to \$20 million annually) from a resource located just off their shores.

The CDQ program has been carefully designed to avoid the mistakes of the past. As one CDQ corporation said in its quota application, "there are far too many monuments to good intentions scattered throughout western Alaska already." To many, CDQs represent the most viable opportunity yet for sustained economic development in western Alaska.

BACKGROUND

The concept of Community Development Quotas emerged in the mid-1980s as the Bering Sea groundfish fisheries — long dominated by foreign nations — finally became profitable for the domestic fishing industry. Advocates for rural Alaska wondered if the guaranteed quota concept — based on the experiences in Greenland, New Zealand, Iceland and elsewhere — could be adapted for use in the state. If western Alaska rural communities could implement such a program, they could help diminish chronic unemployment and social problems, and share directly in the harvest of a multimillion-dollar fisheries resource.

During the 1989 Congressional hearings on the reauthorization of the Magnuson Fishery Conservation and Management Act, western Alaskans proposed an amendment expressly allowing the creation of CDQs. The idea, however, was dropped during Congressional negotiations.

In the meantime, the Alaska-based seafood industry launched a campaign to convince the North Pacific Fishery Management Council to split groundfish allocations in the Gulf of Alaska and Bering Sea between shorebased seafood processors and offshore factory trawlers. At its April, 1991 meeting, the council adopted a specific CDQ alternative for analysis as part of the inshore-offshore proposal. The final inshore-offshore



Photos (above) A cod-end filled with 120 tons of CDQ pollock is hoisted on board the FT Pacific Glacier, owned by Glacier Seafoods Ltd., and working in partnership with the Norton Sound Economic Development Corporation. (below) Commercial fishermen deliver stiff loads of chum salmon to a buying site in along the Yukon River. Gillnets and drift nets are the traditional tools for western Alaska commercial fisheries.

CDQ PROGRAM GOALS

The overall goal of the CDQ program is to make substantial progress toward economic self-sufficiency for western Alaska through:

- ◆ Promoting the economic well-being of local coastal communities through involvement in Bering Sea fishery resources.
- ◆ Allowing western Alaska communities to diversify local economies.
- ◆ Providing western Alaska community residents with new opportunities to obtain stable, long-term employment.
- ◆ Allowing western Alaska residents a fair and reasonable opportunity to participate in the Bering Sea/Aleutian Islands fisheries which have been closed to them because of the high capital investments required.



St. George in the Pribilof Islands is a member of the five community Aleutian Pribilof Island Community Development Association.

Six applicants received CDQ allocations in western Alaska. A summary of each organization and program plan is provided below.

ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION

APICDA consists of the communities of Atka, False Pass, Nelson Lagoon, Nikolski, and St. George. Akutan and Unalaska participate in the training and education programs. APICDA received 18 percent of the pollock reserve set aside for CDQs. APICDA's corporate partners in harvesting the quota are the Trident Seafoods Corporation, one of Alaska's largest shorebased seafood processing companies, and Starbound Partnership, operator of a factory trawler. Both companies are 100 percent American-owned. The F/T Starbound was built in the United States.

APICDA plans to:

- ◆ Establish a comprehensive vocational education, job training, and employment program.
- ◆ Establish a higher education endowment fund for community residents who wish to pursue university degrees.
- ◆ Participate in the funding for completion of the Zapadni Bay Harbor on St. George Island, creating a new commercial service center for the Bering Sea fisheries. Harbor completion will be coupled with the construction of a shoreside processing plant in 1993 and ancillary economic development.
- ◆ Complete engineering designs for a dock in Nelson Lagoon (to be constructed in 1994) and conduct an economic feasibility study on related economic development, all in cooperation with the Aleutians East Borough.
- ◆ Work with the False Pass Tribal Council to fund the construction in 1993 of a gear storage warehouse in False Pass.
- ◆ Cooperate with the City of False Pass to extend water and sewer service to the new False Pass dock, making the facility ready for commercial activity. A vessel storage facility, repair facility, and/or seafood processing facility may be developed adjacent to the dock.



CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

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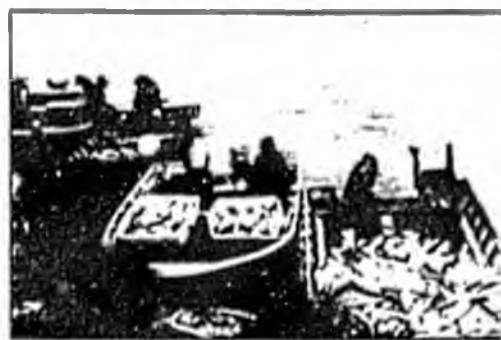
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Photos (above) A cod-end filled with 120 tons of CDQ pollock is hauled on board the FT Pacific Glacier, owned by Glacier Seafoods, Ltd., and working in partnership with the Norton Sound Economic Development Corporation. (below) Commercial fishermen deliver skiff loads of chum salmon to a buying station along the Yukon River. Skiffs and gillnets are the traditional tools for western Alaska commercial fisheries.

management plan was approved by the council in June 1991, and included a provision that set aside 7.5 percent of the pollock quota in the Bering Sea (approximately 100,000 tons annually) for a four-year CDQ program.

The CDQ provision was structured to give the Governor of Alaska the lead responsibility for recommending who would receive quotas. In 1992, state and federal officials drafted CDQ criteria, procedures and regulations. Once all the administrative measures were approved, the state accepted CDQ applications from the eligible communities of western Alaska, submitted through six newly formed or reorganized corporations, each with a corporate fishing partner.

On Nov. 25, 1992, Gov. Walter Hickel issued findings and recommendations for the amount of quota each applicant would receive for 1992 and 1993. The Secretary of Commerce approved the state's decision on Dec. 3, 1992, and authorized the CDQ applicants to harvest their quotas.

How CDQs Work

Applications for CDQs, based on 7.5 percent of the biologically harvestable Bering Sea pollock resource, are submitted on a biennial basis to the Governor of Alaska. The governor evaluates the applications and makes recommendations on the size of the quota to be awarded. The recommendations are reviewed by the North Pacific Fishery Management Council and are submitted for final approval to the U.S. Secretary of Commerce.

Applications for CDQs, based on 7.5 percent of the biologically harvestable Bering Sea pollock resource, are submitted on a biennial basis to the Governor of Alaska. Communities that are eligible to receive quotas must be located on or within 50 miles of the Bering Sea coast from the Bering Strait to the westernmost of the Aleutian Islands, or located on islands within the Bering Sea. CDQ proceeds must be invested in fishery development programs and ventures that create jobs and promote stable local economies in western Alaska.

Communities that are eligible to receive quotas must be located on or within 50 miles of the Bering Sea coast from the Bering Strait to the westernmost of the Aleutian Islands, or located on islands within the Bering Sea. The communities must meet the definition of Native villages under the Alaska Native Claims Settlement Act.

Applications for a maximum 33 percent of the available CDQ pollock may be submitted by local fishing organizations from eligible communities or groups of communities, or a local economic development organization incorporated for the purpose of designing or implementing a Community Fisheries Development Plan.

Applications must address the level of local employment that will be generated, the vocational and educational programs that will be created, and the schedule for moving from reliance on CDQs to self-sufficiency. Applications must also include detailed business plans to allow evaluation of the feasibility of the CDQ joint ventures. In these ventures, the corporate partners purchase the rights to the fish, hire western Alaskans to work at all levels of their operations, and guide the CDQ groups to full involvement in the groundfish industry.

Because the total amount of CDQ pollock is limited, applications are evaluated in competition with each other on the basis of goals and objectives, realistic measurable milestones for determining progress, methods for developing a self-sustaining local fisheries economy, level of local employment, capital or equity generated for local fisheries investment and profit-sharing arrangements.

The state requires active, not passive operations. The mere sale of quota and receipt of dividends is not considered acceptable. Western Alaska residents must fully participate in the fisheries. CDQ proceeds must be invested in fishery development programs and ventures that create jobs and promote stable local economies in western Alaska.

CDQ recipients must file quarterly reports to allow the state to monitor their progress and compliance with program requirements. CDQ groups that represent more than one community must have at least one resident from each member community on their boards of directors.

CDQ PROGRAM GOALS

The overall goal of the CDQ program is to make substantial progress toward economic self-sufficiency for western Alaska through:

- ◆ Promoting the economic well-being of local coastal communities through involvement in Bering Sea fishery resources.
- ◆ Allowing western Alaska communities to diversify local economies.
- ◆ Providing western Alaska community residents with new opportunities to obtain stable, long-term employment.
- ◆ Allowing western Alaska residents a fair and reasonable opportunity to participate in the Bering Sea/Aleutian Islands fisheries which have been closed to them because of the high capital investments required.

Six applicants received CDQ allocations in western Alaska. A summary of each organization and program plan is provided below.



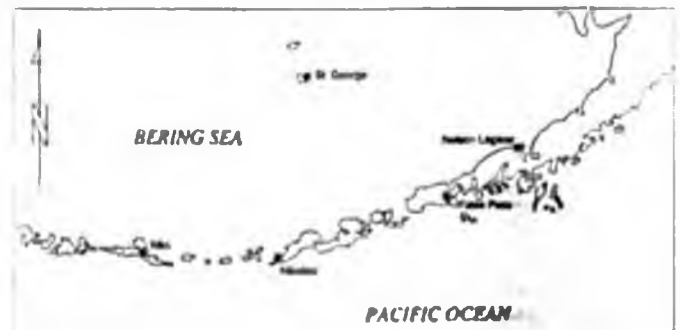
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ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION

APICDA consists of the communities of Atka, False Pass, Nelson Lagoon, Nikolski, and St. George. Akutan and Unalaska participate in the training and education programs. APICDA received 18 percent of the pollock reserve set aside for CDQs. APICDA's corporate partners in harvesting the quota are the Trident Seafoods Corporation, one of Alaska's largest shorebased seafood processing companies, and Starbound Partnership, operator of a factory trawler. Both companies are 100 percent American-owned. The F/T *Starbound* was built in the United States.

APICDA plans to:

- ◆ Establish a comprehensive vocational education, job training, and employment program.
- ◆ Establish a higher education endowment fund for community residents who wish to pursue university degrees.
- ◆ Participate in the funding for completion of the Zapadni Bay Harbor on St. George Island, creating a new commercial service center for the Bering Sea fisheries. Harbor completion will be coupled with the construction of a shoreside processing plant in 1993 and ancillary economic development.
- ◆ Complete engineering designs for a dock in Nelson Lagoon (to be constructed in 1994) and conduct an economic feasibility study on related economic development, all in cooperation with the Aleutians East Borough.
- ◆ Work with the False Pass Tribal Council to fund the construction in 1993 of a gear storage warehouse in False Pass.
- ◆ Cooperate with the City of False Pass to extend water and sewer service to the new False Pass dock, making the facility ready for commercial activity. A vessel storage facility, repair facility, and/or seafood processing facility may be developed adjacent to the dock.



- ◆ Combine forces with the City of Atka to complete engineering designs for a dock (to be constructed in 1994) and conduct an economic feasibility study on related development, including a fuel-tank farm and shoreside processing plant construction.
- ◆ Make funds available for the purchase of fishing vessels, Individual Fishing Quotas, and other business opportunities.
- ◆ Employment goal: 60 people in 1993.

Contacts: Mark Snigaroff, Chairman
 APICDA
 P.O. Box 47307
 Atka, Alaska 99547
 (907) 839-2249 FAX: 829-2234

Larry Cotter
 Pacific Associates
 116 Gold Street
 Juneau, Alaska 99801
 (907) 586-3107 FAX: 586-1001

BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION

BBEDC consists of the Bristol Bay communities of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuik, Manokotak, Naknek, Pilot Point, Port Heiden, Savonoski / King Salmon, South Naknek, Togiak, Twin Hills, and Ugashik. BBEDC received 20 percent of the available CDQ pollock. BBEDC's corporate fishing partner is Oceantrawl Inc., an Alaska corporation operating three factory trawlers.

BBEDC plans to:

- ◆ Implement a Community Development Plan in 1993 consisting of employment training programs, a small business development program, grants for value-added processing and marketing, and extension services to halt the regional loss of limited entry permits.
- ◆ Establish a Scholarship Endowment Fund in 1993 for students to attend universities or full-time vocational programs.
- ◆ Set up a reserve to provide matching funds for infrastructure construction, and financing for the acquisition of Individual Fishing Quotas.
- ◆ Establish the Alaska Seafood Investment Fund in 1993 to invest in a diversified series of Alaska seafood businesses both within and outside the Bristol Bay region.
- ◆ Employment goal: 60 people year-round in Oceantrawl, Inc. operations by 1993.



Contact: H. Robin Samuelsen, Jr., Chairman
 BBEDC
 P.O. Box 1464
 Dillingham, Alaska 99576
 (907) 842-4370 FAX: 842-4336

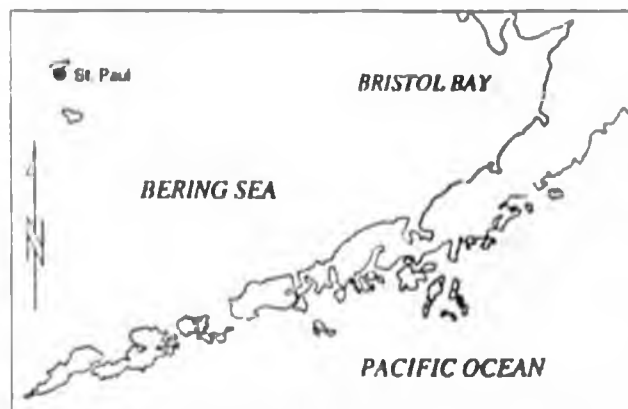
CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

CBSFA represents the community of St. Paul in the Pribilof Islands. It received 10 percent of the Bering Sea CDQ pollock. Its corporate fishing partner is American Seafoods Company, Inc.

CBSFA plans to:

- ◆ Establish a boat loan program for the purchase and construction of vessels 32 to 125 ft. in length that are capable of participating in the multi-species fisheries of the Bering Sea.
- ◆ Set aside funds for infrastructure development on St. Paul Island.
- ◆ Employment goal: 20-25 people in CDQ operation.

Contact: Pertenia Pletnikoff, Jr., President
CBSFA
P.O. Box 88
St. Paul, Alaska 99660
(907) 546-2312



CBSFA
1300 W. 33rd Ave.
Anchorage, Alaska 99503
(907) 278-2312 FAX: 278-2316

COASTAL VILLAGES FISHING COOPERATIVE

CVFC consists of the Yukon-Kuskokwim Delta communities of Chefomak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Newtok, Nightmute, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak. CVFC received 27 percent of the available pollock CDQ. CVFC's corporate partner is Golden Age Fisheries, owner of five factory trawlers involved in Bering Sea and Gulf of Alaska fisheries.

CVFC plans to:

- ◆ Purchase 50 percent equity in the 197 ft. factory trawler *Browns Point* with the long-term goal of owning, managing, and operating a fleet of at-sea processing and harvesting vessels.
- ◆ Establish a "Salmon Roe University" to train residents of the region to be salmon roe technicians.
- ◆ Purchase or construct a salmon processor to operate in the lower Kuskokwim River.
- ◆ Self-assess the equivalent of the State of Alaska's fisheries business tax and dedicate this money to grants for fisheries infrastructure development.
- ◆ Train individuals from CVFC member villages to work at all levels of the groundfish industry — harvesting, processing, marketing, and corporate management.



- ◆ Establish a Coastal Villages Scholarship Fund for careers in the fisheries and fisheries management.
- ◆ Create a financing mechanism for purchasing and repatriating salmon and herring entry permits to the region.
- ◆ Create a financing mechanism for the purchase of vessels for local and nearshore fisheries.
- ◆ Employment goal: 51-70 people by 1993.

Contact: Norman Cohen
 CVFC
 204 North Franklin Street, #1
 Juneau, Alaska 99801
 (907) 586-2360 FAX: 586-2331



Stiffs are pulled up on the beach at Toksook Bay prior to a commercial herring opening. Toksook Bay is a member of the Coastal Villages Fishing Cooperative.

NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION

NSEDC consists of the Norton Sound, Little Diomed Island, St. Lawrence Island and Seward Peninsula communities of Brevig Mission, Diomedes/Inalik, Elim, Gambell, Golovin, Koyuk, Nome, St. Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain. NSEDC received a 20 percent share of the CDQ. NSEDC's corporate fishing partner is Glacier Fish Company, Ltd.

NSEDC plans to:

- ◆ Pioneer new markets for salmon and herring starting in 1993 when Glacier Fish Company will buy and market all salmon species and 1,500 tons of herring.
- ◆ Provide low-interest loans starting in the spring of 1993 for the region's fishermen to purchase Norton Sound salmon and herring permits, fishing gear, and to upgrade boats.
- ◆ Establish a program for training up to 80 residents of the region each year in the skills necessary to work on fishing boats and in shoreside plants, and to help them get jobs in the fishing industry.
- ◆ Award scholarships each year to residents interested in obtaining advanced education and technical school training in fisheries-related areas.
- ◆ Work with the school district to establish salmon hatchery programs in every school in the region, and hold more commercial herring and salmon fisheries workshops.
- ◆ Establish a construction fund to revitalize shoreside fish processing in Unalakleet, Shaktoolik, Golovin and Moses Point, and explore building processing plants in other communities.



- ◆ Purchase a fishing vessel capable of catching and processing halibut, black cod, and other species, and serving as a salmon and herring tender or processor.
- ◆ Create new fishing opportunities through regulatory changes and technical assistance, targeting halibut in St. Lawrence Island nearshore water, crab in Norton Sound and elsewhere, and groundfish species such as tomcod.
- ◆ Establish a permanent endowment, providing funds after 1996 to build a regional workforce through fisheries skills training, scholarships, and employment programs.
- ◆ Employment goal: 80 people in CDQ operations.

Contact: John Jemewouk, Executive Director
 NSEDC
 P.O. Box 39089
 Elim, Alaska 99739
 (907) 890-2248 FAX: 890-2249

YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION

YDFDA represents the Yukon Delta communities of Alakanuk, Emmonak, Kotlik, and Sheldon Point. YDFDA received five per cent of the available CDQ. YDFDA's corporate fishing partner is Golden Alaska Seafoods.

YDFDA plans to:

- ◆ Establish a training program for up to 258 residents by 1995.
- ◆ Develop a fleet of small catcher vessels designed to operate in local longline and/or pot fisheries.
- ◆ Participate with the Emmonak Co-op and the Emmonak Tribal Council in the construction and operation of a shoreside processing and cold storage facility.
- ◆ Set up a fund for purchasing salmon limited entry permits.
- ◆ Explore halibut and cod fisheries in the upper Bering Sea.
- ◆ Employment goal: 50 people in CDQ operations by 1995.

Contact: Edwin H. Glotfelty, Executive Director
 YDFDA
 P.O. Box 210
 Emmonak, Alaska 99581
 (907) 949-1314 FAX: 949-1926

YDFDA
 2415 Western Ave., Suite 415
 Seattle, Washington 98121
 (206) 443-1565 FAX: 443-1912



FUTURE ISSUES

The CDQ program, along with the inshore-offshore allocation plan, will expire in 1995.

The North Pacific Fishery Management Council adopted the initial CDQ plan as a temporary measure with the expectation that a comprehensive rationalization plan — establishing allocation systems for all fisheries under federal management — would then be ready for adoption. In the meantime, many major CDQ-related issues remain to be resolved:

- ◆ Will the CDQ program prove valuable enough that its existence should be extended past 1995?
- ◆ Should CDQs be implemented for crab, Pacific gray cod, rock sole, yellowfin sole, and other Bering Sea species? If so, how should these CDQs be designed?
- ◆ How will the CDQs that are a part of the Individual Fishing Quota (IFQ) allocation system for halibut and sablefish be implemented?
- ◆ Should pollock CDQs continue or should they be converted to IFQs?
- ◆ Should the Magnuson Act, up for Congressional reauthorization in 1993, be amended to include CDQs?



Fresh-caught CDQ pollock receives a freshwater rinse in a holding tank on the F/T Pacific Glacier. Pollock is the largest harvestable resource in the Bering Sea and the foundation for the CDQ allocation program.

CONCLUSION

The CDQ program brings a new group of people into the industry as major participants. The state and federal governments, as well as private industry groups, will closely monitor the CDQ program to determine if it is successful in achieving its goals.

While the information and results will be debated in fishery forums for many years, no one can deny that a new set of issues will challenge the industry and that the criteria and standards for federal fisheries allocations have changed forever.

This publication was produced by the Bering Sea Fishermen's Association in March, 1993 with information supplied by the State of Alaska — Department of Community and Regional Affairs, Department of Commerce and Economic Development, and Department of Fish and Game — the Aleutian Pribilof Island Community Development Association, the Bristol Bay Economic Development Corporation, the Central Bering Sea Fishermen's Association, the Coastal Village Fishing Cooperative, the Norton Sound Economic Development Corporation and the Yukon Delta Fishery Development Association. Photos by Lew Tilton, Tom Zick and Malineth Saville. Design by North Coast Research Group, Inc.



Bering Sea Fishermen's Association

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Senator Lyman F. Hoffman

Alaska State Legislature
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- Chefornak
- Chignik
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- Chignik Lake
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- Cold Bay
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- Dutch Harbor
- Eek
- Egegik
- Ekuk
- Ekwok
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- Togiak
- Tuntutuliak
- Twin Hills
- Ugashik
- Unalaska
- Unga

TO: Senator Loren Leman, Chairman
Senate Resources Committee

FROM: Senator Lyman F. Hoffman, Prime Sponsor

RE: SJR 20 - supporting CDQ's

DATE: March 24, 1995

Mr. Chairman,

Thank you for taking up consideration of SJR 20. This resolution recommends that the North Pacific Fisheries Management Council consider continued support of the Western Alaska Community Development Quota Program and support the continuation of the inshore/offshore allocation process as parts of any comprehensive rationalization plan that the council prepares.

The CDQ program was implemented in December of 1992 and is scheduled to sunset in December of 1995 unless extended by the Council. In your pocket, you will find an informative summary of the program prepared by Donna Parker at the Department of Commerce. This summary illustrates the tremendous success the CDQ program has experienced. In addition, you will also find a copy of "The CDQ Program - New Economic Potential for Western Alaska." This publication will provide you with the background of the program as well as a description of the six CDQ organizations.

I believe you will find that the DQ Program represents the most viable opportunity yet for sustained economic development in western Alaska. SJR 20 provides the legislature with the opportunity to voice its support for a program that has had a significant positive impact on the economy of western Alaska.

Thank you for your consideration of this resolution.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF ECONOMIC DEVELOPMENT

P.O. BOX 110004
JUNEAU, ALASKA 99811-0004
PHONE: (907) 465-2017

DCED COMMENTS ON SJR 20

BACKGROUND

The pollock Community Development Quota (CDQ) program is a federal allocation of approximately 100,000 metric tons of pollock annually to 56 Alaska communities that border the Bering Sea. It was implemented in December of 1992 and is scheduled to sunset in December of 1995 unless extended by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce. It is worth approximately \$20 million annually in revenues generated by lease of those harvesting rights to seafood industry partners. By the time the program sunsets later this year, it will have generated more than \$80 million in payments to the region and created more than 600 jobs.

The halibut and sablefish CDQ program is also a federal allocation of fishery resource to eligible communities. That allocation was made as part of the halibut and sablefish IFQ program and will not sunset. It is a much smaller allocation, worth approximately \$3 million annually.

The 56 eligible communities have grouped themselves into six organizations that vary in size from one to 17 villages.

The intent of the CDQ program is to provide these remote Alaskan villages, which have historically been reliant on the fishery resources of the Bering Sea, an "entry ticket" into the capital intensive fisheries of the North Pacific. For that reason, the goal of the CDQ program is to attain economic self-sufficiency for these regions through successful investment in fishing industry businesses and infrastructure in the North Pacific seafood industry.

One of the most unique features of the CDQ program is that it fosters accomplishments of ambitious Community Development Plans (CDP) because of the competitive nature of the allocation process. These plans, which include employment, training and investment milestones are actively monitored by the state. If a group fails to meet scheduled milestones, it could hurt their ability to secure desired allocation levels during the next allocation cycle. While CDPs can be amended, good cause must be demonstrated to win approval from the state and federal government.

While this is a federal program, it is the state's responsibility to oversee its implementation and assure compliance with state and federal regulations. The state also provides assistance to CDQ participants to help facilitate the success of their projects and programs. The three agencies which share equally in the management of the CDQ program are the Department of Community and Regional Affairs (DCRA), Alaska Department of Fish & Game (ADF&G), and Department of Commerce and Economic Development (DCED). The National Marine Fisheries Service (NMFS) provides federal oversight.

DCED COMMENTS ON SJR 20

PAGE 2

Since the CDQ program was implemented, two pollock allocations and one halibut and sablefish allocation have been made. To date, all recommendations made by the state have been approved at the federal level.

PROGRAM EFFECTS

The most important work ahead of us is to extend the pollock CDQ program beyond 1995 and expand it to additional species. It has been the policy of the state that it will seek a CDQ allocation whenever a limited access scheme is proposed for any species under federal jurisdiction. That policy has been implemented as part of efforts by the state to roll-over separate onshore and offshore allocations of groundfish and to develop a Comprehensive Rationalization Plan (CRP) to change federal fishery management in the North Pacific.

Currently, extension of the CDQ program is being moved forward for consideration in four separate platforms:

1. extension of the onshore/offshore allocation program
2. the state's proposed license limitation program
3. the state's proposed phased-in quota program
4. reauthorization of the Magnuson Act

Extension of the CDQ program, as proposed in this resolution, should continue to receive high priority by the state for several reasons:

1. It uses private sector money to spur significant economic development and jobs in Western Alaska and has decreased reliance on state and federal programs.
2. All CDQ programs are developed at the local level and reflect the unique needs of these diverse communities.
3. The partnership formed between the CDQ groups and their harvesting partners has forged a transference of knowledge and expertise that is unequalled in the public sector.
4. It has provided a strong incentive for joint venture seafood investments by the CDQ groups and their partners that will increase the likelihood of successful investment participation by CDQ groups in the North Pacific seafood industry.
5. It has benefited the entire fishing industry by providing venture capital to the CDQ groups to complete port infrastructure development in the region and to help finance development of new salmon products.
6. It is the most effective way to significantly increase Alaskan ownership in the North Pacific fishing industry.

SJR

22

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR 22

Revision Date: _____ Dept. Affect Fish and Game
 Title: Research on Fisheries and Marine Mammals BRU: CFMD
in the Bering Sea Component: Fisheries Management
 Sponsor: Sen. Hoffman
 Requester: Senate Resources 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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bob Clast
 Division: CFMD
 Approved by Commissioner: Frank
 Agency: Fish and Game

Phone: 465-4210
 Date: 4/17/95
 Date: 4.17.95

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

For further distribution information, call the Governor's Legislative Office

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. SJR 22

Sponsor: Sen. Hoffman

Division: Commercial Fisheries Management and Development

Bill Title: Research on Fisheries and Marine Mammals in the Bering Sea

Department Position: Support

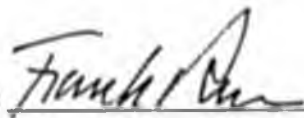
Background/Legislative Intent:

In recent years, there have been observed changes in the populations of some important Bering Sea fish and marine mammal stocks. The resolution requests Congress fund an ecosystem study of the Bering Sea in an attempt to understand the mechanisms causing the population changes.

Analysis of Bill/Program Effects:

The proposed legislation has no direct affect on the department's programs. However, funding of the recommended study could provide insights that would improve management of the Bering Seas fish and mammal populations.

Commissioner's Signature


Frank Rue

Date

4.17.95

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/7/95

FURTHER:

Date of 5-Day Notice: 3 4-20-95
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-29-95

Resources Committee considered SJR 22

Requesting research on fisheries and marine mammals in the Bering Sea.

and recommends:

- be replaced with CS SJR 22 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Chris Taylor</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
DF+G	4/17	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

**CS FOR SENATE JOINT RESOLUTION NO. 22(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR HOFFMAN

A RESOLUTION

1 **Requesting research on fisheries and marine mammals in the Bering Sea.**

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

3 **WHEREAS** the Bering Sea is one of the most productive fishing areas in the world;
4 **and**

5 **WHEREAS** the harvest of fisheries resources in the Bering Sea totaled 4,740,000,000
6 pounds in 1993 and 4,600,000,000 pounds in 1994; **and**

7 **WHEREAS** the harvest of fisheries resources in the Bering Sea was worth
8 \$843,000,000 to commercial fishermen in 1993 and \$893,000,000 to commercial fishermen
9 in 1994; **and**

10 **WHEREAS** fish and marine mammals from the Bering Sea are a principal source of
11 subsistence foods for the communities of western Alaska; **and**

12 **WHEREAS** the abundance of northern sea lions has declined by 70 percent since
13 1959; **and**

14 **WHEREAS** the productivity of northern fur seals on the Pribilof Islands has declined
15 significantly since 1960; **and**

16 **WHEREAS** the abundance of shellfish in the Bering Sea has declined precipitously
17 in recent years resulting in a closure of the Bristol Bay red King crab fishery in 1994 and in

1 reduction in the abundance of Tanner crab to less than a third of 1991 population levels; and
2 **WHEREAS** the biomass of pollock in the Aleutian Basin and western Bering Sea has
3 declined substantially in recent years due to overfishing and continues to decline despite a
4 closure of pollock fishing in the "Donut Hole" area since 1992; and

5 **WHEREAS** certain western Alaska chum salmon stocks have declined during the last
6 five years in spite of a five-fold increase in the total abundance of salmon in western Alaska
7 since the early 1970s; and

8 **WHEREAS** the biomass of arrowtooth flounder and other flatfish has increased
9 significantly (up to a ten-fold increase for some species) in the eastern Bering Sea since the
10 early 1970s;

11 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests the
12 Congress to provide funding to the appropriate federal agencies and institutions to conduct
13 studies of the Bering Sea ecosystem to discover the causes of and to make recommendations
14 for addressing the dramatic changes occurring in the abundance of fish and marine mammals
15 in the Bering Sea; and be it

16 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests that
17 the Congress direct the National Marine Fisheries Service to work with federal and state
18 agencies, and institutions whether public or private, to ensure that efforts are not duplicated
19 and studies are not redundant in addressing this important issue.

20 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
21 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker
22 of the U.S. House of Representatives; the Honorable Bob Dole, Majority Leader of the U.S.
23 Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators,
24 and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in
25 Congress.



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

MEMO

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

TO: George Utermohle, Attorney
Legal Services
via fax: 2029 2 pages

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

DATE: April 28, 1995

RE: Final CS for SJR 22, Fish and Marine Mammal Research

Please draft a FINAL Resources Committee Committee Substitute for SJR 22 incorporating the attached amendment.

Please deliver the final CS to Senator Leman's office (Room 115). There were no further changes.

1

4/28/95

OFFERED IN THE SENATE:

AMENDMENT to SJR 22

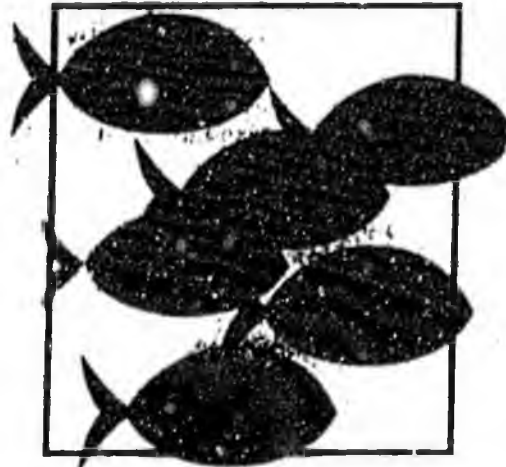
BE IT FURTHER RESOLVED that the Alaska State Legislature respectfully requests that Congress direct the National Marine Fisheries Service to work with federal and state agencies, and institutions whether private or public to ensure that efforts are not duplicated and studies are not redundant in addressing this important issue.

ALASKA'S COASTAL COMMUNITIES AT RISK?

The North Pacific, once considered inexhaustible, is at risk. The ecosystem is showing clear signs of stress in declines of regional marine mammal and bird populations, especially those that depend on commercially important fish for food. In some areas of the Bering Sea and Gulf of Alaska, king crab, opilio and bairdi tanner crab, shrimp, pollock, pacific ocean perch, halibut and greenland turbot are also in decline, resulting in reduced fishing time or complete fishery closures.

Overfishing, unselective catch of hundreds of millions of pounds of fish as bycatch, waste, and government mismanagement are threatening the ocean. Fisheries and ecosystems that have sustained coastal communities for generations are at risk. We don't want what has happened with the New England fisheries crisis to happen here.

You can help! Senator Ted Stevens and Representative Don Young can make a difference — but *only if they hear from you*. Senator Stevens and Representative Young chair the committees in Congress responsible for reforming the Magnuson Act, our nation's



**Marine Fish
Conservation Network**

primary fisheries law. But time is short and they need to hear from you today!

Urge them to make our fisheries and oceans healthy and productive by voting to:

- Clearly establish conservation over economics as the top priority of the Act by determining fishing levels based on sound management practices, not short-term economic factors or profits;
- Stop the needless bycatch and waste caused by indiscriminate fishing practices;
- Reform Fishery Management Councils to make them responsive to the public interest, not big business interests; and
- Protect habitat essential to all life stages of fish from destructive development activities.

Coastal communities and cultures, tens of thousands of jobs, a source of recreation for millions, and the health of the oceans depend upon it.

**CALL OR FAX SENATOR STEVENS TODAY AT 202/224-3004; 202/224-2354 (fax)
AND REPRESENTATIVE YOUNG AT 202/225-5765; 202/225-0425 (fax)**

ALASKA MEMBERS OF THE NETWORK:

Alaska Marine Conservation Council • City of St. Paul/Bering Sea Coalition • Greenpeace
Kodiak Conservation Network • North Pacific Fisheries Protection Association • Trustees for Alaska



Senator Lyman F. Hoffman

Alaska State Legislature

State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4453

Sponsor Statement Senate Joint Resolution No. 22

Before the Senate Resources Committee
April 26, 1995

This Senate Joint Resolution requests Congress to provide funding for the appropriate agencies to conduct studies of the Bering Sea ecosystem. These studies are intended to seek the causes of the dramatic declines in the Bering Sea fish and marine mammal populations. SJR 22 also asks that recommendations be made to resolve these population changes.

Bering Sea fish and marine mammals are the principal source of subsistence food for us in Southwestern Alaska. The Bering Sea is one of the most productive fishing areas in the world. The harvest of fisheries resources in the Bering Sea totaled 4,600,000,000 pounds in 1994, which were worth \$893,000,000 to commercial fishermen. However, the numbers of these fish and marine mammal resources have been sinking significantly for the past three decades.

The biomass of Aleutian Basin and western Bering Sea pollack has deteriorated substantially, which may be due to over-fishing. The pollack biomass continues to fall despite a closure of pollack fishing in the "Donut Hole" area since 1992. In recent years, the abundance of Bering Sea shellfish has precipitously declined, resulting in the 1994 closure of the Bristol Bay red King crab fishery. Currently, the Tanner crab population is less than a third of the 1991 population levels. In the last five years, certain western Alaska chum stocks have collapsed despite a five-fold increase in the total abundance of salmon

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since the early 1970's. Additionally, the population of northern sea lions has gone down by 70 percent since 1959, and the productivity of Pribilof Island northern fur seal has dropped since 1960.

We need to evaluate the Bering Sea ecosystem and pinpoint the cause of the deterioration in fisheries and marine mammal populations. We can't afford to wait until our fisheries are closed because the sea lion is placed on the endangered species list. My sponsorship of SJR 22 is an effort to address the declines in the Bering Sea marine resources so that our subsistence lifestyle and commercial fishing economy will be preserved.